Chapter 3

International Organizations

Meaning and characteristics

- An international organization is an organization, typically ***established by treaty***, whose members are States or other international organizations.
- The treaty that establishes an international organization usually ***acts as a constitution for that organization***. This is the case with the UN; its Charter sets out the fundamental structure and rules of the organization. If someone has a question about what UN organs can and cannot do, the Charter is the place to go for an answer.
- International organizations have taken on many of the **characteristics** of States in the international system, as explained previously. Like States, international organizations can ***enter into treaties***. The UN had to enter a treaty with the U.S. to establish the UN headquarters in New York. Like States, international organizations can ***sue and be sued*** in national and international tribunals. Like States, international organizations ***enjoy certain privileges and immunities***, as for example those enjoyed by UN diplomats traveling abroad on UN business.

- This is not to say that international organizations have the same status as States in the international system. International organizations are the ***creation of States***, and their powers are limited to the powers that the constituting States have given them.
- States have privileges and immunities that are general whereas international organizations have only such privileges and immunities as are necessary to carry out the organization's functions.
- An international organization ***cannot invoke "sovereign immunity"*** – immunity from liability in foreign courts in cases involving official acts – because an international organization is not a sovereign. Also, ***only States can appear before the International Court of Justice in contentious cases***. International organizations have to resort to other international tribunals to resolve their disputes.

The Structure of the United Nations

The UN Charter

- In 1945 representatives of 50 states met in San Francisco, California and drafted the charter of the UN.
- The UN Charter acts as a constitution for the UN, setting out its separate organs, defining the roles of these organs, and clarifying the relationship between the UN and its Member States.
- The entire UN Charter must be understood “in light of its object and purpose.” In many circumstances Member States are called on to act in a way consistent with the purposes of the UN.

Object and Purpose of the charter

Article 1.

- The first purpose is “to maintain international peace and security.”
- The second purpose is “to develop friendly relations among nations…
- The third purpose, somewhat more rambling, is “to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting…human rights…” In other words, the UN will serve as a forum for discussing and solving international problems.
- The fourth and final purpose is “to be a center for harmonizing the actions of nations…” This seems to repeat the third purpose, as “harmonizing” is somewhat similar to “cooperation.” Perhaps the fourth purpose merely confirms the general commitment of Member States to joint action in all international matters.

The UN relations with member states.

- The first and perhaps most interesting question is, Can the UN force a Member State to do something? whether the UN lawfully can bind a Member State to a course of action and then there is the question of whether the UN can enforce its orders.
- The Security Council is really the only organ that can pass and enforce ***binding resolutions***. Nonetheless, the General Assembly at least may bind Member States in regard to ***certain budgetary matters***, and the ***decisions of the ICJ in contentious cases are binding on the State parties before the Court***.

  In practice, the UN remains a loose association of essentially independent States rather than a world government with control over its constituent Members.

- In general, so long as the UN is acting in accordance with the Charter, the Members States are supposed to cooperate. Member States are committed to "give the UN every assistance in any action it takes in accordance with the present Charter…" (Article 2(5)).
- At the same time, the UN has consented not to intervene "in matters which are essentially within the domestic jurisdiction of any state…," except for certain actions undertaken by the Security Council (Article 2(7)). Thus Member States have committed to some international governance but with the caveat that they continue to control their domestic affairs.

The Structure of the United Nations/Art 7/

- General Assembly
- Security council
- The International Court of Justice
- Economic and social Council
- Trusteeship Council
- The Secretariat

The General Assembly/Art 9-22/

- The General Assembly is made up of all the member countries, each with one vote.
- It undertakes all major discussions and decisions about UN actions. The Assembly can discuss and make ***recommendations*** on any issue covered by the UN's charter. However, the recommendations are ***not binding*** and the Assembly has no authority to enforce them.
- Members decide routine matters with a simple majority vote. Important decisions require a two-thirds majority.

