

Chapter Three

Public International Organization

Definition and Scope of PIO

- PIO can be defined “as a forum of co-operation of sovereign states based on multilateral international agreement and comprising of a relatively stable range of participants, the fundamental feature of which is the existence of permanent organs with definite competences and powers acting for the carrying out of common aims.
- PIO is the process by which states establish and develop format and continuing institutional structures for the conduct of certain aspects of their relationships with each other.
- PIO is a formal arrangements transcending national boundaries providing for the establishment of institutional machinery to facilitate cooperation among members in certain specified subject matter.

Despite the above definition, legal scholars are in general agreement that for an entity or institution to qualify as PIO it must satisfy the following features:-

- It must be established by some kind of international agreement among states
- It must have constitutive document
- It must have separate an independent existence from its members
- It must be established based on under international law

These all feature, however; **do not always** work in all the prevailing PIO. But this does not deny their value in general.

For e.g. there are a number of PIO which are the member of another PIO. **EC is the member of WTO and FAO. Moreover, UNIDO and UNICEF are created by treaty of states but via the resolution of**

In sum, practically, it is not a hard and fast rule that PIO can only be established by states and via treaty of states.

The Origin and Development of IO

The IO were not always there. They came to existence at some point in time. References show different times. Some literatures take it to ancient Greek. They are developed in process. That is their growth is gradual, not sudden. Century back, there was a conference system of settlement of disputes.

Conference system is a system/sort of a mechanism of fixing global problems. That is they are convened after some sort of crisis to end up or to give solutions to such problems. That is, diplomatic representation became wide spread as the system expanded and political and economic relationships multiplied.

However, diplomatic contacts in themselves were unable to cope completely with the complexities of international system and the system of international conference evolved as a form of extended diplomacy.

Such gatherings dealt with problems that concerned more than two or three states and in many cases resulted in an international treaty or formal peace.

The first major instance of this occurred with the **Peace of Westphalia in 1648**, which ended the thirty year religious conflict of the central Europe and formally established the modern secular nation state arrangement of European politics.

After the watershed **Westphalia** Peace of 1648, international so-called 'congresses' had become a regular mode of diplomacy: whenever a problem arose, a conference was convened to discuss it and, if at all possible, take steps towards a solution.

After the defeat of Napoleon, different conferences are convened at different intervals after some form of crisis. A change came after 1815 of Congress of Vienna which was a land mark change.

The congress marked the first systematic attempt to regulate international affairs by means of regular international conferences. This Congress is different from the previous ones in many aspects. These include:-

- ❖ **Scope:** fundamentally departed from previous ones in that this one does not deal only with fixing peace problems but also maintenance of peace. The previous ones were only fixing the problem that happened.
- ❖ It Introduced a new way of conducting techniques of diplomacy “diplomacy by conference.” If you minimize the conflict, then you need alternative methods of solving the problem, that is, introduction of diplomacy by conference is the main contribution of the 1815 Vienna Congress. For example the Berlin Conference to partition Africa was the result of this congress.

- ❖ It introduced the technique of multilateral treaties. The technique of multilateral treaty goes back to the time Mesopotamia which was bilateral. The rudimentary form of multilateral technique was introduced by the 1815 Vienna that was signed by the participants. These were put in the document to avoid the duplication of the same document.
- ❖ The introduction of legislative feature for the first time. Not dealt only with the 'done deal' but was made to look forward. That is the legislative treaty making was introduced for the first time at the 1815 Vienna convention. Example, 1918 treaty to stop a slave trade. The process of conferences did not but continued.

Another conference that made great contribution for IO was the two Hague Conferences (1899 and 1907). Their contribution was

- ❖ They further broadened/enlarged the scope of the conference. That is the scope of conference enlarged and broadened to include the war and peace. These are convened for this specific purpose of war and peace. The international conferences were dealt with the important international relations.
- ❖ It also dealt with PCA- permanent Court of Arbitration. The permanent court of arbitration was the result of the Hague Conference- the earliest permanent international machinery that is still in operation.
- ❖ It introduced the regularity. That is the conferences were to be made at regular intervals.

Another parallel development for the development of IO is the International Administrative Unions. Major contribution of these unions was their permanence and their structure and they appeared in the second half of the 19th C. They are focused on one or few issues which are technical, scientific, and administrative.

