



## INTERNATIONAL PROGRESS ORGANIZATION



«The Bosphorus Roundtable»

### SOVEREIGNTY AND COERCION

### The United Nations in the Web of Power Politics

*Introductory remarks*

by

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Excellencies,  
Dear colleagues,

De facto admitting its inability to exercise its “primary responsibility for the maintenance of international peace and security,”<sup>1</sup> the United Nations Security Council, in a procedural resolution (where the veto does not apply), on 27 February 2022 decided “to call an emergency special session of the General Assembly to examine the question” of Ukraine. The supreme irony of this was that the body to which the Council referred the situation under the “Uniting for Peace” formula is itself only able to make what are called “*appropriate recommendations* to Members for collective measures (...) to maintain or restore international peace and security.”<sup>2</sup>

This highlights in nuce the ambiguity of the Charter’s principle of “sovereign equality” and exposes a *fundamental inconsistency* in the organization’s rules and procedures. A certain category of members of the supreme executive organ of the UN, vested with vast coercive powers to enforce the ban on the use of force, can under no circumstances be legally coerced to abide by the law. For those countries, namely the five permanent members of the Security Council (P5), “sovereignty” appears to be *exclusive*, in stark contrast to the Charter’s principle of “sovereign equality” of all member States. For the P5, the provisions of the Charter mean sovereignty in the sense of *absolutist rule*: the power to coerce, linked with the privilege not to be coerced. In other words: the law cannot be enforced against a permanent member, or an ally enjoying the protection of a permanent member.

The stalemate – or blockage – in the dispute and armed conflict over Ukraine is certainly not the only such situation involving a permanent member of the Security Council. The conflicts over Iraq (2003) and Palestine (since several decades) were, or still are, further tragic instances of paralysis of the world organization.

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<sup>1</sup> United Nations Charter, Article 24(1).

<sup>2</sup> General Assembly, resolution 377 (V) [Uniting for peace], A, Par. 1, 3 November 1950. (Emphasis H.K.)

At last year's roundtable consultation in Vienna (the materials of which are now available in print) we came to the conclusion that within the UN system countries cannot in a consistent manner be held accountable for their international actions. *State responsibility* has remained a noble principle that will only be invoked when the power constellation allows, and international criminal justice – a system of norms intended to hold leaders to account – can only operate within the arbitrary constraints of politics. *Responsibility* – whether of states or their leaders – is not linked to *accountability*. This has profoundly eroded the idea of the “international rule of law” as advocated by the United Nations. As Hans Kelsen has convincingly argued in his *Reine Rechtslehre* (“Pure Theory of Law”), norms without procedures for their enforcement are not norms of law.

As an NGO in consultative status with the United Nations, the International Progress Organization has dealt with the dilemma of power and law since our colloquium on “Democracy in International Relations” in New York City in October 1985. In this event to commemorate the 40<sup>th</sup> anniversary of the UN, we addressed the *absence of equality* in crucial areas of the UN system. The Executive Director for the International Year of Peace, Mr. Krzysztof Ostrowski, attended our meeting as special representative of the Secretary-General of the United Nations. Also, in the euphoric years immediately after the end of the Cold War, we were co-sponsors of the CAMDUN initiative – “Conferences on A More Democratic United Nations” – of which we convened the second meeting at the UN Centre in Vienna in 1991, under the title “The United Nations and the New World Order.” In spite of increasing global awareness of the problems, not much has changed in terms of substance – in the way the United Nations Organization operates – since we launched our reform proposals. After three decades of stalemate in the reform debates, it is indeed time to take a fresh look.

I am happy to welcome at our consultation today scholars and practitioners from distant corners of the globe – scholars who are practitioners, and practitioners who

are scholars, who all have contributed to the discourse on a world order that would be in conformity with equal rights and justice among nations. From the world of politics, we are particularly honored to have among us Mr. Mogens Lykketoft, President of the 70<sup>th</sup> General Assembly of the United Nations, former Speaker of Denmark's *Folketing* (Parliament) and Minister of Foreign Affairs and of Finance in several legislative periods. Opening up the selection process for the post of Secretary-General and ensuring a proactive role for the General Assembly on the basis of its "revitalization resolution" of 2015,<sup>3</sup> Mr. Lykketoft introduced a much-needed element of transparency into the UN system. I also cordially welcome Professor Hassan Diab who served, in an expert government, as President of the Council of Ministers (Prime Minister) of Lebanon in one of the country's most difficult periods, and Dr. Karin Kneissl who, as Foreign Minister, succeeded to initiate a constructive dialogue in relations between Austria and Türkiye.