- The General Assembly has the power to admit new members to the UN.
- It approves the budget for UN programs and operations.
- The Assembly can establish agencies and programs to carry out its recommendations. It elects members to serve on certain agencies and programs, and it coordinates those programs through various committees.

The Security Council(Art 23-54)

- The Security Council is the most powerful body in the UN. **It is responsible for maintaining international peace, and for restoring peace when conflicts arise**.
- Its decisions are binding on all UN members and have the force of international law.
- The Security Council has the power to define what is a threat to security, to determine how the UN should respond, and to enforce its decisions by ordering UN members to take certain actions. For example, the Council may impose economic sanctions, such as halting trade with a country it considers an aggressor.

- The Security Council has 15 members, 5 of which hold permanent seats. The General Assembly elects the other 10 members for rotating two-year terms. The 5 permanent members—the United States, the United Kingdom, France, Russia (formerly the Soviet Union), and China—have the most power. These nations were the winning powers at the end of World War II, and they still represent the bulk of the world's military might.
- Decisions of the Council require nine votes. But any one of the permanent members can veto an important decision. This authority is known as the *veto right of the great powers*. As a result, the Council is effective only when its permanent members can reach a consensus.

The Secretariat(Art 97-101)

- The Secretariat is composed of all the administrative staff of the UN and headed by the Secretary-General. Although the role of the Secretary-General as a spokesman for the UN may lend to this position an aura of power, the fact is that the Secretary-General has a limited ability to influence decision-making. At best the Secretary-General may "bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security." (Article 99.) The Secretary-General is more the head of UN employees than the head of the UN itself. (Of course, the position is important enough that the SC is involved in the hiring process – the SC recommends a candidate for approval by the GA thus giving permanent members of the SC an opportunity to veto anyone they do not like.)

The ECOSOC (Art 61-72)

- The Economic and Social Council functions like a mini GA with a special focus on economic, social, and humanitarian issues. Like the GA, it has subsidiary organs, for example the UN Environment Program. Each member has one vote and a simple majority will prevail. ECOSOC makes studies and reports and may bring matters to the attention of the GA.

The Trusteeship Council(Art 86-

- The Trusteeship Council was created to monitor those colonies placed under the administrative authority of another State following World War II. For example, Italian Somaliland was a trust territory that was later merged with Somalia. As explained previously, the trust system was similar to the mandate system administered by the League of Nations. (Indeed, the UN insisted that South Africa, which had a Mandate to govern Namibia, still owed obligations under the Mandate to the UN after World War II.)
- The Trusteeship Council was composed of the five permanent members of the Security Council. Originally it monitored the eleven trust territories, but it suspended its operations with the independence of the last trust territory in 1994.

The ICJ(Art 92)

- The International Court of Justice functions under its own statute which is “an integral part” of the Charter and is annexed to it. (Article 92.)
- The Court has fifteen judges all from different States. (The judges are elected by the GA and SC, each body voting separately.)
- Two types of cases come before the Court **– contentious cases between States** and requests for **advisory opinions from organs of the UN or from specialized agencies**.
- Although Member States under the Charter have an obligation to resolve their disputes by peaceful means (article 33), there is no specific obligation to use the ICJ. ***States must consent to the jurisdiction of the ICJ in contentious*** cases, either at the time the dispute arises or beforehand by a separate treaty. States also may accept the jurisdiction of the ICJ generally, or for a specified category of cases, by communicating this in a declaration and filing it with the UN. In fact, the ICJ has been underused by State parties. From 1946 to 1996, only one hundred cases came before the Court. The GA has passed several resolutions calling for greater use of the Court, but Member States remain reluctant.

A Note on the African Union

- May 26, 2001, marked the turning of a page in the history of the African continent. On this date, the Constitutive Act of the African Union entered into force, representing the start of a new political, judicial, and economic organization for Africa. The organization, simply called the "African Union" (Union), comprises, among other institutions, ***the Pan-African Parliament***, ***the Court of Justice***, and ***the Central Bank***. The entry into force of the Constitutive Act also marks the imminent end of the Organization of African Unity (OAU), which has united all African states since 1963.