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THE FOUNDATIONS FOR A UNIVERSAL INTERNATIONAL SYSTEM

Quincy Wright*

Introduction

The UNESCO Constitution declares in its preamble: "since wars begin in the minds of men it is in the minds of men that the defenses of peace must be constructed." Consequently, peace must be founded upon the intellectual and moral solidarity of mankind. On the other hand, Marxism holds that "the causes of all social changes and political revolutions are to be sought, not in man's brains, not in man's better insight into eternal truth and justice, but in changes in the modes of production and exchange."¹ Must a universal international system be founded upon a consensus of opinion of the human race upon the character of such a system — the values which it must maintain and the institutions by which they may be maintained — or, must it be founded upon conditions of production and exchange which make such a system inevitable?

Most sociologists recognize that neither human ideas nor material conditions alone are sufficient foundations for social systems but that social entities arise from their interaction. Social change results from changes in material conditions only insofar as the latter influence human minds. But human minds are unlikely to be interested in effecting social change unless changes in material conditions compel them to give attention to the need of modifying or revolutionizing their institutions. The belief by a group in the need for social change and the conviction that desirable social change can be effected may create conditions which make such change possible, and, reciprocally, the development of conditions which make existing institutions inadequate and unsatisfactory may contribute to such a belief and conviction. Beliefs and conditions, therefore, sometimes interact with revolutionary violence to create a consensus upon the character of a better social system which, because of that consensus, becomes attainable.

Human invention, conviction, and propaganda on the one hand, and human awareness, analysis, and understanding of present and of probable and possible future conditions, on the other hand, may therefore interact to bring about desirable social changes. If constructive ideas are lacking, new conditions may bring disaster because old institutions are not adapted to them. If a sense of reality is lacking, reformist or revolutionary demands are likely to prove abortive. Therefore, faith and reason must go together if a human society, whether local, national or world-wide, is to progress and to avoid frustration and disaster in a changing environment.

It must be recognized, however, that material conditions seldom make any particular form of social system inevitable. When new conditions make social

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¹ F. Engels, quoted by Hook, *Materialism*, in 10 *ENCYCLOPAEDIA OF THE SOCIAL SCIENCES* 209, 215 (1933).

change necessary there are usually alternative solutions available. This is manifested by the great variety of institutions and beliefs existing among primitive peoples living under substantially the same conditions of environment and technology, and, in even greater degree, among modern nations, although in both cases similarity in basic technology tends to a convergence of institutions and beliefs.² Man may be creative, his institutions not determined, but if he wishes to survive there are limits set to his creativity by the material conditions of his environment and technology. To be creative, he must, in choosing institutions, values, and procedures to assure his survival or to improve his life, study the material conditions of the actual and potential environment in which they will function. He must also consider whether these conditions make realization of his model, ideal, or "developmental construct"³ probable or possible in the allotted time. The impossible may be achievable given sufficient time, but for practical purposes decision-makers must distinguish those conditions that can be controlled by human opinion and action from those that cannot in any foreseeable future.

Because conditions change, any system that is to last must have within it means of self-correction and adaptation; it must also be sufficiently stable to permit its members to plan their lives with confidence that they can predict the social environment for a considerable future. A social system must be both stable and flexible at the same time. "The law must stand but it cannot stand still."⁴ It must combine a legal system to maintain stability with a political system to effect change.

The foregoing analysis suggests that the foundation for a universal international system requires (1) an understanding by peoples and governments of the actual and developing condition of the world, (2) a consensus upon the character of the social system that will best adapt mankind to these conditions, (3) legal rules, principles, standards and procedures that will manifest and maintain the character of that system, and (4) political procedures and institutions adequate to modify the law and solve the problems of conflict and maladjustment that are certain to arise in a world rapidly changing under the influence of advancing science, technology, and education generating and disseminating new values and movements. Let us consider these four foundations for a universal international system.

I. Conditions of the World

Among the important material conditions of the world that have developed in the twentieth century to differentiate it from the nineteenth century are radio and television, which provide means for instantaneous communication over long distances and rapid dissemination of information and ideas among great populations. No less important is the development of means for the rapid transportation of men and materials. Airplanes will soon move at supersonic speed, and in the

² Sorokin, *Mutual Convergence of the United States and the U.S.S.R. to the Mixed Socio-Cultural Type*, 1 INT'L J. OF COMPARATIVE SOCIOLOGY 143 (1960).

³ This useful concept was suggested by H. D. LASSWELL, *THE WORLD REVOLUTION OF OUR TIME* 4-5 (1951). See also Q. WRIGHT, *THE STUDY OF INTERNATIONAL RELATIONS* 313 (1955).

⁴ Anonymous.

future satellites will move passengers and goods around the earth and to extra-terrestrial bodies. As far as international relations are concerned, perhaps the most important development is the existence of a system for instantaneous destruction through the use of intercontinental ballistic missiles armed with nuclear warheads. Finally, the development of knowledge of the human psyche has made it possible to influence the attitudes, opinions, and behavior of men as individuals by "brainwashing" techniques, and mankind as a whole by the propagandistic manipulation of symbols in the mass media of press, radio and especially television.

These changes have shrunk the world. Information on events and ideas occurring anywhere in the world is immediately known, at least to the leaders of opinion and the major decision-makers, everywhere. Furthermore, the movements of people, tourists, propagandists, soldiers, politicians, economists and administrators are more abundant and rapid throughout the world than ever before. Their example, precept, indoctrination, or compulsion impart new ideas and techniques which, although sometimes useful, are often destructive of traditional ways of life.

The influences of commerce and war have become more widespread. More people than ever before are dependent for their livelihood on the import and export of goods from distant areas and all are dependent for their lives on restraint by the nuclear powers. Only a very small proportion of the earth's inhabitants are now able to escape the impact of news, ideas, propaganda, trade, and military threats from the most distant parts of the world, and to contentedly observe the customs, traditions, and laws that have been adequate in the isolated societies in which they have lived for hundreds or even thousands of years.

These changes in the material conditions of the world have contributed to important changes in the political world. Most empires have disappeared, and in the twentieth century over fifty territorial states in Asia, Africa, and the Caribbean have been recognized as sovereign. Assaulted by a variety of propaganda in the press, telecommunication and diplomatic representations; visited by agents, infiltrators, spies, educators, and propagandists; impressed by returning fellow citizens with foreign education and experience; attempting to assimilate values and to utilize technologies strange to their culture, it is not surprising that many people and leaders in hitherto isolated areas have become confused between the values of their traditional cultures and the values of "modernization." Rivalries have developed among diverse tribal, religious, and linguistic groups formerly quieted by imperial rule. After independence each has sought influence or autonomy under the banner of "self-determination." Under such conditions, and coupled with low rates of literacy and low levels of living, democratic political institutions, though generally aspired to, will not function. Civil strife often occurs and military or party dictatorships are established. To maintain unity they imitate the older states by cultivating the sentiment of nationalism to destroy tribal loyalties and by demanding full independence against all forms of neo-imperialism. In the older states nationalism and territorial sovereignty also continue as the major political forces.

