An Eighty-Year Review of the *UN Charter* and the Perfection of a Civilizational Order

ZHANG Shun[*] *& HE Qinhua*[**]

Abstract: *The birth of the Charter of the United Nations (UN Charter) was a crystallization of political wisdom in the late stage of World War II, and also a forerunner of the fundamental ideals underpinning the international protection of human rights. The UN's predecessor, the League of Nations, collapsed in less than two decades after its founding due to the pressures of the European wars. By contrast, this post-war UN Charter has successfully established a wealth of ideals, values and principles, laying a pivotal foundation for international cooperation and the development of international law over the subsequent eighty years. Despite the frequent occurrence of crises and the persistent threat of regional conflicts escalating into global wars, the UN has thus far faithfully fulfilled the original aspiration of the Charter: to save succeeding generations from the scourge of war. At this special juncture marking the 80th anniversary of the signing of the UN Charter, it is imperative to revisit the core spirit, advance its innovative development, and review and summarize the historical challenges the UN Charter has confronted over the past 80 years as well as the corresponding coping strategies. In doing so, we aim to provide historical insights for the advancement of global governance against the backdrop of globalization.*

Keywords: The United Nations Charter (UN Charter) ♦ The 80th anniversary ♦ The Universal Declaration of Human Rights ♦ China's contribution ♦ Charter amendment

Introduction

On June 26, 1945, the *Charter of the United Nations* (hereinafter referred to as the *UN Charter* or *Charter*) was formally signed, and it entered into force on October 24 of the same year. Its promulgation marked a milestone in the

[*] ZHANG Shun (张顺), Assistant Research Fellow at the School of Foreign Affairs and Law, East China University of Political Science and Law (ECUPL).

[**] HE Qinhua (何勤华), Director of the Institute for the History of Legal Civilization and Chief Expert at the Institute of Foreign Affairs and Law at ECUPL, as well as a Fellow of the Shanghai Research Institute for Culture and History. This article constitutes a phased research outcome of "Creative Transformation and Innovative Development of China's Fine Traditional Legal Culture and the Construction of an Independent Chinese Knowledge System in Law" (Project Number 2023JZDZ013), a major project of the Ministry of Education for Studies in Philosophy and the Social Sciences.

evolution of the collective security system of humankind, holding enduring significance in historical, legal, and political terms. The signing of the *UN Charter* and the founding of the United Nations eight decades ago symbolized the shared will of the international community to eradicate the scourge of war and to deepen cooperation, ushering in a new chapter in which all nations work together to safeguard peace and pursue common development. As the most universal, representative, and authoritative intergovernmental organization today, the United Nations embodies the normative justice, progressive orientation, and people-centered foundation of multilateralism.

China is a co-initiator and a founding Member State of the United Nations, and a permanent member of its Security Council. It is also a central contributor to global peace, a key enabler of the international development agenda, and a steadfast defender of the international rule of law. Through innovations in governance practice and substantive contributions to international jurisprudence, China has left a distinctive imprint within the institutional framework of the United Nations. Over the past eight decades, the purposes and principles enshrined in the *UN Charter* have continued to demonstrate vigorous normative force, becoming the fundamental guidelines for international relations and a key pillar of the global order.[1] As a first signatory to the *UN Charter*, China has consistently upheld international norms, earnestly fulfilled its international responsibilities, remained faithful to the founding vision, upheld the core principles of the *UN Charter*, and practiced genuine multilateralism.[2] Confronted with both opportunities and challenges in today's evolving global governance landscape, China will continue to pursue an independent foreign policy of peace, remain committed to upholding the authority of the United Nations and the international legal order and promote the democratization and law-based evolution of international relations, to contribute Chinese momentum to the reform of the multilateral system and consistently advance the cause of peace and development for humanity.

I. The Birth and Significance of the *UN Charter*

[1] Liu Hainian, "From the *UN Charter* and the *Universal Declaration of Human Rights* to Building a Community with a Shared Future for Mankind: The Past, Present and Future of International Human Rights Protection," *Human Rights* 5 (2018): 6.

[2] Wessendorf, Nikolai, and others, *The Charter of the United Nations: A Commentary*, volume I, 3rd Edition (Oxford: Oxford Commentaries on International Law, 2012), 13.

The fascist atrocities during the two world wars intensified the global yearning for peace and human rights and strengthened the sense of subjectivity among many nations and peoples in their struggles for independence and emancipation. When the League of Nations proved a complete failure, due to its lack of enforcement capacity, and inability to deter aggression and maintain security, the Allied powers gradually reached a consensus in the final stages of the Second World War that it was imperative to establish a new international organization that would be more authoritative and universal in scope to replace the ineffective multilateral mechanism then in place. The United Nations thus emerged as an institutional response shaped by the dual context of the failing League of Nations and the atrocities of war.

A. A response to global calls: the adoption of the *UN Charter*

Although the academic view of a "clean break," which likens the United Nations to an Aphrodite "born out of the ashes of the Second World War," has long been influential, it requires correction in light of historical facts. From Immanuel Kant's philosophical ideas to Woodrow Wilson's proposal for the League of Nations, and further to the traumatic lessons of the Second World War and the sustained diplomatic efforts of the Allied powers, the creation of the United Nations and its *Charter* represented both a continuation of intellectual traditions and a synthesis of wartime experience and political compromise. Through concerted efforts during and after the war, they were ultimately finalized at the San Francisco Conference.[3]

The impulse to systematize the rules and principles of international law into a "code" predates the *Charter*. Depending on how the concept of "codification" is interpreted, such efforts can be traced back several centuries or even earlier, while its modern form can be linked to the ideas of Jeremy Bentham (1748-1832). In 1815, the *Final Act of the Congress of Vienna* offered the first practical attempt at codifying rules governing the management of international rivers, the abolition of the slave trade, and the regime of diplomatic agents. After the First World War, the conclusion of the *Treaty of*

[3] Although the establishment of the League of Nations in 1919 marked a fundamental break from traditional modes of diplomacy, Woodrow Wilson's arguments in support of the League unmistakably echoed an institutional framework proposed by Immanuel Kant in 1795 to secure "perpetual peace." The famous declaration of Wilson as a well-trained historian and political scientist at the founding of the League — "A living thing is born" — must be understood as an explicit reference to the rich intellectual heritage of peace plans that preceded it. See César Chabrun, "Kant et M. Wilson", in Revue des deux mondes, 15 February 1917, page 848-861.

Versailles established a new international legal framework. History shows that major conflicts often act as catalysts for codification. Although significant codification efforts did occur during peacetime, for example the conclusion of various pre-war multilateral treaties, it was the international cooperation launched after the Second World War that truly laid the structural foundations for the subsequent codification of international law at the global level.[4]

As early as the seventeenth century, the French monk Émeric Crucé (1590 -1648) proposed the establishment of a permanent international assembly to mediate disputes and preserve peace.[5] His proposal inherited the humanistic ideas of Erasmus of Rotterdam (1469-1536) and St. Thomas More (1478-1535), yet it lacked any real foundation for implementation at the time. It was not until the rise of modern capitalism that free trade and international cooperation again came to be viewed as possible mechanisms for restraining war. However, what truly propelled the world toward an institutionalized system of collective security was not liberal thought itself, but rather the catastrophic experience of the two World Wars in the twentieth century.[6]

To understand the origins of the *Charter*, one need not trace it back to ancient philosophy; however, Immanuel Kant's (1724-1804) conception of "perpetual peace" and Woodrow Wilson's advocacy of the League of Nations did provide an important intellectual foundation for the institutionalization of peace in later generations. Although Kant's envisioned "world federation of states" remained purely theoretical, its core proposition — that peace must be secured through institutionalized mechanisms — was gradually put into practice in the late 19th to early 20th century.[7] After the First World War, US President Thomas Woodrow Wilson (1856-1924) transformed this conceptual ideal into a concrete political proposal for the establishment of the League of Nations, famously describing it in his 1918 address to Congress as "the birth of

[4] Arnold N. Pronto, "Codification and Progressive Development of International Law: A Legislative History of Article 13 (1) (a) of the Charter of the United Nations," *FIU Law Review* 13, no. 6 (2019): 1101-1124.
[5] Darren J. O'Byrne, *The Dimensions of Global Citizenship: Political Identity Beyond the Nation-state,* (London: Routledge, 2003), 64.
[6] Daniel Moran, "Act of Creation: The Founding of the United Nations", by Stephen C. Schlesinger, *Strategic Insights*, volume III, Issue 4, April 2004, page 2-3.
[7] Immanuel Kant, *Perpetual Peace*, translated by He Zhaowu (Shanghai: Shanghai People's Publishing House, 2005), 19.

a new life," and expressing the hope that it could prevent future conflict.[8] However, due to structural deficiencies — most notably its lack of enforcement capacity and flaws within its decision-making system — the League of Nations failed to curb the expansion of fascist powers in Germany, Japan, and Italy. With the outbreak of the Second World War, it collapsed in all but name, compelling the Allied powers to seek a more robust and binding multilateral framework.

