UN Charter Day, 26 June 2022
Graduate Institute of International and Development Studies (IHEID) Geneva

Discussion: The UN Charter and the Prevention of Wars and other Existential Threats

Concept Note

Is the current UN Charter fit to serve its stated main purposes? This fundamental question arises out of repeated failures to save human lives in Syria, Myanmar, Yemen, Gaza and elsewhere, to take just the last decade. The UN Security Council also remains hamstrung over statements or leadership on existential planetary climate/ecological threats. In late February 2022 a brutal act of aggression of a P-5 member against a peaceful neighbor, coupled with shocking evidence of war crimes and threats to use nuclear weapons, led Ukrainian President Zelensky to compare the veto right with the “right to die.”

The abuse of the veto damages the whole UN system, which otherwise could be well-structured and capacitated to undertake extensive preventative and live-saving operations. It produces not only paralysis in collective measures, but also destroys the core international legal fabric by allowing an escape route from the application of international law. We have witnessed, since 1945, how veto-bearing states have blocked engagement in issues of vital concern to the international community.

Some argue that the veto has been an integral part of the UN from its outset and without it the UN may have never come to exist. While this may be true in historical context, what is forgotten is the generalized dissatisfaction with the veto, expressed as early as 1945 by many founding UN members (Australia, Poland, most Latin American countries), who regarded the veto as a temporary measure to be tested for the first 10 years. Article 109 of the Charter was drafted with the expectation of abandoning the veto with a review conference in 1955.

In 2015 France and Mexico attempted to reduce veto misuse by proposing a Political Declaration on Suspension of Veto Powers in Cases of Mass Atrocity. The “ACT” group developed a code of conduct, urging the P-5 to refrain from use of the veto in mass atrocities. The General Assembly has adopted several resolutions on the Russian invasion of Ukraine, one of them deciding to conduct special emergency sessions when a veto is cast to hear explanations from P-5 members as to why they have employed it, increasing the reputational cost of use. France, Britain and the USA supported the resolution. While the efforts listed above are admirable, abuse of the veto will no doubt continue.

This meeting will deliberate on four possible scenarios, assess their feasibility, desirability, potential to deliver intended results, and consider further approaches:

1. Live with the current Charter and make the best within it, including by building upon initiatives like those of the ACT Group, Liechtenstein and others.
2. Reinterpret texts of the current Charter. Can member states accept and are there legal arguments to be made for GA Resolutions to be considered legally binding? Can a P-5 member participate but not vote when it is part of the conflict under discussion? (e.g., extending Art. 27).
3. Introduce Charter amendments under Art. 108 or convene an Art. 109 review. Recommended Charter amendments cannot come into effect without the ratification by all P-5; are there legal and/or practical ways around this potential blockage to the will of the majority of states?
4. Create a new/successor organization with a new Charter, similar to 1945 when the UN was created and the League of Nations was dissolved. The new organization can inherit everything that works in the current UN system, and re-constitute not only the Security Council, but implement other important proposals from the Secretary-General’s OCA Report, draft reasonable, periodic Charter review mechanisms, ensure a genuine international rule of law, etc.

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**Draft Agenda**

9am-12pm, Geneva

**Location:** Graduate Institute of International and Development Studies (IHEID)

9-9:20am: **Introduction of the Topic** by the Co-Convenors of the Discussion

9:20-9:45am: **Reading the Current Reality:** What has changed or not changed since the Ukraine crisis?

9:45am-11:45am: **Consideration of Four Scenarios**, with assessment of: a) desirability/potential to deliver intended results; b) feasibility; and, c) strategic approaches to the scenarios:

1. **Live with the current Charter** and make the best within it, including by intensifying/building upon initiatives like those of the ACT Group, Liechtenstein and others.

2. **Reinterpret the text of the current Charter.** Can member states accept and are there legal arguments to be made for GA Resolutions to be considered legally binding? Can a P-5 member participate but not vote when it is part of the conflict under discussion? (e.g., extending Art. 27).

3. **Introduce Charter amendments under Art. 108 or convene an Art. 109 review.** Recommended Charter amendments cannot come into effect without the ratification by all P-5; are there legal and/or practical ways around this potential blockage to the will of the majority of states?

4. **Create a new/successor organization with a new Charter**, similar to 1945 when the UN was created and the League of Nations was dissolved. The new organization could inherit “everything that works” in the current UN system, and could re-constitute not only the Security Council, but also implement other important proposals, for example, from the UN Secretary-General’s OCA Report, draft reasonable, periodic Charter review mechanisms, ensure a genuine international rule of law, etc.

11:45pm: **Discussion of Next Steps and Possible Additional Meetings**

12pm: Close of Meeting