Second in political importance have been demands for ideological expansion,

which in the twentieth century arose from the communist revolution of 1917. This demand has resulted in the division of the world into communist, anti-communist, and unaligned sections of about equal population. However, these groups have tended to disintegrate as the urge for revolution and for opposition to it receded into history, as differences of doctrinal interpretation developed, and as divergencies arose among the nationalities within each group.⁵

A third political force has been the demand for economic progress. A major force in the west since the Middle Ages, this demand has developed within the poorer states of Asia, Africa, and Latin America as the masses of the people become aware of their poverty through communist propaganda, economic assistance programs and government efforts at modernization. Lacking in capital, advanced technology, literacy and skills, and usually with agricultural and industrial production lagging behind population growth, these peoples have endured an average annual income level of less than \$100 per capita compared with the \$500 to \$3000 per capita level found among the peoples of western Europe and North America. In spite of some progress by economic aid, the gap between the poor and the rich in these countries has tended to widen.

Therefore, any universal system must cope with a shrinking and vulnerable world divided among 125 sovereign states, each demanding full independence and economic progress with strong sentiments of nationalism, varied ideological persuasions, and little awareness of, or concern for, mankind as a whole. Many of them have unstable governments. They differ greatly in power, and the demands and sentiments of each induce formulations of conflicting political, ideological and economic interests.⁶ The struggle of these nations to survive and forward their national interests, each by its own diplomacy, armaments, and alliances, constitutes the system of power politics that began in Europe during the Renaissance and has since spread throughout the world.

Regulated by diplomatic practice that sought to maintain a balance of power, by general international law, and by a network of treaties, the system of power politics provided a modicum of security for states in the seventeenth, eighteenth and nineteenth centuries. It also prevented imperial domination in Europe while facilitating such domination overseas, and permitted great economic progress, especially in the North Atlantic area in the nineteenth century. However, it resulted in frequent wars and the loss of sovereignty by a number of states. In spite of efforts at general international organization in the twentieth century, numerous conflicts have occurred, two of them escalating into world war. Since World War II, thirty-one conflicts have resulted in hostilities each killing a thousand to a million persons. Six of these hostilities are active or latent today, and the danger of nuclear war increases as the arms race proceeds and more

5 Other large ideological groups have similarly disintegrated under the influence of heresies and local nationalisms unless sustained by outside opposition as were Christianity and Islam during the period of the Crusades.

6 I believe the present international system to be one which has a significant probability built into it of irretrievable disaster for the human race. . . . The problem of system change, therefore, is urgent and desperate, and we are all in terrible danger. Boulding, *The Prevention of World War III*, 38 VA. Q. REV. 1, 3 (1962), reprinted in 1 R. FALK & S. MENDLOVITZ, *TOWARD A THEORY OF WAR PREVENTION* 3, 5 (1966).

states prepare to join the nuclear club.⁷ Efforts at *detente* in the East-West ideological conflict have been halted by the escalation of the Vietnam war and the Soviet invasion of Czechoslovakia. The gap between rich and poor nations continues to widen. Respect for international law and international institutions appears to be declining among the great powers. A system change appears necessary to better adapt international institutions to these alarming conditions.

II. Proposals for System Change

What kind of international system might be adequate to ameliorate these conditions and at the same time be so acceptable to governments and peoples that it could be established within a reasonable time? A reasonable time may be a generation, the time span that is often considered the limit during which World War III may be avoided under the present system of power politics.⁸

It seems improbable that a new system can be established by a sudden constitutional act of the world community without the stimulus of a general war, and in the nuclear age such a war would be one too many.⁹ General efforts to create a new international system as by the Treaty of Westphalia (1648), the Treaty of Vienna (1815), the Treaty of Versailles including the League of Nations Covenant (1919), and the United Nations Charter (1945), occurred after world wars so devastating that both governments and people were convinced that a system change was necessary. The first of these established a system change that had been developing for more than a century. It recognized the sovereign territorial state as superior to religion (*cuius regio eius religio*) and to the medieval hierarchical order, thus initiating in principle as well as in practice the European system of power politics but at the same time giving hints of the concept of international organization.¹⁰ The others sought to qualify this system by general international organization but succeeded in doing so more in theory than in practice. Power politics soon began to operate in spite of the

7 Wright, *The Escalation of International Conflicts*, 9 J. OF CONFLICT RESOLUTION 434 (1965).

8 Herman Kahn, who takes a more optimistic view of the situation than Boulding, says that a system change is necessary but that "[t]he time probably is to be measured in one or two decades, rather than one or two centuries." Kahn, *The Arms Race and World Order*, in *THE REVOLUTION IN WORLD POLITICS* 332, 350 (M. Kaplan ed. 1962). See also H. KAHN, *ON THERMONUCLEAR WAR* (1960), in which he indicates the factors that may cause such a war and predicts that it is unlikely to be prevented for more than a generation.

The transition from a system of power politics to one of law presents the dilemma that if some states rely on law before it is sanctioned by central power, they may cease to exist. Gradual change is therefore impractical. However, central power cannot be suddenly established among nationalistic states except by universal conquest. Q. WRIGHT, *PROBLEMS OF STABILITY AND PROGRESS IN INTERNATIONAL RELATIONS* 68, 71 (1954). The prospect of thermonuclear war may, however, make gradual change possible during a period of mutual deterrence and disarmament, and education. Q. WRIGHT, *A STUDY OF WAR 1531-32* (2d ed. 1965) [hereinafter referred to as *A STUDY OF WAR*].

9 Herman Kahn doubts whether an adequate system change can be effected without the stimulus of nuclear war and even then, if the change is not made within a few days after the holocaust, "that is, before the dead were buried, one side or the other would quite likely try to exploit the common danger for unilateral advantage. In this case the negotiations would probably degenerate into the usual unproductive Cold-War jockeying." Kahn, *The Arms Race and World Order*, *supra* note 8, at 351.

10 See F. SAYRE, *EXPERIMENTS IN INTERNATIONAL ADMINISTRATION* 1, 173-75 (1919); P. POTTER, *AN INTRODUCTION TO THE STUDY OF INTERNATIONAL ORGANIZATION* 3-62 (4th ed. 1922).

Concert of Europe, the League of Nations and the United Nations. But significant progress is discernible in these three successive efforts to define more precisely, and to accord more power to, a new system of international organization capable of controlling aggressive action by sovereign states.

It is true that efforts to effect sudden changes of the European system by conquest were made by ambitious rulers such as Charles V, Louis XIV, Napoleon, and Hitler, but these efforts to establish a universal empire on the model of ancient Rome were frustrated by the operation of balance of power policies, inherent in the system of power politics, under which most states recognized a national interest in common action to frustrate the ambition of any one nation that possessed so much power that it threatened its neighbor.¹¹ More restricted empires were established both in and out of Europe but in time they too were disintegrated by self-determination movements in minority nationalities and colonies.