The United Nations emerged precisely at the moment when the collapse of the League of Nations had become unmistakable. The war unleashed by Nazi Germany rapidly escalated into a global conflict, inevitably raising the question of how to construct a new legal order for the postwar world. Collective action by major powers to confront threats to the international order — particularly to prevent future aggression — became the central concern in efforts to redesign the institutional structure of the international community. Yet, after extensive debate, a crucial consensus emerged: such efforts must not be confined to addressing the immediate dangers of war alone, but must also confront the underlying causes of war, most notably poverty, disease, ignorance, insecurity, unemployment, inequality, tyranny, and the deprivation of human dignity.[9]

It was precisely through such reflection that the purpose of the United Nations was defined as "to save succeeding generations from the scourge of war."[10] In addition, the *Declaration on Liberated Europe*, adopted at the Yalta Conference, explicitly stated that peace, security, and human welfare should constitute universal goals in the new international order. The *Declaration*'s emphasis on free elections and the protection of human rights demonstrated the major powers' renewed attention to the question of human dignity in postwar reconstruction. Accordingly, the *Charter* incorporated into its purposes a concern for the general welfare of humankind, integrating social progress, economic development, education, and cultural exchange into the objectives of the United Nations. The shift from merely "preventing war" to "actively

[8] Link, A. S. ed., *The Papers of Woodrow Wilson*, vol. 61 (Princeton: Princeton University Press, 1989), 436.
[9] Preamble of the *United Nations Charter*.
[10] Preamble of the *United Nations Charter*.

promoting peace and development" marked a crucial point for the United Nations to surpass the League of Nations.[11]

Some of the key lessons drawn from the failure of the League of Nations and incorporated into the *Charter* include, but are not limited to, the following. First, the new organization should not serve merely as an instrument for preserving the status quo or safeguarding territorial integrity; it must also promote social justice and ensure "freedom from want," a concept articulated in the Four Freedoms speech of President Franklin D. Roosevelt in 1941 and in the *Atlantic Charter* signed by Roosevelt and Churchill.[12] Second, it was necessary to abandon the unanimity rule, which effectively granted every state a veto in the new league of nations. Third, the new organization had to be endowed with supranational authority capable of making decisions binding upon all Member States.[13] The *Charter* thus incorporated the lessons of the League's failure and introduced significant institutional revisions and enhancements. In other words, the *Charter* was not a creation ex nihilo, but rather a natural culmination of the efforts of the international community to pursue peace over a long period of time.[14]

Overall, the creation of the *Charter* has gone through four key stages: (1) Initial planning (from 1941 onward). Marked by President Franklin D. Roosevelt's "Quarantine Speech," the United States began to formulate its vision for the postwar order, advancing the idea of "a majority of peace-loving nations" resisting "a minority of aggressor states." The *Atlantic Charter* subsequently articulated key principles such as self-determination, economic cooperation, and lasting peace, thereby clarifying the blueprint for the postwar international order. In 1942, the *Declaration by United Nations* united the anti-Axis powers under the name "United Nations" for the first time. (2) The Dumbarton Oaks Conference (1944). Representatives of the United States, the United Kingdom, and the Soviet Union held six weeks of negotiations in

[11] Daniel-Erasmus Khan, in *The Charter of the United Nations: A Commentary*, volume I, 3rd Edition, Bruno Simma, and others eds. (Oxford: Oxford Commentaries on International Law, 2012), 13-14.
[12] State of the Union address before the American Congress by President Franklin D. Roosevelt, 6 January 1941. Source: ED. Roosevelt, Development of United States Foreign Policy: Addresses and Messages of Franklin D. Roosevelt, 1943, 81-87. See also Atlantic Charter,14 August 1941, ibid., 112-113: "... they desire to bring about the fullest collaboration between all nations in the economic field with the objective of securing, for all, improved labor standards, economic advancement and social security."
[13] F. S. Northedge, *The League of Nations: Its Life and Times 1920-1946,* 1988.
[14] Daniel-Erasmus Khan, in *The Charter of the United Nations: A Commentary*, volume I, 3rd Edition, Bruno Simma, and others eds., 13-14.

Washington, D.C., producing the basic draft for the United Nations and outlining its institutional structure. However, major disagreements — particularly concerning the voting procedure in the Security Council — remained unresolved.[15] (3) The Yalta Conference (February 1945). The three major powers of the United States, the United Kingdom and the Soviet Union settled the most difficult disputes, reaching key compromises on issues such as the Security Council voting system and membership criteria, thus ensuring the forward movement of the draft *Charter*. (4) The San Francisco Conference (April-June 1945). Fifty founding Member States, acting upon their collective commitment to sovereign equality, the prohibition of the use of force, the protection of human rights, and multilateral cooperation, adopted and signed the *Charter*, formally establishing a new international legal order. From expert drafting to diplomatic bargaining, and finally to the collective vote of the full conference, it was the convergence of efforts at every level that produced this historically groundbreaking document. In this sense, the *Charter* is not only a product of great-power negotiations, but also the outcome of multilateral compromise and the embodiment of broader aspirations for peace.[16]

B. The nature of the charter: an international treaty or a world constitution?

There is no doubt that, in formal terms, the *Charter* is a multilateral treaty. It was signed by the representatives of fifty States at the San Francisco Conference in 1945, entered into force upon ratification in accordance with each State's constitutional procedures, and must be interpreted and applied within the framework of the *Vienna Convention on the Law of Treaties*.[17] As a treaty, the *Charter* establishes rights and obligations among States — such as the sovereign equality of all Members (Article 2(1)), non-intervention in domestic jurisdiction (Article 2(7)), and the primacy of Charter obligations over conflicting treaty obligations (Article 103). In this sense, the Charter is not essentially different from other international treaties. However, the Charter's

[15] Robert Dallek, *Franklin Roosevelt and American Foreign Policy, 1932-1945* (Oxford: Oxford University Press, 1979), 310-311.

[16] Hou Zhongjun, "Speaking for Weak Nations: Revisiting China and the Founding of the United Nations," *Tsinghua Journal of Chinese Studies (Philosophy and Social Sciences)*1 (2025): 125-140.

[17] Article 2(a) of the *Vienna Convention on the Law of Treaties* defines a "treaty" as "an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation." See https://www.un.org/zh/documents/treaty/ILC-1969-3, accessed August 18, 2025.

treaty-based nature alone cannot fully explain its functions. Beyond regulating State conduct, the *Charter* creates the institutional structure of the United Nations and defines the powers of its organs. This design goes beyond ordinary treaty arrangements and more closely resembles the foundational provisions of a constitution governing public institutions. As such, the *Charter* exhibits a hybrid character.[18] As a treaty, the *Charter* is unquestionably hybrid in nature. With regard to its provisions on signature, amendment, ratification, and entry into force, it is contractual; with respect to its articulation of the purposes and principles of the Organization, it is normative; and in its provisions concerning membership, as well as the composition, functions, powers, and voting procedures of the United Nations and its six principal organs, it is constitutive.[19]

Measured against the definition of a "treaty" in Article 2(a) of the *Vienna Convention on the Law of Treaties*, the *Charter* is undoubtedly a treaty. Yet, considering the Charter's distinct attributes and its normative effects, characterizing it as a world constitution enjoys stronger jurisprudential justification. As Sir Humphrey Waldock, a leading British international lawyer, argued in a speech in the Hague in 1962, although the *Charter*, like the *Covenant of the League of Nations*, is formally a multilateral treaty, its self-positioning has long transcended the traditional treaty framework, establishing the constitutional foundation of the United Nations instead. Serving as a member of the International Law Commission (1961-1972), Waldock noted that "treaty nature" and "constitutional nature" constitute the foundational quality and essential quality of the *Charter* respectively, with the latter most clearly reflected in its role in furnishing the constitutional framework of contemporary international law. The constitutional nature of the *Charter* is not limited to its function within the United Nations as an organization, although this is undoubtedly its premise and basis; nor does it depend merely on self-description, although this carries symbolic weight. Rather, it lies in the normative significance of the *Charter*, the constraint-imposing nature of its

[18] Blaine Sloan, "The United Nations Charter as a Constitution." *Pace YB Int'l L.* 1 (1989): 61.
[19] G. Ress, "The Interpretation of the Charter", in *The Charter of the United Nations: A Commentary*, 2nd ed., 2002, vol. I, 13, B. Simma ed., page 28-29.

implementation on international authority, and its role as an "Archimedean point" within the international rule- of- law system.[20]

Generally speaking, the principal legal significance of treaties lies in the binding force of the rules they establish and the rights and obligations they generate for their parties. That is an attribute shared by all treaties, whether bilateral or multilateral. Therefore, treaties are listed first among the sources of international law in Article 38(1)(a) of the *Statute of the International Court of Justice*, which identifies "international conventions, whether general or particular, establishing rules expressly recognized by the contesting states"[21] as a primary source of law. However, some treaties — either because of the broad applicability of their substantive rules or because of their institutional design — may acquire more general normative authority, functioning in practice to establish rules for the international community as a whole. For convenience, such instruments are often called "law-making treaties."[22] The contemporary international community lacks a centralized legislative organ — such as a parliament — capable of enacting universally binding legal norms. Nonetheless, as the International Court of Justice has confirmed that certain treaties with a special character, including the *Charter*, may create rights and obligations for non-parties and thus possess a quasi-legislative function. Both aspects of the *Charter*'s status as a "source" of international law pertain to its authority-providing role and reflect precisely what it means for the *Charter* to function as a form of higher law in the international legal system.[23]

As higher law, the *Charter* functions, on the one hand, as a substantive source of other international legal norms due to the universality of the values it embodies; and on the other hand, its provisions, particularly Article 103, constitute a formal source of hierarchical superiority over other rules of international law.[24] Article 2(6) of the *Charter* provides that the United Nations

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[20] Humphrey Waldock, General Course on Public International Law, Recueil Des Cours, 1962, 106 (II): 20.

[21] *Statute of the International Court of Justice.*

[22] However, from a strictly jurisprudential perspective, unless the concept is understood in a narrow sense, such treaties do not in fact "make law" in the true sense of the term, for in a certain respect every treaty generates legal effects for its parties and thus possesses a law-making character.

[23] Thomas Franck, "Is the UN Charter a Constitution?" Jochen Frowein et al. (2003): 95-106.