- ❖ The International River Commission. One of the 1815 Vienna conventions was the declaration of navigation and pollution on international rivers which necessitated an institution the responsible for free navigation on international rivers. In Europe a number of other river commissions were established managing the Elbe (1821), the Douro (1835), the Po (1849) and, after the end of the Crimean War, the European Commission for the Danube in 1856.
- ❖ At roughly the same time, organizations started to be established by private citizens, in order to deal with international issues. Thus, in 1840, the World Anti-Slavery Convention was established, and in 1863 a Swiss philanthropist, Henry Dunant, created the Red Cross.
- ❖ Facilitation of Postal Service. Service related technical organizations- universal telegraphic union-1874 for free flow of postal services. In 1890 by the international Union of Railway Freight Transportation. In 1903 the International Office of Public Health was created, and in the field of economics the establishment of the Metric Union (1875), the International Copyright Union (1886), the International Sugar Union (1902) and the International Institute for Agriculture (1905) may be mentioned as early forerunners of present-day IOs.

These all IOs contributed a lot for the development of modern international organization in different aspects. Inter alia contributions :-

- ❖ Institutional aspects have permanent structures
- ❖ Introduced Majority rule of Decision making. Before this time there was rule of unanimous support and it gives a chance to single state to disqualify a decision. Thus, unanimity was abandoned by majority.

Although the system of ad hoc conferences contributed a lot for the prevailing modern IOs, they were limited in its scope and quality.

Among others the principal features of the system of ad hoc conferences were:-

- ❖ For each new problem a conference had to be convened afresh and this results delay and complexity in dealing with problems
- ❖ There were no principle of state membership to

- ❖ The conferences were used as platforms for rendering state policy rather than as forum for discussion and resolution. In other word state delegates attended very much for the purpose of statement of state policy.
- ❖ Most importantly, the principle of state sovereignty was the heart of the ad hoc conference system. Which means that decisions, specially, of whatever kind were subject to the rule of unanimity.
- ❖ They were appropriate to political issues, but not for legal questions
- ❖ In any event they were proved inadequate for the solution of political problems. Moreover, they were more inadequate for the regulation of relations between/ among people of different countries, which were the result of their common interest.

The Rise of Modern PIOs

Around the turn of the 20C it appeared indeed to be common knowledge that the organization of interstate cooperation had become well accepted in IL.

As the legendary Swiss international lawyer Max Huber could write in 1910, states concluded treaties for basically two reasons:

- for the pursuit of **self interest**,
- **for the pursuit of common interests**

The major breakthrough for IOs, however, would be the year 1919 and the Versailles Peace Settlement which followed the First World War. On 8 January 1918, US president Woodrow Wilson made his famous 'fourteen points' speech, in which he called for the creation of a '**general association of nations**' under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike'.

Wilson's plea was carried on the waves of public opinion in many states¹⁶ and would lead to the formation of the League of Nations. And not only that: the International Labour Organization was also established at the 1919 Peace Conference. Both proved to be influential in their own right: the League because of its comprehensive character and, perhaps, its dramatic failure as well; the ILO because of its unique representation structures and clever modes of regulation.

Classification of IOs

Not all IOs are of the same class. Different standards are adapted for the classification of **IOs** and these include

1. Based on Membership: According to membership, the **IOs** can be classified into open or closed **IOs**.

➤ **Open IOs** are those organizations which anybody can be a membership irrespective of location and time. That is, for these types of organizations every state can be a member of that IO.

➤ **Closed IOs** are those organizations which are closed in terms of time and membership. Membership is possible only for some duration of time or for some countries in certain region or with a given religion or with ideological outlook. Examples include: the league of democracies, the Arab League, Capitalist block or the Communist Block.

2. Based on Scope. As pertaining to the Scope, **IOs** may be limited to a certain region or it can be global. Accordingly, the **IOs** can be Universal or Regional.

➤ **Universal or Global Organizations** are those organizations whose membership are global. Example all states of the world can be the membership is to universal organizations.

➤ **Regional organizations** are those organizations whose membership is limited to regions. Examples are AU, EU, OAS etc.

3. Based on Subject matter: **IOs** are established for certain purposes. In general the purposes can be categorized into two namely **political IOs** and **Functional IOs**. This division of the **IOs** of course is not a vivid clear cut between the two. It is the matter of degree. Focus is given for their primary objective for which an organization is established.

➤ **Political organization** is an organization whose primary purpose is regulated the power relationship between the members, that is, the issue of peace and security. The main example of **IOs** Political is the UN. Its main focus is an international peace and security.

➤ **The functional organizations** are those organizations which deal with issues of economic, social, and cultural relations, the organizations. Example, WTO, FAO, as specialized agencies of the UN are the functional organizations.