It would appear, therefore, that an enduring change of the international system can be effected peacefully only by a gradual process of education that establishes a general awareness of the existing and emerging conditions of the world and reveals the inadequacy of the existing international system to deal with foreseeable problems. This process of education must also develop a consensus on the general character of an international system that would be both effective and realizable.

Historical studies indicate that relatively enduring political structures have been built to unify previously independent tribes, cities, or states. This has sometimes been achieved by the authority and power of a government established by conquest, as in ancient Rome, in England by the Norman conquest, in the Middle East by the Ottoman conquests, and in the overseas empires by European colonization from the sixteenth to the twentieth century. Lasting political structures have also been established by agreement among neighboring states in order to combine their power against apprehended conquest by an outside state. This was a major factor in the formation of the Swiss, American, Canadian, and other federations.¹² Anticipated benefits from common institutions formed to prevent civil strife and to facilitate production and trade by assuring a larger area of economic activity have also been a factor in the voluntary formation of federations, tariff unions and common markets (sometimes developing into political unions as in the case of the German Empire in 1871), and in the maintenance of empires originally formed by conquest. Most important, however, in the formation, and even more in the perpetuation, of political unions has been the existence or development of a common culture, a feeling of common interests and aspirations, a common loyalty to the union and its symbols.¹³ These sentiments may be the natural product of proximity, long association, or a common language

11 A STUDY OF WAR 758.

12 Alexander Hamilton is reported to have said: "The Constitution was wrung from the grinding necessities of an unwilling people." The danger of reconquest by Britain and Shays' Rebellion were important influences.

13 For a treatment of methods integrating small and large communities in the past, see A STUDY OF WAR 1012-42, which distinguishes the political method emphasizing opposition, the judicial method emphasizing cooperation, the administrative method emphasizing authority, and the propaganda method emphasizing opinion, as well as the role of violence in all of these processes.

and a common law, but they may also be the contrived product of education and propaganda.¹⁴ All of these factors, especially the experience of civil war, contributed to the evolution of the confederated American states into a nation,¹⁵ and they are all operating to work a similar transformation on the Indian sub-continent. Such a national sentiment or consciousness of kind accounts for the solidarity of most modern nations whether originally formed as a result of conquest, fear of conquest, or anticipation of the political and economic benefits of union. When it does not exist, as in the Hapsburg and Ottoman empires and in the overseas colonial empires of Portugal, Spain, Britain, France, Netherlands, Belgium, the United States and Japan, the empire, even though enduring for some time, has eventually disintegrated before demands for self-determination.¹⁶ Modern means of communication have convinced most people of the idea, asserted by the British, French, and American revolutions of the seventeenth and eighteenth centuries, that the legitimacy of government rests not on military power, divine right, heredity or succession, but on consent of the governed manifested by democratic procedures or popular sentiment.¹⁷ Modern governments, whatever their ideology, generally claim to be legitimate in this sense and unless they convince their people, especially if numerous and diverse, that the claim is actually or potentially sound their rule is not likely to be either effective or enduring.¹⁸

A universal system cannot today be built by conquest short of nuclear war, nor can it be built by fear of outside conquest, at least until the advent of extra-terrestrial travel. It must rely on the rational appreciation by all peoples and governments of the benefits of universal cooperation, or on a sense of the unity of mankind. Such a transformation of present nationalistic opinions is unlikely to result except from the shock of general war, disastrous to all, or from a gradual process of communication, trade, education, and propaganda.¹⁹

What kind of universal system might develop from this process? What values are so generally accepted that they may serve as means for appraising the desirability and feasibility of the models that have been proposed? The conditions of the world, surveyed briefly above, seem to demand international peace and security and independence of nations as a first priority. Justice to individuals and groups within nations and social and economic progress must also be considered important. Realization of these four values is the purpose of the United Nations.²⁰ It must be recognized, however, that conflict may arise between the

14 See generally C. MERRIAM, *THE MAKING OF CITIZENS, A COMPARATIVE STUDY OF METHODS OF CIVIC TRAINING* (1931).

15 M. CURTI, *THE ROOTS OF AMERICAN LOYALTY* (1940).

16 For a discussion of reasons for dissolution of the Hapsburg Empire, see C. MERRIAM, *supra* note 14, at 243-49; O. JÁSZI, *DISSOLUTION OF THE HAPSBURG MONARCHY* (1929).

17 G. FERRERO, *THE PRINCIPLES OF POWER, THE GREAT POLITICAL CRISES OF HISTORY* (1942).

18 The report of a committee set up by UNESCO in 1950, though emphasizing the ambiguities in the term "democracy," concluded: "The accusation of antidemocratic action or attitude is frequently directed against others, but practical politicians and political theorists agree in stressing the democratic element in the institutions they defend and the theories they advocate." UNESCO, *DEMOCRACY IN A WORLD OF TENSIONS* 522 (R. McKeon ed. 1951).

19 See text accompanying note 9 *supra*; A STUDY OF WAR 1041, 1534.

20 U.N. CHARTER art. 1.

demand of nations for independence in conducting their internal affairs and the demand of persons and groups within nations for international protection against oppressive action by the nation or its government.²¹ Six types of international systems have been suggested as improvements on the present system of power politics: (1) arms control to stabilize the balance of power, (2) acceptance of the power and responsibility of the superpowers, (3) world federation, (4) regional arrangements or federations, (5) conversion of all people to a universal religion or ideology, and (6) improvement of international organization by strengthening the United Nations.²²

A. Arms Control

Governments and strategic writers have hoped to stabilize the balance of power without modifying the existing system whereby each state relies on its own arms and alliances for security. They hope to achieve this goal by agreements, tacit or express, to control armaments, especially nuclear weapons, with the object of preventing arms races and maintaining mutual deterrence. By permitting defensive conventional armaments but limiting offensive armaments, by assuring that nuclear powers have a sufficient quantity of missiles with nuclear warheads in invulnerable bases to assure a devastating second strike against a nuclear attack, by preventing the proliferation of nuclear capability beyond the present nuclear club, they believe that aggression may be deterred.²³ Few, however, believe that such a system could do more than postpone general nuclear war.²⁴ In fact this proposal is an effort to stabilize the existing balance of power system. This has been the policy of conservative "status quo" states for centuries, but, whether the balance has been bi-polar or multi-polar, it has always broken down in general war. In time changing conditions of technology and power distribution have always induced an ambitious or dissatisfied state to believe that it could overcome the restraints of the system.²⁵ Occasional war has been necessary in the past to make the system credible, but few people believe that a nuclear war would be tolerable. Civil and border wars have occurred frequently since World War II. Many, such as the Korean, Indochinese, Algerian, and Vietnam

21 Wright, *Freedom and Human Rights Under International Law*, in *ASPECTS OF LIBERTY* 81 (M. Konvitz & C. Rossiter eds. 1958); Wright, *The United States and Human Rights*, 36 U. DET. L.J. 277, 290-91 (1959); Wright, *International Law and Civil Strife*, in *PROCEEDINGS, AMERICAN SOCIETY OF INTERNATIONAL LAW* 145 (1959); Wright, *Maintaining Peaceful Coexistence*, in *PREVENTING WORLD WAR III: SOME PROPOSALS* 410 (Q. Wright, W. Evan & M. Deutsch eds. 1962); Wright, *Toward a Universal Law for Mankind*, 63 COLUM. L. REV. 435 (1963).