[24] "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail." As such, Article 103 constitutes a foundational provision of the *United Nations Charter*. Whenever obligations assumed by a Member State under other international agreements

shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security. This provision is especially significant in assessing the constitutional value of the *Charter*. Article 2(6) applies to all States, regardless of whether they are Members of the United Nations. Since obligations such as the maintenance of international peace and security and the prohibition on the use of force have attained the status of jus cogens, Article 2(6) may not, in itself, be the primary legal basis for imposing obligations on third States. Rather, it serves as a supplementary obligation and indeed reflects one of the objectives of the United Nations as an organization.[25] Article 103 of the *Charter* provides a powerful assertion of normative hierarchy by stipulating the primacy of *Charter* obligations over any conflicting treaty obligations. This provision has had a profound impact on the principle of *pacta sunt servanda*, and it affirms the *Charter*'s supreme status within the international legal order.[26]

In fact, the proposition that a treaty may function as a "constitution" is not new. As early as 1648, the *Peace of Westphalia* was described by some scholars as the "Constitution of Europe." In modern history, similar treaties include the *Final Act of the Congress of Vienna* of 1815, the *Concert of Europe* of the nineteenth century, and the *Covenant of the League of Nations* in the twentieth century. Even so, the *Charter* occupies an irreplaceable position in contemporary international society due to its distinctive normative authority and institutionalized character. Much like a domestic constitution, it sets forth fundamental provisions that constitute the basic principles upon which the

— such as bilateral treaties or regional conventions — conflict with its obligations under the Charter, including the maintenance of international peace and security or the implementation of Security Council resolutions, Charter obligations shall enjoy absolute priority. Article 103 confers on Charter obligations a status superior to that of ordinary treaty obligations. It is regarded as a hierarchically superior norm within international law and is often associated with a jus cogens — like character. The International Court of Justice, in the Lockerbie cases, explicitly invoked Article 103, affirming the primacy of the Charter within the international legal order.

[25] Macdonald Ronald, "The Charter of the United Nations in constitutional perspective," *Aust. YBIL* 20 (1999): 205.

[26] In practice, Article 103 is frequently invoked to demonstrate that the Charter must prevail when a State enjoys rights or bears obligations under another international treaty, but that treaty conflicts with obligations under the Charter. A typical example concerns the relationship between Security Council enforcement measures and obligations arising under other international agreements. Although disputes may arise in concrete implementation, the *United Nations Charter* as a whole establishes a constitutional order that transcends the framework of ordinary treaties.

international community operates.[27] These provisions and principles share the structural and functional characteristics of "basic constitutional clauses" found in domestic constitutional systems.[28] Moreover, through a series of institutional provisions allocating powers and defining responsibilities, the *Charter* ensures the implementation of its foundational principles — thus going beyond the scope of an ordinary treaty and further reinforcing its status as an international "constitutional text."[29]

Some scholars acknowledge the exceptional status of the *Charter* and recognize that it contains multiple *jus cogens* norms, yet still argue that despite its influence surpassing that of any treaty, its legal nature remains within the treaty category. Their reasoning is that the United Nations was neither conceived as, nor capable of transforming itself into, a "world government." UN organs lack effective enforcement authority over Member States and do not operate under a system of judicial review of their acts; the constraints are particularly apparent when the Organization faces violations committed by States. For example, James Crawford recognizes that the *Charter* possesses numerous constitutional features characteristic of a constitutive instrument, but he also notes the *Charter*'s constitutional deficiencies and suggests that it should instead be regarded as a starting point for the development of an international constitutional order.[30] A second group of scholars, represented by Picone, adopts an intermediate position, arguing that the United Nations has a dual character within the international system. On the one hand, it is a traditional international organization, whose institutional form and internal rules are defined by the *Charter*; on the other hand, the United Nations can, in

[27] The *United Nations Charter* explicitly enumerates several fundamental principles that are widely regarded as constitutional principles of the international legal order, including: (1) The principle of the prohibition of the threat or use of force; (2) The principle of the peaceful settlement of international disputes; (3) The principle of non-intervention in domestic jurisdiction; (4) The duty to cooperate; (5) The principle of equal rights and self-determination of peoples; (6) The principle of the sovereign equality of States; (7) The principle of fulfilling in good faith the obligations under the Charter. These principles are not merely treaty provisions; they have also been repeatedly affirmed in numerous international judicial decisions and United Nations General Assembly declarations. Over time, they have gradually acquired a status approaching that of "constitutional clauses" of the international legal order.

[28] Constance Jean Schwindt, "Interpreting the United Nations Charter: From Treaty to World Constitution," *UC Da-vis J. Int'l L. & Pol'y* 6 (2000): 193.

[29] Ronald St J. Macdonald, "The Charter of the United Nations as a World Constitution," *International Law Studies*, vol. 75, no. 1 (2000): 267-269.

[30] James Crawford, "The Charter of the United Nations as a Constitution," in *The Changing Constitution of the United Nations*, Hazel Fox ed. (London: British Institute of International and Comparative Law, 1997), 15.

certain circumstances, act as an institution of the international community as a whole, providing deeper legitimacy to States seeking to uphold *erga omnes* obligations on behalf of the universal community. In contrast, a third group of scholars represented by Dupuy and Tomuschat has no doubt regarding the *Charter*'s status as a world constitution.[31]

Regardless of one's theoretical perspective, scholars widely agree that the *Charter* is the treaty that has established the most comprehensive framework for cooperation in the history of international relations. The moral and legal force of the *Charter* as the only universally accepted, comprehensive covenant among States is beyond question. The *Charter* possesses at least three distinct dimensions. First, it is a treaty, joined by States through consent; Second, it serves as a basic law, establishing the fundamental principles and institutional structure of international society; Third, it functions as a political contract, reflecting both great-power compromise and the normative aspirations of the broader community of States. It is the combination of these three attributes that has endowed the Charter with its distinctive status as a "world constitution."[32]

If the Charter were viewed merely as an ordinary treaty, its interpretation would be strictly limited, emphasizing the boundaries defined by State consent. However, if it is regarded as a constitution, one must acknowledge its implied powers and open-textured character.[33] The reason is that the application of law is fundamentally a process of interpretation.[34] As Chief Justice John Marshall emphasized in *M'Culloch v. Maryland* (1819) ,[35] the constitution we interpret is

[31] Cf. en particulier Alfred Verdross et Bruno Simma, *Universelles Völkerrecht, Theorie und Praxis*, 3e éd., Berlin, Duncker & Humblot, 1984, page vii et 72; et de nombreuses autres références dans Bardo Fassbender, "The United Nations Charter as the Constitution of the International Community", *Columbia Journal of Transnational Law* 36 (1998): 538. Dupuy, Pierre-Marie. "The Constitutional Dimension of the Charter of the United Nations Revisited," *Max Planck Yearbook of United Nations Law*, vol. I (1997): 10.

[32] A. Peters, "Compensatory Constitutionalism: The Function and Potential of Fundamental International Borms and Structures," *Leiden Journal of International Law* 19 (2006): 597.

[33] Hochmann, Thomas, "Le constitutionnalisme global," *Revue francaise de droit constitutionnel*, 2019/4 N° 120 (2019): 885-904.

[34] Zhang Shun, "Analysis of Local Resources of China's Independent Legal Doctrine Knowledge System — Centered on Ancient Chinese Legal Hermeneutics," *Law Science* 5 (2024): 37-51.

[35] 17 U. S. (4 Wheat.) 316 (1819). *McCulloch v. Maryland* is one of the most influential decisions in the history of U.S. constitutional law. The central issue of the case concerned whether Congress possessed the authority to establish a national bank, and whether the State of Maryland had the power to tax that bank. Although the constitution does not expressly grant Congress the power to create a bank, Chief Justice John Marshall articulated the doctrine of implied powers, holding that any act is constitutional so long as it is "consistent with the letter and spirit of the Constitution" and "necessary and proper" for achieving the legitimate objectives entrusted to Congress. He further emphasized that grants of power

a document "intended to endure for ages to come," and must be capable of addressing challenges unforeseen by its framers. The same reasoning applies directly to the interpretation of the *Charter*: its provisions are brief and general, and a purely literalist reading would leave many crucial questions unresolved. For instance: How should the powers of the Security Council be defined? May the General Assembly assume peacekeeping functions when the Security Council is paralyzed? Does the United Nations possess an independent international legal personality? These questions cannot be answered solely by the *Charter*'s text; they require constitutional methods of interpretation.[36] The *Charter* must likewise be understood through a "living constitution" approach. For example, although peacekeeping operations are not explicitly provided for in the *Charter*, the International Court of Justice held in the *Certain Expenses* case (1962) [37] that the General Assembly may establish peacekeeping forces, deriving their legality from the *Charter*'s overarching purpose, namely, the maintenance of international peace and security. This reflects the logic of a "living constitution" at the international level: the *Charter* must evolve in response to the practical needs of the international community. The *Charter* was born as an international treaty. Eighty years of international practice have increasingly confirmed and strengthened its constitutional character, such that today it must be regarded as the constitution of the international community.[38] In this sense, the *Charter*'s dual identity is both an empirical reality and a source of interpretive and applicative tension.[39]

C. Turning swords into ploughshares: the institutional rejection of war

As Henry Alfred Kissinger (1923-2023) observed, the period after the First World War represented a transitional phase in the development of the

should not be interpreted narrowly; rather, a degree of flexibility must be recognized to ensure that the constitution remains capable of adapting to changing circumstances.

[36] A major tradition in U.S. constitutional interpretation is the "living constitution" theory. In *Missouri v. Holland* (1920), Justice Oliver Wendell Holmes Jr. observed that the constitution is "an organism that cannot be expected to remain unchanged" and must evolve along with the development of historical circumstances. This idea later gained broad acceptance within American legal scholarship and became a central argument against rigid forms of originalism.

[37] Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion, I. C. J. Reports 1962, page 151. See Schermers, Henry G., and Niels M. Blokker, *International Institutional Law* (Leiden: Brill Nijhoff Publishers, 2018), 208-211.

[38] Bardo Fassbender, "The United Nations Charter as Constitution of the International Community," *Columbia Journal of Transnational Law* 36, no. 3 (1998): 529-620.

[39] Ronald St J. Macdonald, "The Charter of the United Nations as a World Constitution," *International Law Studies*, vol. 75, no. 1 (2000): 13.

international legal system, whereas the evolution of international law after the Second World War marked an acceleration of that transition. Compared with the unilateral control embedded in the Versailles — Washington system after World War I, the Yalta system after the World War II signaled a new stage in which international law began to emphasize power balance and collective security. Although the postwar legal order did not immediately evolve into a fully "cooperation-oriented" structure, it was steadily moving in that direction.[40] In effect, a defining transformation of the post-World War II international legal system was the shift from merely restricting war to prohibiting the use of force altogether.