I also would like to greet Professor Türkkaya Ataöv in Ankara, the doyen of political science and international relations in Türkiye and recipient of the golden honorary medal of the I.P.O., who over several decades has worked with us on the issues that are on our agenda here today. Our organization is deeply indebted to him.

We are meeting today at a place of special historic significance, at the gateway between Europe and Asia, in sight of one of the iconic bridges that not only facilitate the crossing between the European and Asian districts of the global megalopolis Istanbul has become, but also symbolize the interaction that has existed between East and West since the days of Emperor Darius I the Great. 2,500 years ago, he ordered the bridging of the Bosphorus by connecting boats, as is famously reported by Herodotus (*Ἱστορίαι*, *book 4*, *logos 11*).

History was written here, at Çırağan Sarayı, where the parliament of the Ottoman Empire, with the permission of Sultan Mehmed V, convened for the opening of the Second Legislative Year on 14 November 1909, an event that highlighted the

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<sup>3</sup> Resolution adopted on 11 September 2015: 69/321. *Revitalization of the work of the General Assembly*.

transition from absolute to constitutional monarchy. Earlier, in the 19<sup>th</sup> century, the palace was the site of extended power struggles and intrigues. Dethroned Sultan Murad V lived here for 28 years. In 1878, a failed attempt to liberate him by means of a battleship anchored offshore in front of the Palace, and to reinstate him to the throne, cost the lives of most of the plotters.

Fast-forward to the realpolitik of today, and the significance of the Bosphorus will appear in a new light. In the current situation of regional and geopolitical conflict, the “Régime of the Straits,” in place since 1936, has again made us aware of the *crucial role of international law*. Under the Treaty of Montreux, the Republic of Türkiye has acted as “Guardian of the Straits,” ensuring that “vessels of war belonging to belligerent Powers shall not (...) pass through the Straits” (Art. 19, Par. 2). In conformity with her rights and obligations under the Treaty, Türkiye on 27 February 2022 declared, for the purposes of the Convention, that a “state of war” existed between Russia and Ukraine. Also, in the nearby Dolmabahçe Palace, Türkiye hosted peace talks between Russia and Ukraine and, together with the United Nations, brokered the so-called grain deal – “Black Sea Grain Initiative” – between the warring parties.

Türkiye’s role – also as facilitator, a few weeks ago, of the largest prisoner exchange since the end of the Cold War between the West and Russia – is just *one* indicator of an emerging multipolar constellation that is substantially different from the multipolarity among the Allied powers of the time when the UN was founded. It is to be hoped that the emergence of new global players will give fresh impetus to a comprehensive debate on reform of the international system. A new order must ensure that no one single actor, as powerful as he may be, will be able to block collective action for the maintenance of peace. The protracted armed conflicts in Europe and the Middle East are sad testimony to the predicament of the world organization under the conditions of an outdated statute, dictated by a balance of power that vanished long ago.

In conclusion, I would like to recall here the words of President Sukarno of Indonesia who more than 60 years ago anticipated the gist of today's reform debates. In a far-reaching speech to the 15<sup>th</sup> session of the General Assembly of the United Nations on 30 September 1960 he said: "In many ways, the Charter reflects the political and power constellation of the time of its origin. In many ways that Charter does not reflect the realities of today."<sup>4</sup> Emphasizing the principle of sovereign equality of States,<sup>5</sup> he called for major structural reform, and in particular for a redistribution of seats in the Security Council.

What was to the point at the height of the Cold War is even more relevant under conditions of today's global realignment. To free the United Nations from the web of power politics, the paralyzing legacy of an earlier era, will require participation of *all* global regions in the organization's decision-making bodies – according to the phrase made popular and eloquently pronounced from the rostrum of the General Assembly by the president of the country we are meeting in today:

*"The world is bigger than five."*

It will be high time for the member states to "recommit to fundamental principles and further develop the frameworks of multilateralism," as Secretary-General António Guterres suggested in his exposé for the UN "Summit of the Future,"<sup>6</sup> which is to convene in ten days' time in New York. However, if the states that created the organization in the middle of the last century continue to refuse adaptation of the Charter to the evolving realities of the 21<sup>st</sup> century, they are putting at risk the very future of their collective effort.

I thank you for having accepted our invitation and look forward to our discussions.

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<sup>4</sup> United Nations, 880<sup>th</sup> Plenary Meeting of the General Assembly: 15<sup>th</sup> Session – Part 3, Official Record, A/PV.880.

<sup>5</sup> Article 2(1) of the UN Charter.

<sup>6</sup> *Secretary-General's remarks to the General Assembly Consultation on "Our Common Agenda."* United Nations, Secretary-General, 04 August 2022 / General Assembly.