4. Based on the power and the legal mandate of the organization **IOs** can be categorized into **Intergovernmental or supranational IOs**.

The following are the most fundamental characteristics of intergovernmental organizations:

➤ The decision making powers are, in fact, exercised by representatives of governments. Organs composed of persons independent of member states, committees of experts or parliamentary assemblies may play, an advisory role; but they will generally not have the power to take final decisions.

➤ In important matters, governments **cannot** be bound against their will. Intergovernmental organizations seek collaboration among governments, and are in no way superior to them.

- Although intergovernmental organizations can sometimes make binding decisions, this is only possible where the decision in question enjoys the unanimous approval of all members. By voting against a draft decision, a government can thus prevent its adoption.
- In short, intergovernmental IOs are like a common forum for member states in which they act on a collective basis whereas the organization by itself **cannot** act as a vanguard of its member states and make binding decisions concerning the latter.
- On the other hand, supranational IOs have the following most fundamental characteristics:
 - ***The organization should have the power to take decisions binding the member states.***
 - ***The organs taking the decisions should not be entirely dependent on the cooperation of all the member states***
 - ***The organization should be empowered to make rules which directly bind the inhabitants of the member states.***

- *The organization should have the power to enforce its decisions. Enforcement should be possible even without the cooperation of the governments of the states concerned.*
- *The organization should have some financial autonomy.*
- *Unilateral withdrawal should not be possible*

common structures

There are common features for an international organization. These common structures are common to almost 95% of the international organizations though they have different names. These common structures include:

1. Plenary (Principal) organ: is an organ which we can find in any organ where the names can vary. The

Plenary organ is not a permanent organ. Its membership consist all the members of the organization. It convenes once or twice a year. You can take the General Assembly of the UNs, the Assembly of AU . **It is an expression of the sovereignty and equality of states and members.** The mandate of this organ is the determination of the policy of the organization.

2. *Non-plenary/Subsidiary organ*: is the organ to which every member ***cannot*** be a member. It is again called by different names including the council, the committee, the directorate etc. The membership to this organ is only partial. The membership is always smaller than the membership of the organization.

The membership is always smaller than the membership of the organization. The members are either appointed or elected by the plenary organ. It is a permanent organ. For example, the Security Council of the UN which has fifteen members out of 193 members and among those fifteen, five is predetermined by the Charter, the AU Security Council which has fifteen members out of fifty four members.

3. ***Administrative Organ***: is an organ that undertakes the routine tasks of the organizations headed by one person. It is assigned or elected by the plenary organ. Example is the secretary general of the UN deals with routine works of the UN, the AU's Secretariat.

The United Nations (UNs): Aims, Organs of the United Nations

The world witnessed two devastating wars in the 20th century. The First World War broke out in 1914 and continued till 1918. Millions of people were killed, wounded, maimed, crippled and rendered homeless. The horror and tragedy of the First World War led to a universal desire for peace. It was felt that some international organization should be created to prevent future wars. Out of this desire was born the League of Nations. The primary aim of the League of Nations was to ***preserve peace and promote international cooperation.***

The immediate source of the League of Nations was a proposal introduced at the peace conference of Paris in 1919. However, The League of Nations failed to maintain peace and security, and the Second World War broke out in 1939. And the outbreak of the Second World War revealed to the global community the weaknesses of the League of Nations.

Thus, head of states were felt that a much stronger international organization should be created, based upon the principle of sovereign equality of all peace loving state if the world was to have peace.

Accordingly, the formulation of definite plans for such an organization took shape in stages, at Teheran in 1943, at Dumbarton Oaks in 1944, at Yalta in 1945 and finally at the San Francisco Conference in 1945 where 50 head of states upon the basis of the Dumbarton Oaks proposal established United Nations.

United Nations officially came into existence on 24 October, 1945. The Charter had been ratified by the five big powers Britain, China, France, the Soviet Union, and the United States and by a majority of the other signatories. And the 24th of October is celebrated as United Nations Day. Today, the organization has 192 members.

The headquarters of the United Nations is located in New York, USA. The organization has six official languages- English, French, Spanish, Russian, Chinese and Arabic. Its flag bears its emblem, a map of the world encircled by two bent olive branches. Membership to the UNs is opened to all peace-loving states.