In 1920, the *Covenant of the League of Nations* institutionalized, for the first time, limitations on the right of States to resort to war — an expression of the "partial denial" of war. In 1928, the *General Treaty for the Renunciation of War* (*Briand–Kellogg Pact*) established for the first time the principle of the outlawry of war, marking a "comprehensive prohibition" of war itself. Yet neither instrument provided a systematic regulation of the use of force as such. Only with the adoption of the *Charter*, and in particular its prohibitions on the threat or use of force, did international law formally undergo a paradigmatic shift from restricting recourse to war to prohibiting the use or threat of force. Although these institutional provisions have not succeeded in eliminating war or armed conflict once and for all in practice, they have fundamentally reshaped the normative status of war and the use of force within the international legal order.[41]

From the *Two Geneva Conventions* of 1929 to the *Four Geneva Conventions* of 1949, the *Additional Protocols* of 1977, and later treaties addressing nuclear, biological, and chemical weapons of mass destruction, an integrated body of rules governing the law of war and the law of armed conflict gradually took shape. The consolidation and development of this field gave rise to what is now known as international humanitarian law (IHL). Its core purpose is not to abolish war, but to humanize armed conflict to the greatest extent possible when war cannot be fully eradicated. Following the Nuremberg

[40] Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (Cambridge: Cambridge University Press, 2004).
[41] Hitoshi Nasu, "The Expanded Conception of Security and International Law: Challenges to the UN Collective Security System," *Amsterdam LF* 3 (2011): 15.

and Tokyo trials, the United Nations established the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) to prosecute war crimes. These institutional advancements signaled not only the efforts of the international community to regulate war and conflict but also the progressive establishment of enforcement mechanisms for violations of IHL.[42] Since then, questions concerning the legality of the use of force have been determined entirely by the provisions of the *Charter* on the prohibition of force. Through the authority of the Security Council to mandate military intervention and its establishment of a collective security system, the *Charter* brought rules and hope to a postwar world in ruins, breaking through the traditional constraints of the non-intervention principle. Its "Declaration on Non-Self-Governing Territories" and "Trusteeship System" provided the legal foundation for decolonization, facilitating the independence of 65 Asian, African, and Latin American States between 1945 and 1980.

Article 2(4) of the *Charter* completely repudiates the traditional *jus ad bellum*. For the first time in an international convention, it codified the principle of the prohibition of "the threat or use of force," signaling the definitive end of force as a lawful means of dispute settlement since the emergence of the Westphalian system. It has become an important guarantee for maintaining international peace and safety. As international lawyer Louis Henkin (1917-2010) observed: "Article 2(4) of the *UN Charter* is the most important norm in international law. It encapsulates the primary values of the international legal order and stands as the guardian of State independence and autonomy." Similarly, Christian Tomuschat argued that the *Charter*'s constitutional value derives precisely from the principles of peaceful settlement of disputes and prohibition of the use of force articulated in Article 2, because, substantively, a world constitution consists of mechanisms designed to protect the collective interests of humankind, especially universal obligations and rules of *jus cogens*.[43] Like all legal rules, the *Charter*'s prohibition of force admits certain narrow exceptions. These include the Security Council's authority to employ force on behalf of the international community and the inherent right of

[42] Zhang Shun and He Qinhua, "The Normative Value of Justice in the Tokyo Trial and Its Contribution to World Peace," *Academics* 7 (2025): 157.
[43] Christian Tomuschat, *International Law: Ensuring the Survival of Mankind on the Eve of a New Century: General Course on Public International Law*, Recueil des Cours, no. 281 (Leiden: Martinus Nijhoff Publishers, 1999), 88.

States to employ force in self-defense against external aggression or violations of sovereignty. Substantively, these exceptions are necessary to advance the *Charter*'s primary purpose, namely the maintenance of international peace and security.

The adoption of the *Charter* fundamentally altered the interpretation of the term "threat to the peace." In 1945, it referred primarily to maintaining "negative peace," meaning the absence of imminent armed conflict. Subsequently, attention shifted toward "positive peace," a legal order grounded in the broader global values reflected in Article 1(2)-(4) of the *Charter*. Today, a consensus within the United Nations recognizes that threats to peace arise not only from inter-State or intra-State conflict but also from the proliferation of weapons of mass destruction, international terrorism, transnational organized crime, pandemics, as well as extreme poverty, underdevelopment, and severe environmental pollution. The "Preamble", Article 1(1), and Article 40 jointly form the common legal basis for virtually all peacekeeping operations. Meanwhile, other legal instruments, including multilateral and bilateral treaties, resolutions of international organizations, and domestic legislation, serve as supplementary legal bases for different peacekeeping mandates. Article 2(3) and Article 33 impose an unconditional obligation to settle international disputes by peaceful means, resulting in a profound transformation of the law of war and the law of neutrality as developed over the past century.

D. Formation of the *Charter*: the legalization of human rights protection

The human rights concept emerged from Enlightenment thought following the Renaissance; it served as an intellectual weapon used by Enlightenment philosophers to resist both divine-right sovereignty and monarchical absolutism. During the era of bourgeois revolutions, it became part of the ideological program against feudal rule, alongside the concepts of democracy and liberty.[44] In the modern period, although human rights principles were formally recognized in legislation, the basic rights of workers and peasants, colonial populations, and women were far from fully protected.[45] The post-Second World War era witnessed a dramatic multiplication and coexistence of

[44] Zhang Shun and He Qinhua, "Revisiting 'Jefferson as a Student of Locke': On Jefferson's Inheritance and Development of Locke's Classical Natural Law Thought," *Social Sciences International* 4 (2025): 185.
[45] Zhu Liyu, "The *Universal Declaration of Human Rights* as a Model of Multicultural Convergence," *Modern Law Science* 5 (2018): 3-11.

legal norms and legal orders. The United Nations and its specialized agencies reshaped the political and economic structure of contemporary international society. In this sense, the promulgation of the *Charter* constituted a genuine rule- of- law revolution in the field of human rights.

Before 1945, human rights protection was consistently regarded as an internal matter within the reserved domain of State sovereignty. Although certain international norms had emerged, they remained scattered and lacked systemic integration.[46] Examples include treaties prohibiting slavery andslave trade; the basic principles of international humanitarian law, later systematized through the *Geneva Conventions* and *Hague Conventions* since 1919; a number of International Labour Organization (ILO) conventions adopted; and protections for minorities, refugees, and stateless persons under the League of Nations. While progressive in certain respects, these norms failed to break through the prevailing paradigm of human rights being reserved for domestic jurisdiction. Take women's suffrage for example. The United Kingdom recognized it only in 1918; the United States established the right at the federal level in 1919; and France implemented it only in 1944 with the promulgation of the De Gaulle Ordinance. The gradual abolition of property-based voting restrictions for men and the expansion of women's political rights in the United Kingdom, the United States, and France reflected the broadening of the human rights protection framework and attested to the catalytic effect of the long-term social struggle and the two World Wars for the awakening of rights consciousness.[47]

As the highest representative institution of the international community, the United Nations has played a historically inevitable role in advancing the institutionalization of human rights. The *Charter*, as the jurisprudential starting point of this process, declares in its Preamble the core objective of "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex," and, in a pioneering manner, incorporates human rights principles into a multilateral treaty. It thus became the first international legal instrument to articulate universal human rights norms in a

[46] Benjamin V. Cohen, "Human Rights Under the United Nations Charter," *Law & Contemp. Probs.* 14 (1949): 430.

[47] Jacqué, Jean-Paul, "Droit constitutionnel national, Droit communautaire, CEDH, Charte des Nations Unies: L'instabilitédes rapports de système entre ordres juridiques", *Revue francaise de droit constitutionnel*, 2007/1 n. 69, 2007, page 3-37.

binding treaty framework.[48] In addition to the Preamble, six provisions in the main text of the *Charter* — Article 1, Article 13(1), Article 55(b), Article 62(2), Article 68, and Article 76 — explicitly emphasize the promotion of universal respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language, or religion. In addition, numerous other provisions of the *Charter* contain references to human rights, laying the groundwork for the establishment of the United Nations Commission on Human Rights and for the development of the international human rights legal system founded upon the *Universal Declaration of Human Rights*. The original 1944 Dumbarton Oaks Proposals contained only a single human rights clause, since the major powers, namely the United States, the United Kingdom, and the Soviet Union, were primarily concerned with the allocation of institutional authority, but the San Francisco Conference witnessed a significant shift, in that Latin American States, together with U.S. non-governmental organizations, capitalized on the moral pressure generated by the global exposure of Nazi atrocities and successfully pushed for the inclusion of seven additional human rights provisions in the *Charter*. This achievement not only laid the foundational cornerstone of international human rights law, but also marked the beginning of a new era of universalization of human rights in human civilization.[49]

Thereafter, the international community began to place human rights at the center of its concerns. Article 56 of the *Charter* further clarifies the obligations that Member States must undertake to achieve this goal. This means that the protection of human rights is no longer confined to political declarations or matters left solely to voluntary State compliance. Rather, it has become a collective commitment of all Member States, subject to the normative oversight of the international community. In this sense, the *Charter* formally broke through the traditional boundary that had placed human rights within the reserved domain of domestic jurisdiction, transforming human rights protection into a matter of common concern and elevating human rights principles into foundational norms of the new international public order. As Pierre-Marie Dupuy has observed, it is precisely the values protected by the

[48] Tobias H. Irmscher, "The Legal Framework for the Activities of the United Nations Interim Administration Mission in Kosovo: The Charter, Human Rights, and the Law of Occupation," *German Yearbook of International Law* 44 (2001): 353-395.
[49] Joseph R. Slaughter, *Human Rights, Inc.: The World Novel, Narrative Form, and International Law* (New York: Fordham University Press, 2007), 13.

