By Dr Robert Crowcroft

If there is one observation that everyone thinks to be true, it is that the United Nations is a humanitarian vehicle for doing good around the world. Perhaps. But certainly not in the sense that is usually presented to Western publics. The UN Charter was shaped by the wartime 'Big Three' (America, Britain, and the Soviet Union) and ratified on 24 October 1945; yet this document was decidedly not a vehicle for Utopianism and delusion. Instead, it constituted a thoroughly conventional framework for a 'Concert' of the major powers, through which these states would impose stability on the rest of the world. The difficulty is that in contemporary public debate there exists deep misunderstanding as to what the United Nations is for. At a time when financial stringency is likely to further diminish the West's standing, parliamentarians and other opinion-formers need to be far more aware of how the UN was actually conceived.

The most obvious problem with the UN is that, time and again, it is used to broker a ceasefire in a conflict somewhere in Africa; and, time and again, a few months later the ceasefire breaks down and the violence erupts afresh. The UN lacks effective enforcement mechanisms. As Thomas Hobbes put it, 'Covenants without swords are but mere words'. There is no 'sword' to speak of because major powers lack a national interest in preventing African gangsters from taking a machete to each other. The UN was simply not designed to act as an international version of the Red Cross. Thus, freezing wars by a ceasefire is pointless if it does nothing to resolve the underlying competition which leads to violence. The unpleasant truth is this: war is an arbiter for disputes, and there would generally be rather less death and destruction in the world if the UN kept its nose out and allowed conflicts to be fought to a satisfactory conclusion in timely fashion.

It is safe to say that most of the UN's cheerleaders will never have bothered to read the Charter itself. But an analysis of the document is a provocative experience. For instance, Article 1 announces that the principal purpose of the UN is 'to maintain international peace and security ... to take effective collective measures for the prevention and removal of threats to the peace (note here that the idea of preventive war, and not allowing threats to fully gestate, is comfortably enshrined within the Charter), and, in conformity with the principles of justice and international law, (a wholly empty statement as those 'principles' are never defined) adjustment or settlement of international disputes or situations which might lead to a breach of the peace'. This is classical Concert of Europe stuff – what it means is that the major powers will consult among themselves, impose a solution on smaller states, adjust territory and so on as they see fit; and hard luck if the small states don't like it. Bear in mind that the Charter was the result of torturous legal argument; while the wartime Allies glared at one another warily, the one thing they could all agree on was that the rest of the world would have to do as it was told. This interpretation is reinforced by Chapter VII, which, in the case of threats to peace or aggression, grants to the UN Security Council – with its permanent members, the wartime Allies – the

power 'to make recommendations (that could mean to do something, or not to bother) or decide what measures shall be taken (the same) to restore international peace and security'. UNSC behaviour is, of course, subject to the veto of the five permanent members. So, again, this is basically the Concert of Europe: the great powers will decide what, if anything, is to be done; and any action they disapprove of can be blocked from having the UN imprimatur by the veto.

In this vein, Article 24 (1) writes that 'In order to ensure prompt and effective action by the United Nations, its members confer on the Security Council responsibility for the maintenance of international peace and security (so by signing the Charter, the smaller powers do so on the understanding that they abdicate responsibility for decision-making to the permanent members of the UNSC) and agree that in carrying out its duties ... the Security Council acts on their behalf (in other words, the UNSC does not need to come and ask their permission; it is already assumed to be have it). This might be astonishing stuff to a public reared on a very different brand of UN milk. Article 25 states simply that 'The members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter'. What that means is that UN members accept an obligation to do the UNSC's bidding. Chapter VI, meanwhile, explicitly identifies the UNSC as the single agent that will determine the existence of threats to international peace and security. Under Article 39, the Charter sets no limits on the power of the UNSC to make a determination as to what constitutes a 'threat'. The idea of having to resist 'aggression' was deliberately kept out of the Charter. The great powers wanted freedom of action, and often may not – and do not – care about 'aggression' or 'threats' in peripheral regions.