The Objectives of the UNs

According to Art 1 of its Charter, the UNs has the following objectives:

- (1) To maintain international peace and security.
- (2) To develop friendly relations among nations on the basis of equality and the principle of self-determination.
- (3) To foster worldwide cooperation in solving economic, social, cultural and humanitarian problems.
- (4) To promote human rights and fundamental freedom for the people of the world.
- (5) To serve as a centre where various nations can coordinate their activities towards the attainment of the objectives of the UNs.
- (6) To save succeeding generations from the scourge of war.

The Basic Principles of the UNs (read Art 2)

1. The principle of sovereign equality
2. The principle of nonintervention
3. The principle of prohibition of use of force/use of peaceful dispute settlement
4. The principle of cooperation and support on the maintenance of peace and security

The organs of the United Nations:

The UN has six principal organs to carry out its functions:

1. The General Assembly (GA),
2. The Security Council (SC),
3. The Economic and Social Council (ECOSOC),
4. The Trusteeship Council(now there is no such organ)
5. The International Court of Justice (ICJ) and
6. The Secretariat.

The General Assembly/GA

The GA is composed of all the member nations. Its members meet annually at UN Headquarters in New York City. The GA can discuss and make recommendations on any matter within the scope of the charter.

Its specific duties include the election of the members of the Economic and Social Council, the board of the UN Industrial Development Organization, and some members of the Trusteeship Council. With the Security Council, it elects the judges of the International Court of Justice.

- In addition, the GA appoints the UN secretary-general on recommendation of the Security Council. It adopts rules governing the administration of the Secretariat. It also approves the UN's budget. And it decides how much money each member nation should pay to run the organization. Decisions in the GA may be made by a simple majority vote or, on important questions, by a two-thirds vote. Smaller nations have a great deal of influence in the GA because each country casts one vote. However, the decision of the GA does not have binding effect on the members state.

The Security Council (SC)

The SC is the most important and effective organ of the UN. It is the executive wing of the UN. The SC consists of 15 members. Five of them are permanent members, namely Britain, China, France, Russia and the USA. The ten non-permanent members are elected by the GA for a term of two years.

- Each member has one vote. Decisions are taken by a majority vote of at least nine members including the five permanent members. Each permanent member has the power to reject or veto a decision. This means a negative vote by any one of the permanent members would lead to a cancellation of the resolution. The Council is powerless to act if there is such a veto by any permanent member although it may be supported by all other permanent members.
- The SC has the basic responsibility of maintaining peace and security in the world. The SC meets once a month but in the event of an emergency, a meeting may be held whenever required.

The Major Functions of the SC:

1. To maintain international peace and security in the world.
2. To investigate international disputes and recommend appropriate methods of settling them.
3. To call on member states to apply economic sanctions against the aggressor and thus to put pressure on the guilty state to stop aggression.
4. The SC may take military action against the aggressor, if required.

The Economic and Social Council

The Economic and Social Council works under the general guidance and control of the GA. It is composed of 54 member nations that serve 3-year terms. (Eighteen are elected per year). There are no permanent members. But it has been customary for the nations of major economic importance, such as the United States and the Russian Federation, to be re-elected.

- The ECOSOC discusses major economic and social issues. It is mainly concerned with the management of the UN's social, economic, cultural and humanitarian activities.

Its main functions are:

1. To promote economic and social progress.
2. To solve problems relating to health, illiteracy, unemployment, etc.
3. To coordinate the functions of the agencies of the

• **The International Court of Justice:**

- The ICJ is the principal judicial organ of the United Nations. It is located in the Hague, Netherlands. The Court consists of 15 Judges from different countries elected by the GA and the SC. They are elected for a nine-year term. The judges are chosen based on their qualifications rather than their nationalities. No two judges can be citizens of the same country.

The ICJ has two basic functions:

- (1) To settle disputes brought to it by member States.
- (2) To provide legal advice to any organ of the UN on request.

Its advisory opinions do not have to be accepted. But they carry great weight. In disputes submitted to the court, however, its judgments are supposed to be followed by all the parties.

The Secretariat:

The Secretariat is the principal administrative department of the UN. It is headed by the Secretary-General appointed by the GA on the recommendation of the SC for a term of five years. He can be re-elected.

- The staff of the Secretariat is appointed by the Secretary-General. They are chosen from among the 192 member countries. The Secretary-General holds a key position in the administration of the affairs of the UN. He organizes conferences, oversees peacekeeping operations, drafts reports on economic and social trends, prepares studies on human rights, mediates in international disputes and prepares budget estimates.
- It is to be noted that the UNs can achieve success only if the member states cooperate with it. All member countries must abide by the policies and