Charter — particularly the provisions concerning human rights in Articles 1 and 55 — that give the *Charter* the character of a substantive constitution and have thereby enabled the internationalization of human rights.[50] The *Charter* contains nine provisions that establish binding obligations for Member States, forming the jurisprudential foundation upon which the United Nations' later human rights legal framework was built. Following the *Charter*'s establishment of the foundational principles, the United Nations adopted the 1948 *Universal Declaration of Human Rights* and subsequently developed a series of core human rights treaties through progressive legislation, thereby systematizing international human rights standards. This process facilitated the normative development of contemporary international human rights law, realizing both the evolution and concretization of the *Charter*'s purpose of promoting and encouraging respect for human rights.[51]

II. Deep Interaction: China and the *UN Charter*

From proposing the Global Development Initiative, the Global Security Initiative, and the Global Civilization Initiative, to advocating a governance philosophy of "harmony and coexistence," and advancing the vision of building a community with a shared future for humanity, China has made a series of significant theoretical and practical contributions to the transformation of global governance and the development of modern international law. China's distinctive contribution to the United Nations lies in its ability to inherit the cultural tradition of valuing harmony, while simultaneously providing innovative approaches to systemic governance; to uphold the principles of multilateralism, while strictly respecting the requirements of civilizational diversity; and to respond to systemic challenges of the new era, while emphasizing gradual, pragmatic solutions.[52] In essence, the deeper value of the "China solution" is its integration of the Eastern philosophy of harmony and unity into the *Charter*'s collective security framework, thereby

[50] Dupuy, Pierre-Marie, "The Constitutional Dimension of the Charter of the United Nations Revisited," *Max Planck Yearbook of United Nations Law Online* 1.1 (1997): xix-33.
[51] Luo Yanhua, "The United Nations and the Mainstreaming of Human Rights," *Human Rights* 3 (2025): 105-126.
[52] He Qinhua and Zhang Shun, "From "Harmony of man and nature" to "Harmony is precious" — Jurisprudential innovation and the practice of governance in ancient China," *Governance Studies* 6 (2022): 31-42.

contributing to the emergence of a new governance paradigm that advances security and development in parallel.

A. Contributions at the foundational stage: 1945-1971

As one of the four founding nations of the United Nations, China has made indelible historic contributions to the establishment of the organization and the drafting of the *Charter*.[53] During the Charter-drafting stage, Dong Biwu, one of the founding members of the Communist Party of China, served as a member of the Chinese delegation to the San Francisco Conference and actively participated in the formulation of the Charter. At the Dumbarton Oaks Conference in the autumn of 1944, which produced the *Proposals for the Establishment of a General International Organization*, the Chinese delegation submitted seven supplementary recommendations to the draft provisions prepared by the United States, the United Kingdom, and the Soviet Union. These recommendations included emphasizing justice and the principles of international law in the settlement of international disputes, promoting the progressive development and codification of international law, and strengthening the Economic and Social Council's role in advancing education and cultural cooperation. After winning broad recognition from the participating delegations, these three key recommendations were incorporated into the *Draft Charter*, and subsequently confirmed at the San Francisco Conference in 1945, becoming part of the final *Charter*. Throughout the drafting of the *Charter* and the early construction of postwar peace and security institutions, the Chinese delegation proposed numerous constructive initiatives, including: prohibiting the use of force to settle any international dispute; ensuring the equality of States — large or small, strong or weak; respecting territorial integrity and political independence; clarifying the definition and elements of aggression; safeguarding the security and welfare of inhabitants in trust territories (colonial territories) and promoting education to assist their gradual progress toward independence; enhancing the functions of the Economic and Social Council and advancing international cooperation in education and culture.[54] After the founding of the People's Republic of China in 1949, political circumstances led the United Nations to continue recognizing

[53] Huang Huikang and Shen Qi, "80th Anniversary of the United Nations: China's Participation and Contribution in the Field of International Law," *Wuhan University International Law Review* 2 (2025): 1.
[54] Li Tiecheng, "China's Status as a Great Power and Its Contribution to the Creation of the United Nations," *Social Sciences in China* 6 (1992): 139.

the representatives of the Taiwan authorities, preventing the People's Republic of China from exercising its lawful seat. During this period, China's contribution to the United Nations was reflected primarily in its historic status as a founding Member State and original signatory to the Charter.

B. From passive adaptation to active integration: 1971-2008

In 1971, China's lawful seat in the United Nations was fully restored, marking a fundamental turning point in China's relationship with the international institutional system. From that point until the early twenty-first century, China gradually completed its transformation from a "watcher" to a "participant" in global governance. Operating within an international institutional environment largely shaped by Western countries, China adopted a three-stage strategy of engagement: cautious contact, limited participation, and progressive internalization.[55] During the decade following the restoration of its seat, China ratified more than 20 multilateral international treaties, thereby contributing substantially to their universal application worldwide and materially advancing the rule of law in international relations. After the 1980s, with the steady growth of China's comprehensive national strength, its international status and influence have continued to rise, enabling China to move into a new phase characterized by comprehensive and in-depth participation in multilateral legal diplomacy.[56]

Taking the incorporation of the Five Principles of Peaceful Co-Existence into the international legal system as an example. In December 1953, while meeting an Indian delegation on matters concerning relations between India and the Xizang region of China, Premier Zhou Enlai first articulated the Five Principles of Peaceful Co-Existence in their complete form as guiding norms for international relations.[57] These principles were subsequently affirmed in treaty form in the *Agreement Between the Republic of India and the People's Republic of China on Trade and Intercourse Between the Tibet Region of*

[55] Liu Tiewa, Zhai Kun, and Yue Shengsong, "'Harmonious and Good Governance' and 'A Shared Home': China-UN Interaction in Global Governance Practice," *Area and Country Studies* 4 (2025): 6.
[56] Huang Huikang, "From Integration to Leadership: Contributing China's Wisdom to the International Rule of Law — Commemorating the 50th Anniversary of the Restoration of the Lawful Seat of the People's Republic of China in the United Nations," *Journal of International Economic Law* 3 (2021): 16.
[57] Huang Huikang, "From the Five Principles of Peaceful Coexistence to Building a Community with a Shared Future for Humankind: Contributing China's Wisdom to the Transformation of Global Governance and the Rule of International Law — Commemorating the 50th Anniversary of the Restoration of the Lawful Seat of the People's Republic of China in the United Nations," *Chinese Journal of International Law Studies* 3 (2021): 3.

China and India.[58] In 1954, the *Joint Statement* issued by Premier Zhou Enlai of China and Prime Minister U Nu of Myanmar formally established the Five Principles as a foundational basis for bilateral relations. In 1955, the Bandung Conference further elevated the Five Principles to the level of international consensus, incorporating them into the conference documents. In 1975, the Fourth National People's Congress amended China's Constitution to formally incorporate the Five Principles of Peaceful Co-Existence into the nation's basic law. The formulation of the principles — originally stated as "mutual respect for territorial sovereignty, mutual non-aggression, mutual non-interference in internal affairs, equality and mutual benefit, and peaceful coexistence" — was refined to "mutual respect for territorial integrity and sovereignty, non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful co-existence," confirmed in the *1978 Constitution* and retained ever since.[59]

The Five Principles of Peaceful Co-Existence are deeply rooted in traditional Chinese culture and have been progressively refined through diplomatic practice. Under the guidance of these principles, China successfully resolved historical issues with neighboring countries such as India and Myanmar; enhanced mutual trust and cooperation with emerging countries across Asia, Africa, and Latin America; and established amicable diplomatic relations with countries including Italy, Austria, and Belgium in the 1970s, thereby securing a favorable international environment for safeguarding national sovereignty and promoting economic development. Formally affirmed through a series of international instruments — including the *Final Communiqué of the Asian-African Conference of Bandung* and the *Declaration of International Law Principles*, the Five Principles of Peaceful Co-Existence have evolved into legal norms widely recognized in the international community. They have not only been progressively systematized through bilateral treaties concluded with numerous States but have also manifested the

[58] "Announcement of the Central People's Government of the People's Republic of China," *People's Daily*, October 2, 1949, page 1.
[59] Xi Jinping, "Carry forward the Five Principles of Peaceful Coexistence to build a Community with a Shared Future for Mankind. — Speech at the Commemoration of the 70th Anniversary of the Five Principles of Peaceful Coexistence." June 28, 2024, *Xinhua News*, Beijing.

characteristics of customary international law, becoming a representative example of the institutionalization of general principles of international law.[60]

Since the beginning of the twenty-first century, China's status and policy orientation in global governance have undergone profound transformation. China has shifted from a relatively passive posture to a more systematic and proactive mode of international engagement. In terms of participation, China has moved from focusing on a limited set of issues to actively contributing to the design of governance frameworks. In contrast to its earlier involvement, which was largely confined to specific domains, China has become significantly more comprehensive in international engagement after the advent of the twenty-first century, participating in agenda-setting, rule-making, and compliance monitoring on a global scale. It has not only continued its traditional cooperation in the field of security but has also expanded into new domains, thus forming a pattern of participation that balances traditional and non-traditional security concerns.[61] At the international level, ongoing trends of multipolarity and economic globalization have deepened interdependence among States. The regulatory scope of international law has broadened in turn, and the pace of international law-making has accelerated. Over a span of thirty years, hundreds of multilateral treaties have been adopted in new areas such as climate governance, financial regulation, resource development, information security, digital technologies, and cybersecurity. During this period, China also acceded to a number of major multilateral treaties adopted before the restoration of its lawful UN seat, including the *Convention Relating to the Status of Refugees* and its Protocol, the *Antarctic Treaty*, the *Outer Space Treaty* and the *Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space*, as well as the *Constitution of the ICPO-INTERPOL*, the *Paris Convention for the Protection of Industrial Property*, the *International Telecommunication Convention*, *the Convention on Psychotropic Substances*, and the *Vienna Convention on the Law of Treaties*. China further ratified the *Convention on*

[60] He Tiantian, "China's Discourse on the Values of the International Legal Order: From the Five Principles of Peaceful Co-Existence to Building a Community of Shared Future for Mankind," *Studies in Law and Business* 5 (2021): 72.