On the use of force in international relations, the UN Charter yet again fails to provide the reassurance that many of its modern proponents would like. Article 5 (1) stresses that signatories retain the freedom to exercise 'the inherent right of individual or collective self-defence' against an armed attack (note that this does not say that an armed attack has to be actually underway; states can exercise self-defence to protect their territory or interests from an armed attack being launched) 'until the Security Council has taken the measures necessary to maintain international peace and security'. What that means in translation is that states can respond in whatever way they deem necessary until the UNSC does something; and, if the UNSC doesn't send in the cavalry, the state can use its own discretion. The strategist Colin Gray has argued that the UN Charter that can 'justify any use of force'. Indeed, the document does not define self-defence; nor how far in advance of an attack by an enemy a state can deliver a first blow; nor what the restrictions on that first blow might be.

The UN was not intended to be a rerun of the League of Nations, in which no-one did anything and everyone was impotent (even if that is how it turned out), but an organisation with real teeth to deter 'aggressors', i.e. the enemies of the Big Three. Recall that neither Stalin nor the US wanted the Cold War; some degree of co-operation was deemed likely until at least 1947. Thus, the UN was conceived as a vehicle to institutionalise a US-UK-Soviet alliance – the rationale being that these states had won the peace, and thereafter they would preserve it. Let us be clear: this was a war-fighting organisation to keep down their mutual enemies – especially Germany and Japan – who it was assumed would rise again without constant supervision.

There is more; and here it gets interesting. It is plausible to hold that the Charter does not even apply to Germany, Japan, and Italy! Articles 53 and 107 make clear that the great powers have a free hand to deal with the 'enemy states' outside of the Charter framework (throughout the document, the phrase 'enemy states' refers explicitly and exclusively to the Allies' enemies of the Second World War): 'Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter'; regional security organisations must get UN sanction for resort to force 'with the exception of measures directed against any enemy state ... or in regional arrangements directed against renewal of aggressive policy on the part of any such state'. Despite repeated requests from the 'enemy states' since 1945, the Allies have resisted removing these clauses. A cynic might speculate that, in the case of future security contingencies involving Germany or Japan, this point will likely be vociferously argued by their adversaries as providing a legal basis for treating Berlin or Tokyo in a decidedly unpleasant manner.

Again, then, this Charter never was a document for liberal pipe dreams. It is a great power club of a standard sort. The document provides a pragmatic framework for responsible statecraft and realist behaviour. Perhaps more worryingly for contemporary UN advocates, there is precious little in it to explicitly legitimise humanitarian interventionism. For instance, under the Charter, the 1999 Kosovo war waged by NATO seems to have been illegal – far more obviously than the 2003 invasion of Iraq. Article 2 (4) obliges members to 'refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state'. Obviously this is invalidated when there is a need for self-defence. But there was no plausible 'self-defence' component to the Kosovo intervention. Moreover it was waged against both the 'territorial integrity' of Serbia (NATO sought to detach part of the territory of an independent state, and not even for good old selfish reasons of conquest by its members) and its 'political independence' (the post-Westphalian idea that states are sovereign within their territory, and can do what they like inside their borders). True, Article 52 (1) states that 'Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters ... as are appropriate for regional action'. But it still specifies the need for the UNSC to authorise the use of force by regional bodies like NATO – which, in the case of Kosovo, did not happen.

The lesson is that those who inform public opinion should stop gesturing to the contradictory corpus of 'international law' as a means to avoid serious thinking. This document is not a humanitarian, nor even an idealist, Charter; it is a political statement of intent. Unfortunately the dream of using the UN strategically a la the Concert of Europe did not survive the end the war with the Axis; the victors immediately fell out among themselves. It has not been regularly used by the great powers as a strategic implement since (Korea and the Gulf War being the more obvious exceptions). Hence, the very idea of the UN has been captured by ill-informed legalists and student protestors. That needs to be changed.

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