22 Four types of system have given some unity to civilizations in the past: (1) empire, (2) church supporting a universal religion, (3) balance of power, whether between nations or alliances, and (4) federation or international organization. A STUDY OF WAR 965. These types have been paralleled by concepts of the world as a plan, as a community, as an equilibrium, and as an organization. The author has suggested a fifth concept, less precise than any but containing potentialities of all, "the world as a field." Q. WRIGHT, *THE STUDY OF INTERNATIONAL RELATIONS*, *supra* note 3, at 484, 509.

23 See generally H. BULL, *THE CONTROL OF THE ARMS RACE: DISARMAMENT AND ARMS CONTROL IN THE MISSILE AGE* (1961); T. SCHELLING & M. HALPERIN, *STRATEGY IN ARMS CONTROL* (1961); A STUDY OF WAR 1526. Winston Churchill called this system "a balance of terror."

24 See note 8 *supra* and accompanying text.

25 See text accompanying note 11 *supra*; A STUDY OF WAR 758, 760-66.

wars, have escalated to serious proportions, and, as in the Cuban crisis, threats of preemptive nuclear war have been made. Many people adhere to the sentiment of General MacArthur that there is no substitute for victory and that however little gain is anticipated a small war must be escalated if necessary for victory. Furthermore, accident, misinformation, or miscalculation may precipitate hostilities that could escalate to nuclear war in a heavily armed and suspicious world. If the human race puts its hopes for survival in nuclear deterrence or a balance of military power it is taking a serious risk.²⁶

B. Great Power Responsibilities

A second proposal is that all states recognize that the "great powers" and especially the "super powers" (the United States and the Soviet Union) with their overwhelming power should assume responsibility for policing the world and maintaining order. Indeed, from the behavior of the two super powers, Albania and China have perceived a conspiracy to divide the world into two spheres within which each would exercise imperial authority. In 1941 John Foster Dulles, later to become United States Secretary of State, proposed the creation of a "voluntary system" of world order which:

relies upon the nations which are dominant in the world to exercise their power with a sense of moral responsibility and with intelligence. . . . It is practical wisdom to recognize that attempts at arbitrary restraint and the monopolization of natural advantages in the long run defeat themselves and are self-destructive. The "voluntary" system relies upon nations following a course upon which both morality and expediency coincide.²⁷

This concept figured in President Franklin D. Roosevelt's proposal for "five policemen" in the early discussions of the United Nations; it is given some recognition in the permanent seats and veto power of the great powers in the Security Council, thus following the precedent of the nineteenth century Concert of Europe and the League of Nations Council.

More recently, presidential adviser McGeorge Bundy, referring to unilateral interventions by the United States, stated that the United States must assume "the responsibilities of world power."²⁸ This proposal stands between a balance of power and an imperial conception of a world system. In relation to one another the great or super powers would be restrained only by moral sentiment or mutual deterrence and, as pointed out above, these restraints have not prevented wars in the past. In fact, history suggests that balance of power systems tend to bi-polarity between the greatest powers and that, as in the case of Rome and Carthage, France and the Hapsburgs in the seventeenth and eighteenth centuries, and the two alliances before World War I, such bi-polarity

²⁶ H. KAHN, ON THERMONUCLEAR WAR, *supra* note 8, at 285-95; A STUDY OF WAR 1518.

²⁷ Dulles, *Peaceful Change*, in COMMISSION TO STUDY THE ORGANIZATION OF PEACE, PRELIMINARY REPORT AND MONOGRAPHS 276, 279 (1942) (the PRELIMINARY REPORT AND MONOGRAPHS was originally published as No. 369 of the International Conciliation series, April, 1941, of the Carnegie Endowment for International Peace).

²⁸ TIME, June 25, 1965, at 26, 27.

rapidly leads to general war. It generates an antagonism that convinces each nation that war is inevitable, and the one that believes that time is running against it will initiate the war now, because its chances for success will diminish with the passage of time.²⁹

Reflection upon the suicidal character of nuclear war has prevented this normal development of the cold war between the United States and the Soviet Union since World War II. But, as pointed out in the preceding section, many circumstances make it unlikely that this consideration will postpone nuclear war indefinitely in a system of power politics whether bi-polar or multi-polar. Arnold Toynbee, in his *Study of History*, has pointed out that the natural tendency of power politics in the "time of troubles" is to move toward bi-polarity in a series of wars of increasing magnitude until one great power conquers the other and, initiating the "universal" state, subjects the entire civilization to imperial rule.³⁰ Such a result might occur after the devastation of nuclear war but short of that it is likely to be frustrated by the sentiment of nationalism and self-determination that has broken up empires since 1776, and especially since World War II.³¹ In any case, the acceptance of great power dominance would tend to a division of the world into spheres within each of which one great power would exercise hegemony subjecting the lesser states in its area to satellite positions. Although such relations of dominance and subordination have often existed in the past,³² all modern states, affected by the sentiment of national sovereignty, have insisted on the equality of states, and the United Nations is based on the principle of the sovereign equality of all of its members. It seems unlikely that a system in which five, two or one of the dominant powers rules the world through empire, hegemony, spheres of interest, or a sense of responsibility can meet the needs of the nuclear age.

C. World Federation

A third proposal is that of world federation. Its advocates have contemplated the development of the United Nations so as to achieve general and complete disarmament, a modest peace-keeping force controlled by the United Nations, more equitable representation of peoples in United Nations' political organs, greater but limited executive and legislative powers in these organs, compulsory jurisdiction of the World Court in legal disputes, and development of procedures for settling international political disputes and for protecting human rights. Such a proposal has been elaborated in detail by Grenville Clark and Louis B. Sohn and is supported by large organizations in many countries.³³ It is appealing as a long-run goal.

²⁹ See text accompanying note 25 *supra*.

³⁰ 1 A. TOYNBEE, *A STUDY OF HISTORY* 51-63 (1934); *A STUDY OF WAR* 114-25, 393, 678, 763.

³¹ See *A STUDY OF WAR* 1520. See also text accompanying note 16 *supra*.

³² H. TRIEPEL, *DIE HEGEMONIE* (1938). These relations have been especially prominent in the histories of China, India, the United States (the Monroe Doctrine) and the Soviet Union. European states have tended to build empires rather than satellite systems though protectorate and other satellite relations have often appeared in the development of empires, either continental or overseas. *A STUDY OF WAR* 967-69.