[61] Huang Huikang, "On the Codification and Progressive Development of International Law: In Commemoration of the Seventieth Anniversary of the International Law Commission," *Wuhan University International Law Review* 6 (2018): 31.

the Prevention and Punishment of the Crime of Genocide, accepted the *Statute of the International Atomic Energy Agency*, and simultaneously recognized thirteen ILO conventions. By this stage, China had largely completed its integration into the international legal system.[62]

C. From proposal provider to global governance: 2008-2025

In shouldering international responsibility, China has gradually established a dual identity — both as a representative of developing countries and as a major global power — through initiatives such as promoting the Forum on China-Africa Cooperation, advocating reform of the international financial architecture, and participating deeply in governance platforms such as the G20. This reflects an evolution from pursuing "relevant interests" to undertaking "shared responsibilities." China's development model has offered a new pathway for emerging powers to reshape the international power structure through institutionalized cooperation. While assuming broader international responsibilities, China has consistently emphasized safeguarding the overall interests of the developing world, thereby contributing Chinese experience to the transformation of global governance toward greater fairness and inclusiveness.[63]

Since the 2010s, China has successively advanced the Belt and Road Initiative, the Global Development Initiative, the Global Security Initiative, and the Global Civilization Initiative. Through these initiatives, the concept of a community of shared future for humanity has been continuously deepened and gradually institutionalized, reflecting China's strategic commitment and practical consistency in shaping international norms.[64] Rooted in Marxism, drawing from the Chinese cultural tradition of "the world belongs to all," and aligned with the governance philosophy of putting the people at the center, the concept advocates lasting peace, common interests, and shared development. It holds significant theoretical value and interpretive power in practice. The

[62] Li Lin, " Promoting the Common Values of Mankind: China's Contribution to the Advancement of International Rule of Law," *Journal of the University of Chinese Academy of Social Sciences* 6 (2025): 60 -76.
[63] Men Honghua and Song Lilei, "Responding to the Rise of the 'Global South': Competition and Cooperation Between China and Europe," *Chinese Journal of European Studies* 3 (2025): 7.
[64] Shen Wei and Wu Ying, "The Universal Narrative and International Law Practice of the Belt and Road Initiative," *Journal of Nantong University (Social Sciences Edition)* 3 (2025): 66-79.

notion of "shared future"[65] carries profound cultural meaning and is substantively original, with no equivalent in existing international legal theory, representing an innovative normative orientation.[66] The concept of a community of shared future for humanity is redefining the value hierarchy of international law. It prioritizes the common interests of all humankind and seeks to progressively translate core values of human rights, development, harmony, and shared security into binding institutions and rules.[67]

In September 2015, at the General Debate of the 70th Session of the United Nations General Assembly, President Xi Jinping set out the concept comprehensively for the first time, and further elaborated it at the 2017 Geneva conference on "Jointly Building a Community of Shared Future for Mankind Through Consultation." The proposal is grounded in the pursuit of global well-being and long-term development and offers a "China solution" aligned with the trends of the times, earning broad recognition and positive responses internationally.[68] In terms of practice, since the concept was formally incorporated into a United Nations resolution in 2017, it has gradually become an important driving force for the evolution of international mechanisms. In 2023, the UN Security Council included "capacity-building for the maintenance of international peace and security" as a formal agenda item, reflecting the concept's real influence on the formation of international rules and institutional practice.[69]

At the same time, China has actively played a coordinating role within institutional frameworks, strengthened the multilateral order, and participated

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[65] In the Chinese intellectual context, the term *ming* (命) carries diverse interpretations across different philosophical traditions. Confucianism advocates *zhiming* (知命), emphasizing acceptance of the Mandate of Heaven; Mohism advances *feiming* (非命), rejecting passive submission to destiny; and by the Ming and Qing dynasties, Wang Fuzhi proposed the idea of *zooming* (造命), arguing that individuals can proactively shape their destiny on the basis of understanding necessity. The term *yun* (运) further conveys the meanings of "opportunity" and "contingency." Combined, the notion of "destiny" (*mingyun*) in the expression "a community of shared future for humanity" underscores a call for humankind to adopt an active, constructive attitude, and to work together to build and share a common future.

[66] He Qinhua and Zhang Shun, "Interpreting Xi Jinping's Thought on the Inheritance of Human Legal Civilization," *Academics* 1 (2022): 14.

[67] Liang Kaiyin, "The Expression of the Concept of a Community with a Shared Future for Mankind in International Law," *China Legal Science* 4 (2025): 286-304.

[68] Wan Yu, Li Yan, Zhang Guangzheng, et al., "China Is a Key Force for Safeguarding World Peace, Stability, and Development," *People's Daily*, September 3, 2025, page 6.

[69] Zhang Naigen, "A Preliminary Analysis of International Legislation from the Perspective of a Community of Shared Future for Humanity: Focusing on Recent Topics of the UN International Law Commission," *Journal of International Law* 1 (2020): 13-32.

in initiating and building a number of regional economic cooperation organizations and communities. China has concluded 21 free trade agreements with 28 countries and regions, actively advanced the implementation of the Regional Comprehensive Economic Partnership (RCEP), and has proactively sought accession to both the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the Digital Economy Partnership Agreement (DEPA).[70] China has also made substantial contributions to supporting infrastructure development and socio-economic advancement in developing countries, taking concrete actions to promote multilateral cooperation within the international community and to advance the building of a community of shared future for humanity. In the issue of abolishing the United Nations Commission on Human Rights and establishing the United Nations Human Rights Council, China has repeatedly spoken on behalf of developing countries in the field of human rights, advocating the creation of a platform that is more equitable, inclusive, and grounded primarily in dialogue. [71] At present, to advance human rights in a comprehensive manner, China's *National Human Rights Action Plan (2021-2025)* explicitly identifies as a priority task the formulation of Chinese initiatives and proposals in multilateral institutions such as the United Nations Human Rights Council, along with active participation in the relevant mechanisms.

III. Ongoing Evolution: The Past and Present of Amendments to the *UN Charter*

As the foundational instrument of the post-war international order, the *Charter* has been amended only on very rare occasions. Since its entry into force, it has undergone five amendments, and despite persistent calls for reform thereafter, no subsequent amendments have been adopted.[72]

A. The institutional framework for amending the *Charter*

[70] Ren Mengshan and Sheng Ziqing, "The Historical Evolution and International Communication of China's Environmental Discourse: An Examination of Statements by Chinese Delegates at the United Nations Climate Change Conferences (1995-2023)," *Journal of Shanxi University (Philosophy and Social Sciences Edition)* 4 (2025): 53.

[71] Zhu Liyu, "A Review and Analysis of China's Firm Opposition to Double Standards in UN Human Rights Bodies: On the 30th Anniversary of the *Vienna Declaration and Programme of Action*," *Human Rights Studies* 3 (2023): 1-14.

[72] Linda Cherabcha, "The Charter of the United Nations between the Requirements of Application and the Need for Amendment," *Contemporary Readings in Law and Social Justice* 17, no. 1 (2025): 321-329.

If a proposed reform seeks to alter the constitutional foundations of the United Nations, such as institutional changes to its principal organs or reforms affecting the internal balance among UN bodies, then, in principle, such reform requires a formal amendment to the *Charter*. Chapter XVIII of the *Charter* provides two legally prescribed methods and procedures for amending the *Charter*. The first, set out in Article 108, is commonly referred to as the "General Assembly model" or the ordinary amendment procedure. The second, established in Article 109, is known as the "General Conference model" or the procedure for convening a general conference to amend the *Charter*.[73]

(1) The first amendment procedure is conducted under the auspices of the United Nations General Assembly. Firstly, a Charter amendment must be proposed to the General Assembly, and it shall come into effect after being approved by at least two-thirds of the United Nations Member States through their respective constitutional procedures, including the five permanent members of the Security Council. An amendment must be adopted by a two-thirds majority of the General Assembly and subsequently ratified by two-thirds of the Member States, including all five permanent members of the Security Council. In other words, the permanent members possess a *de facto* veto over Charter amendments. This is the only amendment procedure that has ever been successfully employed; all amendments to date have been adopted through this process.[74] (2) The second amendment procedure provides the conditions for convening a General Conference for the Review of the *Charter*, but it likewise requires the dual consent of both the General Assembly and the

[73] Article 108: Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.
Article 109: 1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference. 2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council. 3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.
[74] Scott. Richard F, "Revision of the United Nations Charter: A Study of Various Approaches," *Mich. L. Rev.* 53 (1954): 39.

Security Council. A general conference to amend the *Charter* may be convened upon a two-thirds majority vote of the Members of the United Nations and nine members of the Security Council. The General Conference may adopt Charter amendments by a two-thirds majority vote of all UN Member States. Such amendments enter into force once they have been ratified by two-thirds of the Member States, including all permanent members of the Security Council.[75] This provision itself was amended in 1965, when the number of Security Council members was increased from seven to nine, raising the voting requirement to nine members accordingly. By comparison, the second procedure is significantly more complex and has never been used. The two amendment mechanisms established by the *Charter* reflect the degree of control exercised by the victorious powers of 1945 over the UN system; any amendment that touches upon the core interests of the permanent members is exceedingly difficult.[76]

B. Formal amendments adopted to date

To this day, only three formal amendments to the *Charter* have been adopted, all in the 1960s and 1970s. These amendments were limited in scope, focusing primarily on the expansion of the Security Council and the Economic and Social Council, along with corresponding technical adjustments to related provisions. Since 1973, despite ongoing debates over Security Council reform, no further substantive amendments to the *Charter* have been achieved.

Table 1. Amendments to the *UN Charter*

Year of Adoption	Year of Entry into Force	Article(s) Amended	Key Amendments
1963	1965	Article 23	Security Council membership expanded from 11 to 15.

[75] Sun Zhangji, "On the Revision of the United Nations Charter," *Social Sciences in Guangdong* 4 (2008): 198.

[76] Fassbender, B., *UN Security Council Reform and the Right of Veto: A Constitutional Perspective* (Leiden: Martinus Nijhoff, 1998).

Year of Adoption	Year of Entry into Force	Article(s) Amended	Key Amendments
		Article 27	Affirmative votes required for non-procedural Security Council resolutions changed from 7 to 9.
		Article 61	Economic and Social Council (ECOSOC) membership expanded from 18 to 27.
1965	1968	Article 109	Revised the procedure for convening a General Conference to review the Charter, aligning it with updated membership requirements.
1971	1973	Article 61	ECOSOC membership further expanded from 27 to 54.

