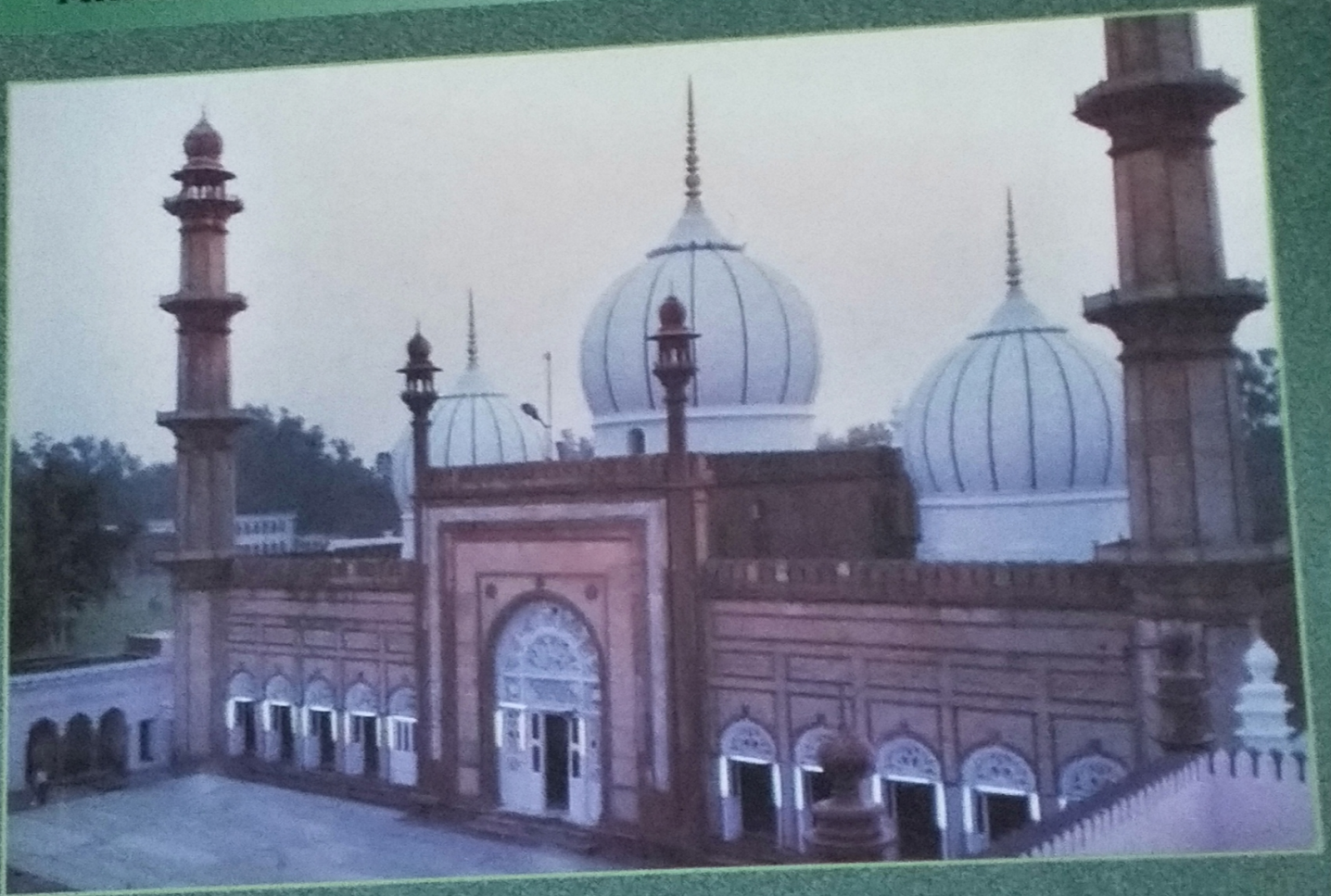


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THE UN ROLE IN THE WORLD AFFAIRS

** Md. Mojahid Azam*

In the UN Security Council on January 1946 in London, its first President, the Australian Minister of Navy Mr. Makin stated: Our work must be based on the Charter; we are not permitted to go beyond it, but we shall not fail to exercise to the full the very great powers which have been given to this council.

The opening line of the preamble of the Charter, [we] the peoples of the United Nations, determined to save succeeding generations from the scourge of war' reflects a central purpose of the treaty: to ensure international peace and security through collective action. The Charter seeks to achieve this by outlawing the unilateral use of force except in self-defense, resolving international disputes by peaceful means, promoting co-operation in solving international economic, social, cultural and humanitarian problems, and promoting respect for human rights. The Charter permits only two exceptions to the prohibition.

The first is collective action authorized by, and only by, the Security Council acting under Chapter VII. The second is the inherent right to individual or collective self-defense as enshrined in Article 51 of the Charter. This strong protection against the invasion of one country by another reflects the understandable reaction against the horrors inflicted before, and during, the Second World War.