³³ G. CLARK & L. SOHN, *WORLD PEACE THROUGH WORLD LAW* (3rd ed. 1966).

While some advocate a world constitutional convention, most suggest steps by which world federation might be achieved gradually. There are, however, serious obstacles to its achievement in a generation. The analogy drawn to the movement from the Articles of Confederation to the Constitution in American history is hardly applicable because the national and ideological differences among the peoples of the world are much greater than were the differences among the people of the United States in the 1780's.³⁴ Furthermore, the need for central power against outside attack, which was, as Hamilton pointed out, a major factor in the acceptance of the United States Constitution, cannot exist in the world as a whole.³⁵ Contemporary nation-states are unlikely to submit voluntarily to a supreme legislative and executive power until there is considerable convergence in their social, economic and political principles and ideologies and considerable amelioration of their conflicts of interest. Nor is it likely that they will tolerate penetration by a supranational authority to protect their own nationals against their own authority so long as the present differences about the proper relations of man to the state continue between communist and free enterprise states. In the United States central protection of human rights, while it did not prevent a federation, eventually resulted in civil war. Protection of human rights has, it is true, been achieved in considerable measure among the states of western Europe; however, no such diversities exist among the states in this area. For the world as a whole, federation — centralizing power and reaching down to the individual — hardly seems feasible in a generation.

D. Regionalism

To meet the difficulties of world federation it has been proposed by Clarence Streit that because of their considerable similarity of background and civilization the Atlantic states should federate both for defense against the communist bloc and for maintaining order and liberty among themselves.³⁶ Although primarily interested in the Pan-European movement, Count Coudenhove-Kalergi had earlier suggested a universal system under which the great regions of the world whose people resembled each other in culture and institutions should form five great federations or confederations: Pan-Europe, Pan-America, East Asia, the Soviet Union and the British Empire.³⁷ The United Nations Charter recognizes the expediency of "regional arrangements"³⁸ and the United Nations has established regional economic commissions for Europe, Asia, and the Far East, Latin America, and Africa. Political regional arrangements have been established by the participating states in western Europe (Council of Europe, Common Market, and Free Trade Community), the Atlantic and Mediterranean area (NATO); eastern Europe

34 A STUDY OF WAR 351-52.

35 See text accompanying note 12 *supra*.

36 C. STREIT, *UNION NOW, A PROPOSAL FOR A FEDERAL UNION OF THE DEMOCRACIES OF THE NORTH ATLANTIC* (1938).

37 COUNT R.N. COUDENHOVE-KALERGI, *CRUSADE FOR PAN-EUROPE* (1943). Regional groupings figured in the plan for world federation proposed by the Committee to Frame a World Constitution under Chairman R. M. Hutchins; see generally its monthly journal, *COMMON CAUSE* (1947-1951). See also D. CHEEVER & H. HAVILAND, JR., *ORGANIZING FOR PEACE* chs. 26, 27 (1954).

38 U.N. CHARTER art. 52.

and Russia (Warsaw Pact), the American continents (OAS), Africa (OAU), the Middle East (Arab League), Southeast Asia (SEATO), and Central Asia (CENTO). While such arrangements may be useful for promoting economic cooperation and political adjustment among their members, in relation to outside states they are no different from traditional alliances functioning in the system of power politics, although under the Charter they can engage in military action only in "collective self-defense" against armed attack³⁹ or under authority of the United Nations.⁴⁰ If their members do not feel strong cultural, social, economic or historic bonds, such regional groupings historically survive only as long as the participating states fear outside attack.

Since the waning of the cold war after the death of Stalin, the NATO, Warsaw, CENTO, and SEATO alliances have tended to disintegrate in spite of the efforts of the United States, prompted by a strong anti-communist sentiment, to maintain NATO and, through aid in the Vietnam war, to revive SEATO. The Arab League existed mainly because of common opposition to the existence of Israel, an attitude less vigorous among the more distant Arab states and modified by all of them after the results of the brief Arab-Israeli war in June, 1967. However, in addition to their common need for defense, the Arab League, the OAS, the OAU and the western Europe organizations all have cultural, economic and historical grounds for cohesion.

These alliances, while perhaps useful at times in maintaining a balance of power, have, in some cases, contributed to maintaining arms races and have weakened the United Nations because of their tendency to ignore the provisions of the Charter that subordinate their military functioning to the decisions and recommendations of United Nations organs. While regional arrangements may assist in adjusting relations among their members, in external relations they cannot transcend the weaknesses of the system of power politics. They cannot contribute to the solution of the inter-regional problems that critically endanger the shrinking world of the atomic age.⁴¹

E. Cosmopolitanism

There seems to be little prospect within the next generation of establishing human solidarity and peace by converting all mankind to one religion or ideological teaching brotherhood. For thousands of years, at least since the time of Buddha in the seventh century B.C., missionary religions and secular ideologies have taught by example, emotional appeal, or rational doctrine that universal peace and human cooperation might be established if all mankind accepted their particular teachings, thus doing away with the necessity of secular power. The missionary religions — Buddhism, Christianity, Islam and others — and the secular ideologies — cosmopolitanism, democracy, free trade, anarchism, socialism, and communism — have entertained this hope although they have usually

³⁹ *Id.* art. 51.

⁴⁰ *Id.* art. 53.

⁴¹ *Regional Arrangements for Security and the United Nations*, in COMMISSION TO STUDY THE ORGANIZATION OF PEACE, 8TH REPORT AND PAPERS (1955).

recognized that temporal power would have to function until the millennium when the world was converted.

During the Middle Ages, Christendom, administered by the Pope and the clergy, maintained considerable order in western Europe. In the thirteenth century local war was greatly limited by observance of the Peace of God, forbidding hostilities in holy places, and the Truce of God, forbidding hostilities on Sunday and two days before and after in each week. The Crusades, by diverting belligerent urges to hostilities in the Middle East, also assisted in maintaining peace in Europe. Christendom, however, could not wholly dispense with secular power and recognized the hierarchy of secular power from the Holy Roman Emperor down.⁴² Islam also achieved some harmony in the Dar el Islam in the days of the great Khalifs. However, it taught that universal peace could only come after conquest and conversion of the Dar el Harb, and to this end the Khalifs must exercise temporal and military as well as spiritual power.⁴³

The cosmopolitanism of Marcus Aurelius, the eighteenth century savants of the Age of Enlightenment, the believers in natural law, government by consent of the governed, free trade, and Marxism all recognized that civil government and the conduct of international relations would long require political and military power. While anarchists thought that political power should be dispensed with immediately, they hoped to hasten its demise by assassination. Marxists believed that the socialist millennium would come by historical determinism but in the meantime it must be helped along the way by democratic procedures in each state or, according to the communists, by authoritarian "dictatorship of the proletariat" exerting power over the political, social and economic life in the state until all states have "withered away."