The first amendment to the *Charter*, adopted in 1963, introduced several significant adjustments to the Security Council without affecting the veto power of the five permanent members. General Assembly Resolution 1991 expanded the Security Council from 11 to 15 members, increased the number of non-permanent seats from 6 to 10, and raised the number of affirmative votes required for Council decisions from 7 to 9, while expanding the membership of the Economic and Social Council (ECOSOC) from 18 to 27. The second amendment, adopted in 1965, made only a minor revision to Article 109, increasing the number of Security Council votes required to convene a Charter Review Conference from 7 to 9, thus adjusting the procedural threshold for initiating such a conference. The third amendment, adopted in 1973, further expanded ECOSOC membership to 54. These amendments were driven primarily by the rapid growth in UN membership resulting from the decolonization process between 1945 and 1970. Regrettably, however, they did not fundamentally alter the power imbalance between

permanent and non-permanent members. On the contrary, the increase of non-permanent seats diluted the relative voting weight of each individual non-permanent member, and the enlarged voting pool reduced the extent to which the five permanent members needed to rely on any single non-permanent vote.[77]

In this sense, the *Charter*'s amendment procedures effectively entrenched the power structure of the WWII victors within the UN system, ensuring their decisive influence over all major UN decisions and consolidating the political and legal framework of the post-war order. Thus, although calls for reform continue to arise in response to the *Charter*'s rigid structure, the amendment process secures the control of the five permanent members.[78] Their unwillingness to limit or relinquish their privileges has prevented any formal reform efforts that could challenge the veto, resulting in prolonged institutional stagnation.[79]

After the end of the Cold War, demands to enhance the Security Council's representativeness and inclusiveness intensified. In 1993, under sustained pressure from numerous post-colonial States as well as Japan and Germany, the General Assembly established a dedicated working group to examine Security Council expansion and representation. Secretary- General Kofi Annan, General Assembly President Razali bin Ismail, and various State groupings subsequently advocated reform and helped advance discussions. In 2003, following the Iraq War and the resulting crisis of confidence in the UN, calls for reform re- emerged, but progress was impeded by opposition from the United States, China, and Russia. In 2005, Annan again urged Member States to reach a reform consensus, prompting what became the most promising yet ultimately most disappointing attempt at UN reform. Two main coalitions took shape.[80] One was the G4 group (Japan, Brazil, Germany, India), which advocated the addition of six new permanent members. The other was the

[77] Oona A. Hathaway, Maggie M. Mills, Heather Zimmerman, "Crisis and Change at the United Nations: Non-Amendment Reform and Institutional Evolution," *Michigan Journal of International Law* 46, no. 1 (2025): 1-68.
[78] Mickey Isakoff, "Remodeling the Fruitless Link between the Security Council and the International Criminal Court: Why Amending the UN Charter Could Be the Greatest Tribute International Politics Has Ever Paid to International Law," *Cleveland State Law Review Et Cetera* 72 (2023-2024): 91-124.
[79] Schwelb, Egon, "Amendments to Articles 23, 27 and 61 of the Charter of the United Nations," *American Journal of International Law* 59. 4 (1965): 834-856.
[80] Gunter, Michael M., "Recent Proposals in the United Nations to Amend the Charter," *Case W. Res. J. Int'l L.* 10 (1978): 763.

Uniting for Consensus group, composed of several regional States, proposing the creation of ten new non-permanent seats. Both camps supported expanding the Council from 15 to 25 members. However, under pressure from the five permanent members, reform momentum quickly dissipated. The United States opposed both proposals on the grounds that they would "undermine the efficiency of the Security Council," arguing that "absorbing nine or ten new members would be unmanageable." Ultimately, the 2005 World Summit concluded with only vague commitments, and a 2009 General Assembly report admitted that no substantive progress had been achieved, recommending merely the continuation of intergovernmental negotiations. Thus, four years of intense reform efforts came to nothing.

C. Challenges and structural obstacles to Charter amendment

For decades, extensive consultations on Security Council reform have continued with virtually no agreement. Core areas of discussion include: (1) increasing the number of permanent members; (2) increasing the number of non-permanent members; (3) determining the status of new permanent members (including whether the veto should be extended to them); (4) the future of the veto power; and (5) limitations on the use of the veto. Debates have intensified over the past two years, in part due to dissatisfaction among some Member States with the perceived inaction of the Security Council in response to the Russia-Ukraine conflict. The United States has consistently supported expanding Security Council membership, both permanent and non-permanent. In September 2022, President Joe Biden reaffirmed this position, emphasizing not only support for the long-backed candidates — Germany, Japan, and India, but also advocating permanent seats for countries in Africa, Latin America, and the Caribbean. Nevertheless, no concrete amendment initiative has moved forward.[81]

The difficulties in advancing Charter reform stem from several major factors. First, the "double veto" barrier. As noted earlier, a successful Charter amendment requires not only approval by a two-thirds majority of the General Assembly but also ratification by all five permanent members of the Security Council (China, France, Russia, the United Kingdom, and the United States). A single dissenting vote from any permanent member results in the abortion of

[81] Blanchfield, Luisa, United Nations System: Frequently Asked Questions (September 22, 2023), accessed August 11, 2025, https://www.congress.gov/crs-product/R47715.

the amendment. Second, extensive deep divisions among Member States make it difficult to achieve political consensus. Amendments that alter the power structure, such as adding new permanent members or restricting/eliminating the veto, directly affect the core interests of major powers and the global balance of power. Developing countries widely call for Security Council reform, yet internal disagreements have weakened its feasibility. The G4 States (Germany, Japan, India, Brazil) advocate new permanent seats, while African States insist on at least two permanent African seats, making convergence extremely difficult. Third, the high ratification threshold. Even if a formal amendment is adopted by the General Assembly, it must still be ratified through domestic procedures by two-thirds of all UN Member States (currently over 128 countries). The process is lengthy, politically uncertain, and unpredictable. These obstacles show that the difficulty of Charter reform arises not only from legal procedures but more fundamentally from structural constraints embedded in the global distribution of power. As a result, the evolution of the UN system hinges more on practical innovation, institutional adaptation, and soft reform mechanisms than on formal amendments to the *Charter*.[82]

Eighty years have passed. The decolonization movement, the end of the Cold War, the wave of globalization, and the collective rise of emerging powers have continuously challenged the institutional framework established at the birth of the *Charter*, rendering it increasingly inadequate for addressing contemporary global issues. Take the Security Council as an example. As the central organ for maintaining international peace and security, it plays an indispensable role in responding to international crises, yet its functioning has long been constrained by several structural problems. For example, the frequent use of the veto power by permanent members has undermined the fairness and authority of the Council's decisions; many resolutions lack effective enforcement mechanisms, weakening their binding force; and great-power political rivalry often overrides legal norms and principled constraints, further eroding the Council's legitimacy and credibility. The urgency of reform stems not only from fundamental shifts in the international balance of power but also from the pressing need to reconstruct the global governance system. Although the *Charter* contains a degree of institutional

[82] Ziad Mohammed Al-Wahshat, "UN Reform: An Analytical View of its Problems and Ways to Overcome It," *Journal of Legal Studies and Research*, volume 6, issue 1 (2021).

flexibility, the gap between its provisions and actual needs has become increasingly pronounced in the face of severe human rights crises and regional conflicts. Therefore, the Charter must undergo careful review and adjustment to align with contemporary international realities.[83]

In many respects, the United Nations of 1945 resembled an organization dominated by a small number of States and centered on traditional security concerns. By contrast, today's United Nations has evolved into a global governance platform that covers a broad range of issues, includes far more Member States, and features close interactions with non-State actors. (See Table 2 for the differences.) Therefore, future reforms should focus on at least the following areas: First, improving the legal framework. International treaties or protocols should be adopted to clearly distinguish international from domestic disputes. A more objective and principled classification would reduce ambiguity and limit political manipulation. Second, regulating the use of the veto. In situations involving grave humanitarian crises or large-scale human rights violations, restrictions should be placed on the veto power of permanent members to prevent national political interests from overriding humanitarian needs. Third, strengthening cooperation between the Security Council and regional organizations. When handling internal conflicts, regional organizations often possess comparative advantages due to geographic proximity and contextual understanding. Complementarity between the Security Council and regional bodies would enhance both the efficiency and legitimacy of dispute settlement. Fourth, enhancing implementation capacity. More robust and operational mechanisms should be established to ensure the actual implementation of Security Council resolutions rather than leaving them as symbolic statements. At the same time, more flexible and transparent procedural designs should be introduced to reduce opportunities for political obstruction.[84]

Table 2. Key Differences Between the United Nations in 1945 and Today

[83] Linda Cherabcha, "The Charter of the United Nations between the Requirements of Application and the Need for Amendment," *Contemporary Readings in Law and Social Justice* 17, no. 1 (2025): 321-329.
[84] Al Wahshat, Ziad, Talal Aleissa, and Muhammad Al-Freihat, "Criteria for Distinguishing between International and Non-international Disputes and the Role of the Security Council in Their Settlement," *Humanities Journal* 2.2 (2025): 2025007-2025007.

Dimension of Comparison	United Nations in 1945	United Nations Today
Membership	51 member states, primarily WWII victors and a few independent states.	193 member states and two observer states (the Holy See and Palestine).
International Power Structure	Bipolar system centered on the U.S. and USSR in the wake of WWII; Charter design partially aimed at managing conflict between major powers.	Accelerating shift from (U.S.-led) unipolar order to multipolar order; rising influence of emerging powers and regional organizations.
Nature of Security Threats	Primarily interstate war, with the focus on preventing aggression, and safeguarding territorial integrity.	Non-traditional security threats dominate: terrorism, state fragility, AI ethics risks, transnational crime, environmental and health crises.
Human Rights & Humanitarian Issues	Human rights mentioned in the Charter but not a core agenda item; sovereignty and non-interference are primary principles.	Human rights as a central pillar; establishment of the ICC, advancement of R2P, greater emphasis on individual security and dignity.
Economic & Social Development	Economic and Social Council (ECOSOC) coordinates specialized agencies; development agenda plays a limited	Development elevated to one of the UN's three pillars via the Millennium Development Goals

Dimension of Comparison	United Nations in 1945	United Nations Today
	role.	(MDGs) and Sustainable Development Goals (SDGs).
International Law Status	Limited institutionalization of international law; focused on prohibiting force and peaceful dispute settlement.	Rapid expansion of international law; establishment of the ICC, active international tribunals; treaties and customary law central to UN operations.
Non-State Actors	International order almost entirely state-driven; Charter premised on sovereign states as primary units.	Significant growth in the influence of NGOs, multinational corporations, media, and terrorist organizations, directly shaping UN agendas and decisions.