During the years and decades that followed, the Council on many occasions was unable to exercise to full these 'very great powers. Most prominent in the current criticism of the function of the Security Council are one substantive and one institutional element. The substantive element is that the Council at times has failed to act, as when the genocide took place in Rwanda; and even when it was able to act it was not always successful, as in Somalia and the former Yugoslavia. The institutional element is that most UN member states no longer

**The author is a research scholar, Deptt. Of West Asian Studies, AMU, Aligarh*



consider the present composition of the Council a fair and balanced representation of UN membership as a whole. The league of Nation's system of collective Security is generally considered to have functioned successfully during its first decades of existence. However, in the 1930s the league proved to be irrelevant in the case of Manchuria, Abyssinia, and in particular when Hitler's Germany invaded its neighboring countries. The primary responsibility for the maintenance of international peace and security was given to the Security Council that was to act on behalf of the UN member states. More specifically, the Security Council was given the power to take enforcement measure including economic sanctions and military action. (Chapter VII). The central place of the Security Council in the UN Collective Security system is further underlined in Articles 51 and 53, paragraph I of the Charter. According to Article 51, 'states may act in self-defense but may do so only until the Security Council has taken the measures necessary in order to maintain

international peace and security'. According to Article 53, paragraph I, 'no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization the Security Council'.

The Security Council is more than the sum of its members. A decision authorizing the use of force in a particular situation by the UN Security Council is fundamentally different from a decision by 15 individual states by which these states support the use of force in a particular situation. There was political support by a substantial number of states many more than 15 for the military action by the United States, United Kingdom and Australia against Iraq in 2003, but there was no new Security Council resolution authorizing the use of force in this particular case. However, in reality it may be difficult to draw the line between practice that is established or generally accepted and practice that is not. As far as the Security Council is concerned, particular care is required in this respect because both in the Charter and in practice



considerable room for maneuvering, flexibility, and pragmatism has been considered necessary for the Council to perform its functions.

The United States has long affirmed the right of anticipatory self-defense from the Cuban missile crisis in 1962 to the crisis on the Korean peninsula in 1994.' Here again, Rice is quite right in stressing continuities. Preemption has a long tradition in American history. In 1904 President Theodore Roosevelt announced a new corollary to the Monroe Doctrine, unilaterally asserting the right of the United States to intervene militarily in the western hemisphere to preserve order. 'Preemptive imperialism' was designed to thwart prospective European interventions and protect the national security of the United States. The United States intervened repeatedly in Cuba, the Dominican Republic, Nicaragua and Haiti. In Nicaragua, US troops remained from 1912 to 1933; in Haiti they stayed from 1915 to 1934; in the Dominican Republic from 1916 to 1924.

During the Cold War period,

as can be seen from the limited number of resolutions, the frequent use or threat of the veto, and in particular from the substance or rather lack of substance of many of the resolution adopted. As a consequence, in the years 1945-90 the peripheral role the Security Council often played in practice contrasted with the Charter image of the Council as the central body in the UN's collective security system. In the period of 1945-90 there have been only a few instances of Security Council action relating to the use of force. In 1950 the council adopted resolution 83 recommending to UN member states 'to furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area. Next, in 1961 the Security Council adopted resolution 161 and 169. This time the authorization to use force urged the UN to take 'all appropriate measures to prevent the occurrence of civil war in Congo, including ... the use of force, if necessary, in the last

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not pose a credible threat to one outside Iraq.

Saddam did not pose a grave threat to the human security of his own people within Iraq's borders. In fact, deputy defense secretary Paul Woifowitz was reported as having conceded subsequently that the WMD issue was chosen in the end for good 'bureaucratic' reasons, in that that was the only issue on which all the different sectors of the vast US bureaucracy could come to an agreement as an acceptable justification for going to war. The international law restricts the right to go to war except in self-defense or when authorized by the UN. Law serves to mediate relations between the rich and the poor, the weak and the powerful, by acting as a constraint on capricious behavior and setting limits on the arbitrary exercise of power.

What Kosovo and Iraq have in common is that, in both cases, the military operation was launched without a specific Security Council mandate. As to the issue in what cases the Security Council can use force, the Charter does not give precise

criteria. The use of military force should always address at least five basic criteria of legitimacy: seriousness of threat, proper purpose, last resort, proportional means and balance of consequences. It will remain for the Council to decide in what circumstances the use of force is required to maintain or restore international peace and security. It is essential that the Council size and composition are appropriate. My position is that it is obviously not as it should be if military action is resorted to without a Security Council mandate, but that it is not right either if a country consistently flouts Chapter VII resolutions and gets away with it because the threat of a veto by one or two permanent members prevent the Security Council from taking action against it. It is difficult to tell which of the two is more damaging to the authority of the Security.