It is notable that even among those ostensibly converted to a particular religion or ideology, heresy or revisionism has usually arisen justifying, in the opinion of many, an "inquisition" or forcible suppression. There appears little prospect that all men will be converted to any religion or ideology assuring universal peace and order in any foreseeable future or that if they were, heresies leading to conflict could be avoided. It seems likely that differences in environment, history, and culture will maintain differences in interests, opinions and beliefs that can lead to conflict among different sections of the human race.⁴⁴ The problem of a universal system is to identify some values that all can share and some procedures that will prevent conflict from escalating to global war.

F. International Organization

We have considered national sovereignty restrained only by arms control to balance military power, centralization of power and responsibility in a few great states or a single state, world federation reaching down to the individual

42 Krey, *The International State of the Middle Ages: Some Reasons for Its Failure*, 28 AM. HIST. REV. 1 (1922); A STUDY OF WAR 966-67.

43 M. KHADDURI, *WAR AND PEACE IN THE LAW OF ISLAM* (1955); Khadduri, *Introduction to SHAYBANI, THE ISLAMIC LAW OF NATIONS* 10-14 (M. Khadduri transl. 1966).

44 A STUDY OF WAR 962-65; Q. WRIGHT, *THE STUDY OF INTERNATIONAL RELATIONS*, *supra* note 3, at 520.

and with central power superior to that of any state, regional federations or unions, and universal conversion to a religion or ideology teaching human brotherhood. These models, respectively emphasizing the sentiments of nationalism, interventionism, federalism, regionalism, and cosmopolitanism, have been examined and seem inadequate or unattainable within a generation. They are not likely to change the system of power politics in time to eliminate its danger. We must look to an international organization, manifesting the sentiment of internationalism that was considered by statesmen to be the best solution after the world wars of the twentieth century.⁴⁵

This image of a universal system, expressed in the League of Nations Covenant and the United Nations Charter, includes aspects of all the other systems.⁴⁶ The Charter is based on the sovereign equality of all its members and recognizes that national states will continue to exist and that their power must be balanced, but not by a simple military balance between two or more states. The Charter contemplates a much more complicated system of checks and balances involving the power of the United Nations itself — economic, political, legal and military.⁴⁷ It appreciates that states with superior political power will and should exercise more influence in world politics than others; however, it also acknowledges that this influence, recognized in the structure of the Security Council, should be moderated by the influence of other states in the Council and by the influence of all in the General Assembly. It looks toward a world federation by developing the relative power of the United Nations and by establishing its peace-keeping forces while the nations gradually disarm. Relationships with individuals are also to be established by achieving covenants among states that define human rights and effective procedures for protecting them. The United Nations encourages regional arrangements to adjust economic and political relations among its member nations but insists that in external relations they must be controlled by the United Nations. It recognizes cosmopolitanism by insisting that certain universal values, expressed in the purposes and principles of the Charter, must be accepted by all peoples and governments and it provides procedures for their maintenance. Basically, the law of the

45 Many theoretical writers since Pierre Dubois in the fourteenth, King George of Poděbrad in the fifteenth and Emeric Crucé in the seventeenth centuries have proposed systems of international organization, generally for Europe and generally for protection against the Turks. S. HEMLEBEN, *PLANS FOR WORLD PEACE THROUGH SIX CENTURIES* 1-95 (1943). Such a plan went into effect for a few years after the Napoleonic period. See W. PHILLIPS, *THE CONFEDERATION OF EUROPE* 81-181 (2d ed. 1920). See also A STUDY OF WAR 967-68.

46 Wright, *Accomplishments and Expectations of World Organization*, 55 YALE L.J. 870 (1946). I suggested in this article that:

Conditions will no longer permit a stable balance of power. Opinion will not yet permit a stable world federation. The drift may be, as it has been in similar situations in past civilizations, toward a new world war which might eventuate either in a world empire or in such complete destruction that technology and science would decline in a new dark age. . . . The United Nations represents the limit to which present world opinion will go in the direction of world federation. It must not be sacrificed because it is not perfect. Rather it must be the foundation on which to build as evolving opinion permits. *Id.* at 886.

This seems still true twenty-three years later. Arms control to deter nuclear war and education on the need for effective international law have progressed but the danger that war will escalate has also increased.

47 See generally A STUDY OF WAR 747, 1516; Q. WRIGHT, *THE STRENGTHENING OF INTERNATIONAL LAW* 99 (1959).

Charter rests on international law that has developed over the past centuries. However, as will be noted in the following section, in its adaptation by the Charter this international law has been subject to important modifications, especially in the use of force.

Though formally accepted by nearly all states since World War I, this international system has not been adequately understood or observed. It did not prevent World War II or numerous smaller wars, although it has had some success in both the inter-war period and the period since World War II. It stopped a number of incipient wars, and has implemented the principles of self-determination by eliminating empires. It has also forwarded social and economic progress through the Specialized Agencies and has made limited progress in protecting human rights.

While theoretically embracing cosmopolitanism or federalism, in practice public opinion has tended to adhere to nationalism in all states and to interventionism in the great states. It has not, in either theory or practice, given consistent support to the middle ground of internationalism, a complicated concept which, as noted, includes elements of all the other systems. Understanding and commitment to the concept of internationalism are necessary for the development of a satisfactory universal system. However, understanding of the conditions of the world and of the universal international system most likely to improve them is not enough to meet the problems of the world in the next generation. No system can endure and operate unless maintained by a system of law and continually adapted to new conditions by a system of politics. Therefore, international law and international organization are both essential elements in the foundation of a universal international system.

III. International Law

International law has developed for centuries by treaty, custom, and deduction from generally accepted principles of law by judges and jurists. It has assumed that sovereign states are its subjects and that it is designed to protect their interests; furthermore, it has operated on the premise that the major interest of each state is the recognition of its equality before the law and the maintenance of its territorial integrity and political independence. The latter implies freedom in the exercise of each state's domestic jurisdiction and in the formulation and realization of its foreign policy through means which the law permits. This assumption implies general acceptance of the division of the world into states whose boundaries are the artificial products of history and, therefore, often correspond to no geographic, cultural, linguistic, economic, strategic or other rational criterion.

Because of this artificiality of the state, it has been suggested that man as an individual or mankind as a whole should be the subject of universal law, and that the dignity of man, government by the consent of the governed, and human welfare should be the fundamental interests that the law is designed to protect. The state, it is said, is for man, not man for the state. Each state, however, is dominated by a strong sentiment of nationalism that demands respect

for its territorial integrity and political independence. Furthermore, the material power in the world is controlled by governments which are prepared to use it in response to this national demand. Peace and order in the world, therefore, require that the interests of states be given consideration ahead of the interests of individuals or lesser groups, that universal law be international rather than cosmopolitan, and that protection of human rights and self-determination of peoples proceed only gradually. Under present conditions "peace will serve justice better than justice will serve peace."⁴⁸ As peoples converge in culture and as nations become less self-centered, states may voluntarily accept those territorial changes which are demanded by justice. They may also accept institutions which regionally or generally assure the dignity of man and government by consent of the governed. With the present assumptions of international law, however, aggression against the territorial integrity or political independence of a state or intervention in its domestic jurisdiction, even with such laudable aims as protection of human rights or suppression of civil strife, must be considered illegal unless justified by special circumstances recognized by international law.⁴⁹

Because the basic assumptions of international law are artificial and their conformity to fundamental conceptions of justice is often controversial, if the law is to be observed it must be expressed in clearly defined rules of order so that states will be aware whether proposed action is a violation, thus giving the law a preventive as well as remedial influence. The identity of sovereign states, the limits of a state's territory on land and sea, many procedural rules and the concepts of aggression, intervention, and domestic jurisdiction should be defined as precisely as possible. In other fields such as the responsibility of states for violations of law, the denial of justice to aliens, the interpretation of treaties, and the duty of states to cooperate for economic and social progress, international law can only provide broad principles of justice, such as due process of law, the specific application of which depends on the facts of a particular situation. These fields of law can usually be examined with due deliberation by diplomacy or international tribunals without the danger to peace that is involved when the basic rules of order are violated.⁵⁰

International law developed gradually, mainly in the relations of European states, and adapted itself to new conditions by the making of treaties, the growth of custom, and the interpretation and application of principles of justice by diplomats and arbitral tribunals. The great changes in technology and politics in the twentieth century have required and induced rapid changes in the law by the conclusion of many general treaties, sometimes called "international legislation," such as the League of Nations Covenant, the Kellogg-Briand Pact, and the United Nations Charter. These treaties have radically changed the position of war and force under international law and have established organizations and procedures for the maintenance and development of the law.

48 C. DE VISSCHER, *THEORY AND REALITY IN PUBLIC INTERNATIONAL LAW* 328 (1957).

49 See U. N. CHARTER art. 2.

50 On the distinction between Rules of Order and Principles of Justice, see Q. WRIGHT, *THE ROLE OF INTERNATIONAL LAW IN THE ELIMINATION OF WAR* ch. 1 (1961).

The Charter forbids the use or threat of force in international relations⁵¹ except in individual or collective self-defense against armed attack⁵² or under authority of the United Nations.⁵³ It also by implication forbids intervention in the domestic jurisdiction of any state⁵⁴ except by the United Nations itself when necessary to maintain or restore international peace and security.⁵⁵ It recognizes in principle the self-determination of colonial peoples,⁵⁶ respect for and protection of human rights and fundamental freedoms⁵⁷ and the duty to promote economic and social progress for all, especially the developing peoples.⁵⁸ These principles, however, are treated as political rather than legal in nature; hence, they will be realized in law either by the gradual processes of treaty-making and custom resulting from acquiescence in practice, or in the resolutions of the United Nations or the Specialized Agencies. The Charter also confers authority on the Security Council to make decisions, binding on the members,⁵⁹ which maintain or restore international peace and security⁶⁰ by provisional⁶¹ or enforcement measures.⁶² In addition, it confers wide powers on all the Councils and on the General Assembly to make recommendations for the pacific settlement of disputes and situations and on all other matters, political and legal, within the scope of the Charter.⁶³

International law has been criticized in some of the new states on the ground that some of its rules are based on customs that developed among European states when the new states were colonies. These customary rules, it is maintained, should not be binding on the latter because they had no opportunity either to accept or acquiesce in them.⁶⁴ It has also been suggested that international law grew from principles of Greek philosophy, Roman law or Christian ethics applied by the classical European jurists and that these sources might not conform to the philosophies and religions accepted in Asia and Africa.⁶⁵ These criticisms, however, seem applicable to few of the rules, principles and standards of contemporary international law. Most of that law is deduced from the concept of a sovereign territorial state which the new states accept, and from the terms of the Charter and other general treaties to which the new states are generally parties.

51 U.N. CHARTER art. 2, para. 4.

52 *Id.* art. 51.

53 *Id.* art. 39.

54 *Id.* art. 2, para. 7.

55 *Id.* arts. 39, 41, 42.

56 *Id.* arts. 55, 56, 73.

57 *Id.* arts. 55, 56.

58 *Id.* arts. 55, 56, 73, 76.

59 *Id.* art. 25.

60 *Id.* art. 39.

61 *Id.* art. 40.

62 *Id.* arts. 41, 42.

63 *Id.* arts. 11, 14, 33-39.

64 J. SYTAUW, *SOME NEWLY ESTABLISHED ASIAN STATES AND THE DEVELOPMENT OF INTERNATIONAL LAW* 19 (1961); Roy, *Is the Law of Responsibility of States for Injuries to Aliens a Part of Universal International Law?*, 55 AM. J. INT'L L. 863, 867-68 (1961); Wright, *Custom as a Basis for International Law in the Post-War World*, 7 INDIAN J. INT'L L. 1 (1967).

65 Q. WRIGHT, *THE STRENGTHENING OF INTERNATIONAL LAW*, *supra* note 47, at 68, 77; Wright, *The Influence of the New Nations of Asia and Africa upon International Law*, 13 FOREIGN AFFAIRS REP. 38 (1958); Wright, *Asian Experience and International Law*, 1 INT'L STUDIES 71-87 (1959).

The actual concern of the new states rests on the suspicion that certain customary rules may give undue protection to the property and concessionary rights of former imperial rulers, or to their nationals, or to other European investors or concessionaires.⁶⁶ In this field broad principles accepted by all states concerning the denial of justice and compensation for nationalizations can be utilized to settle specific conflicts. There is usually a reciprocity of interest in these situations. The desire of the new states to control their resources and to encourage investment is balanced against the desire of the investing states to provide their nationals with an opportunity to invest and be assured of fair protection. The debate over the initial clause of the Covenant of Human Rights, which concerned the right of a state to its natural resources, indicates that the application of these general principles may often prove adequate.⁶⁷

It is unfortunate that certain decisions of the International Court of Justice, especially the Southwest African decision denying standing to Ethiopia and Liberia to pursue their claim that South Africa had violated its mandate,⁶⁸ has given some support to the fear that European imperial concepts have an undue influence in the Court. This, however, was contrary to the general trend of the Court's judgments and advisory opinions illustrated in *Anglo-Iranian Oil Company*⁶⁹ and the advisory opinions on Southwest Africa.⁷⁰ Hopefully, as the personnel of the Court becomes more representative of all parts of the world, Asian and African states will not be deterred from accepting its compulsory jurisdiction.⁷¹

IV. International Organization

Political institutions for the peaceful change of law are no less essential for a universal international system than legal institutions to maintain the law. The system of diplomacy, the United Nations and the Specialized Agencies were designed to supply this need that was formerly met in some measure by war and other uses of force. With the latter in large measure outlawed, it was hoped that the opportunities given by these institutions for discussion, negotiation, resolution, acquiescence and acceptance would be adequate to effect necessary changes, even though such changes were subject to the principle of international law that a state is not bound by a new rule of law or a sacrifice of its rights without its consent. This rule has been thought to bar the creation of general

66 See generally R. ANAND, *COMPULSORY JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE* 252-53 (1961); Anand, *Role of the "New" Asian-African Countries in the Present International Legal Order*, 56 AM. J. INT'L L. 383, 384-90 (1962).

67 UNITED NATIONS OFFICE OF PUBLIC INFORMATION, *EVERYMAN'S UNITED NATIONS* 243, 351 (8th ed. 1968) [hereinafter referred to as *EVERYMAN'S UNITED NATIONS*].

68 Southwest Africa Cases, [1966] I.C.J. 4; Southwest Africa Cases, [1962] I.C.J. 319; see *EVERYMAN'S UNITED NATIONS* at 404-09, 442-44.

69 *Anglo-Iranian Oil Co. Case*, (U.K. v. Iran), [1952] I.C.J. 93; see *EVERYMAN'S UNITED NATIONS* at 421.

70 See *EVERYMAN'S UNITED NATIONS* at 405, 447.

71 With respect to the proportion of states that are parties to the optional clause with or without reservations; see L. SOHN, *BASIC DOCUMENTS OF THE UNITED NATIONS* 209 (1957); R. ANAND, *COMPULSORY JURISDICTION OF THE INTERNATIONAL COURT OF JUSTICE*, *supra* note 66, at chs. 6, 7; Wright, *Asian Experience and International Law*, *supra* note 65, at 84.

legislative authority in the United Nations capable of changing the law by majority vote. The Security Council can make binding decisions for the maintenance or restoration of international peace and security,⁷² subject, however, to the great power veto.⁷³ Quasi-legislative authority may develop gradually from acceptance of General Assembly resolutions. If these resolutions are generally acquiesced in by the member states, they may become rules of customary international law.⁷⁴ This development would be a useful supplement to the process of formal treaty-making that establishes formal law, binding, however, only on the states which ratify the treaty. Application of the principle of effectiveness in the interpretation of the Charter and other treaties may also contribute to the development of international law. This principle gives weight to the purpose of the treaty in applying it, and is in contrast to the principle of restrictive interpretation which holds that a sovereign state is presumed to have consented to a minimum limitation on its sovereignty in ratifying a treaty.⁷⁵ The principle of effectiveness has been useful to the United Nations in developing the power of the General Assembly to make recommendations on disputes or situations when the Security Council was stalled by a veto. It has also been used by the Security Council to make decisions on the theory that abstention is not veto. The same problem has been faced in the United States, and the Supreme Court's application of the principle of effectiveness in interpreting the Constitution doubtless accounts for the capacity of that instrument to function in spite of the changes of condition that have occurred since it went into effect in 1789.⁷⁶

Unfortunately states demanding change, especially territorial, have not always been content to utilize the peaceful procedures of the United Nations and have occupied territory and used force to compel acceptance of treaties contrary to their obligations under the Charter, the Kellogg-Briand Pact, and other treaties. Hopefully, the growing awareness of the need for world peace and international law and organization will develop confidence among member states in the procedures of the United Nations designed to promote peaceful adjustment of international disputes, and there will be an increased willingness on the part of states to accept United Nations' resolution of such disputes and the development of international law.

Conclusion

The author concludes that the foundations for a universal international system are to be found in education to develop a more general understanding of the conditions of the present and emerging world, in the commitment of peoples and governments to the international system established by the Charter,

72 U.N. CHARTER art. 39.

73 *Id.* art. 27.

74 See generally Wright, *Custom as a Basis for International Law in the Post-War World*, *supra* note 64, at 1.

75 See Lauterpacht, *Restrictive Interpretation and the Principle of Effectiveness in the Interpretation of Treaties*, in BRITISH YEARBOOK OF INTERNATIONAL LAW 1949 at 48, 61-75 (1949); Q. WRIGHT, *THE STRENGTHENING OF INTERNATIONAL LAW*, *supra* note 3, at 134.

76 Wright, *The Role of Law in the Organization of Peace* in COMMISSION TO STUDY THE ORGANIZATION OF PEACE, *ORGANIZING PEACE IN THE NUCLEAR AGE* 27, 29-30 (1959).

and in the maintenance and development of the existing universal legal and political institutions by appropriate policies and actions. People must be prepared to recognize that their major national interests, especially their interest in security, can only be maintained in the atomic age in a secure world, and that a secure world under both present and future conditions requires a general commitment to the image of an international world. Such a world implies some qualification of sovereignty by effective law.

The law and organization necessary to realize this image is in need of continuous improvement. All the nations of the world should be accepted into the membership of the United Nations. The ability of that organization to function effectively in central Europe is currently hampered by the absence of Germany and in the Far East by the absence of mainland China, Korea and Vietnam. All states should observe their obligations under the Charter to settle their international disputes peacefully, to refrain from the threat or use of force in international relations, and to abstain from military or subversive intervention in the domestic affairs of other states, especially those beset by civil strife. If governments, in particular those of the great powers, should, with the support of the opinion of the people, the values of the nation and the law of the state, perceive that they would best serve their long-run national interests by observing the obligations to which their state is committed by international law and the Charter, the United Nations would be able to function as anticipated at San Francisco.

The preference of the great powers for unilateral intervention, as by Britain and France at Suez (1956), by the Soviet Union in Czechoslovakia (1948, 1968) and Hungary (1956), the United States in Cuba (1961), Santo Domingo (1963), and Vietnam (1964), and of China in India (1962), has not only seriously impaired confidence in the United Nations but has been of doubtful assistance to the intervening states. Furthermore, such actions have induced lesser states to ignore their obligations, such as India in Goa (1962), Indonesia in Malaysia (1962) and the Middle Eastern states in sporadic hostilities from 1949 to 1968.

The procedures of the United Nations should be strengthened for the pacific settlement of political disputes, for the establishment of a cease-fire if hostilities occur, for the prevention of foreign intervention in civil strife, for the facilitation of United Nations intervention if civil strife threatens to escalate into international hostilities, for the maintenance of an adequate peace force for this purpose, and for the policing of cease-fire lines. The most important present need is the solution of the financial problem of the United Nations. The General Assembly's authority in this field, supported by the World Court, should be accepted by all members.

The United Nations has been more successful in stopping hostilities than in preventing them by settling the underlying problem. This is witnessed by the cease-fire lines, allegedly temporary, which remain as inadequate barriers to hostilities in Germany, the Oder-Neisse line, Kashmir, the Straits of Formosa, Korea, the Middle East, Cyprus, and especially Vietnam.

Some changes can be developed by interpretation and practice; others, like those adopted for increasing the representation of new states in the Security Council, by Charter amendment. The foundations exist, however, in the formal acceptance by states of the purposes, principles, organs and procedures of the United Nations. The challenge is to build on these foundations so that the international system that they contemplate will supersede in practice, as well as in theory and law, the inadequate system of power politics that has led to two major and many lesser wars in the twentieth century. Salvation of the world from the holocaust of nuclear war may provide the necessary inducement.