D. Possible solutions for reference

The *Charter* embodies both the aspiration of humanity for universal peace and broad cooperation, and the profound imprint of power politics on institutional design. It provides the United Nations with legitimacy and direction, and its very existence implies the historical inevitability of future reform and revision.[85] In addressing the practical challenges of the present, apart from formally amending the *Charter*, at least the following solutions can be considered:

First, the withdrawal mechanism. The *Charter* is a relatively concise treaty, consisting of only 111 articles. To some extent, its longevity can be

[85] Bardo Fassbender, "The United Nations Charter as Constitution of the International Community," *Columbia Journal of Transnational Law* 36, no. 3 (1998): 529-620.

attributed to this brevity. If the provisions were overly complex, they would have struggled to withstand the test of time. Moreover, although many of its clauses are broadly formulated, their wording was carefully chosen, sometimes deliberately preserving a certain ambiguity so that agreement could be reached in a context of compromise. In several areas, this characteristic has created space for supplementary and dynamic interpretation in response to new demands and evolving circumstances. In addition, all Member States firmly believe that having an international organization is preferable to having none at all. This belief has, to some extent, safeguarded the *Charter*'s status. To date, no Member State has genuinely intended to abandon the organization. The only instance of withdrawal occurred when Indonesia, under President Sukarno (1901-1970), announced its withdrawal, only to later resume its membership. Admittedly, some United States diplomats have spoken disparagingly about the United Nations — some calling it "a dangerous place," others claiming that "no one would notice if ten floors of the UN building disappeared." Nevertheless, all 193 Member States continue to share one fundamental consensus: the United Nations must persist. This is, in itself, a unique phenomenon in human history.[86] If the United Nations had achieved nothing, such a question would not arise; however, it has succeeded and grown increasingly influential. At the same time, unlike the *Covenant of the League of Nations*, the *Charter* does not explicitly provide for a right of voluntary withdrawal for its Member States.[87]

If the United Nations possessed the political characteristics of a federation, there would be ample justification for prohibiting the right of withdrawal. However, the UN's constitutional structure is not federal in nature; rather, it resembles, more than any other organization, an alliance system initially limited to the active and passive belligerents opposing the Axis Powers during the Second World War. It is an inclusive alliance, to be sure, but still an alliance, with its essential core being formed by the five permanent members of the Security Council. An alliance from which a party is not permitted to withdraw is an unprecedented political phenomenon, except where such prohibition has been imposed upon a defeated nation as punishment. In the

[86] Nico J. Schrijver, "The Future of the Charter of the United Nations," *Max Planck Yearbook of United Nations Law* 10 (2006):1-34.
[87] Felix M. Morley, *Charter of the United Nations, an Analysis*, American Enterprise Association, 1946, page 52-54.

words of Marshal Jan Christiaan Smuts: "Our Charter is not a perfect document. It is full of compromises over very difficult and tangled problems. But at least it is a good, practical, workmanlike plan for peace-a very real and substantial advance on all previous plans for security against war."[88] Overall, the *Charter* is workmanlike and workable. It does not operate automatically, and for a long time it may not even function smoothly. Tensions will persist among the five privileged great powers, particularly because they enjoy such elevated prerogatives. At the same time, tensions will arise between these privileged states and those with fewer privileges, as well as between Member States and non-Member States, not to mention the inevitable atmosphere of sullen hostility that will prevail within nations defeated and dismembered in war.[89]

Second, the creation of a new Charter. The proposal for *A Second United Nations Charter* builds upon the reform traditions embodied in *An Agenda for Peace* of 1992, *In Larger Freedom* of 2005, and *Our Common Agenda* of 2021, while also responding to emerging challenges such as the climate crisis, public health, digital security, and artificial intelligence in the twenty-first century. The purpose of *A Second United Nations Charter* is not to overturn the existing United Nations system or the broader framework of international law, but rather to construct a governance framework capable of effectively addressing the global crises and opportunities of the twenty-first century — on the basis of the UN's foundational principles.[90] The draft of *A Second United Nations Charter* proposes three fundamental transformations: (1) A comprehensive update of outdated historical provisions, such as the removal of the "enemy state clauses" and the elimination of obsolete formulations related to the Trusteeship System. (2) Normative advancement, including raising standards for the protection of human rights and gender equality, and promoting environmental protection and the health of the Earth system. (3) Institutional restructuring, such as establishing a Parliamentary Assembly and an Earth

[88] "Our Charter is not a perfect document. It is full of compromises over very difficult and tangled problems. But at least it is a good, practical, workmanlike plan for peace-a very real and substantial advance on all previous plans for security against war," Marshal Jan Christiaan Smuts, Address at the Final Plenary Session of the San Francisco Conference, June 26,1945. See Felix M. Morley, *Charter of the United Nations, an Analysis*, 1946, page 55.

[89] Spijkers Otto, "Global values in the United Nations Charter," *Netherlands International Law Review* 59.3 (2012): 361-397.

[90] Global Governance Forum. 2023, "A Second Charter: Imagining a Renewed United Nations." https://globalgovernanceforum.org/wp-content/uploads/2023/08/SecondCharter_Imagining-Renewed-United-Nations. pdf, page 37-38.

System Council, expanding the membership of the Security Council, reforming the selection process for the Secretary-General and the UN's financial architecture, and creating a dynamic amendment mechanism capable of responding flexibly to new challenges. This initiative represents an attempt at systemic reconstruction of the international institutional order. It also offers a potential pathway for the United Nations to revitalize its legitimacy, enhance its effectiveness, and avoid marginalization in global governance.[91]

Third, subordinate concordant agreements. A commonly used and readily available technique for institutional adaptation is the conclusion of subordinate concordant international agreements. Treaties that conflict with the Charter are, of course, constrained by it; however, the United Nations leaves considerable space for expanding obligations beyond those explicitly provided in the Charter. In general, Member States may create additional obligations in areas of international relations already covered by the Charter. Because the Charter establishes only a minimum rules framework, Member States may re-enter their regulatory field and impose further limitations on their political discretion through treaty instruments, or they may expressly renounce rights conferred by the Charter, provided that such renunciations do not constitute a threat to the peace. Both techniques have long been supported by the practice of United Nations organs and Member States. At least subordinate collective security agreements within the scope of Article 51 of the *Charter* are undoubtedly permissible and consistent with it. Under the regional arrangements contemplated in Chapter VIII, Western states concluded major agreements such as the *Inter-American Treaty of Reciprocal Assistance* (1947), the *Charter of the Organization of American States* (1948), the *North Atlantic Treaty*

[91] See https://globalgovernanceforum.org/second-united-nations-charter-modernizing-un-new-generation/, accessed August 16, 2025. The project was launched by the Global Governance Forum under the leadership of its Executive Director, Augusto Lopez-Claros. The draft reflects the contributions of a broad community of experts, including international law scholars, university professors, heads of non-governmental organizations, former diplomats, former government officials, and former United Nations staff. The document lists dozens of individuals directly involved in discussion and drafting, including Ángel Alonso Arroba, Andreas Bummel, Arthur L. Dahl, Geeta Gandhi Kingdon, and Joshua Lincoln. The draft also benefited from review and feedback from figures such as Hans Corell, former UN Under-Secretary-General for Legal Affairs; María Fernanda Espinosa, former President of the UN General Assembly; Danilo Türk, former President of Slovenia; and Jody Williams, Nobel Peace Prize laureate. The realization of the project was made possible through funding from the Global Challenges Foundation (GCF) of Sweden, established by philanthropist Laszlo Szombatfalvy, with continued support from its then-CEO, Jens Orback.

(1949), and the *Pacific Security Treaty* (1951), with some of these instruments explicitly recognizing the legal primacy of the Charter. Notably, the *Charter of the Organization of American States* extends obligations beyond those expressly authorized by the *UN Charter*, suggesting a broader concept of compatibility.[92]

This technique may be employed to expand the obligations of Member States to participate directly in the work of the United Nations, as exemplified by the well-known *Thomas-Douglas Resolution* of 1950. Although the resolution failed to obtain approval from the United States Senate, its failure was not attributable to legal concerns. Without undertaking a formal amendment of the Charter, the resolution proposed modifying voting procedures and operationalizing the collective security architecture through "a supplementary agreement open to all Members of the United Nations under Article 51." Such a supplementary agreement would have bound its signatories to assist victims of aggression at the request of the General Assembly (including by a two-thirds vote of the three permanent members of the Security Council). Armed forces were to be made available for fulfilling these assistance obligations in accordance with the spirit of Article 43 of the *Charter*. On this basis, the resolution envisaged a treaty eliminating the veto and pre-designating certain military contingents for use by the Security Council or the General Assembly. This went beyond the *Vandenberg Resolution*, which had merely called for supplementary agreements removing the veto in matters relating to the pacific settlement of disputes. The legal foundation for the *Thomas–Douglas Resolution* was vigorously presented before the Committee on Foreign Relations of the U.S. Senate by Professor Quincy Wright, who argued that the proposal was consistent with the principles, purposes, and express provisions of the Charter, as well as with Charter practice, Covenant practice, and doctrines articulated by the International Court of Justice. Thus, the permissibility of subordinate concordant agreements as a legal technique for altering the structure of existing organizations such as the United Nations can be regarded as firmly established. Once the legal basis is recognized, major transformation proposals such as the *Atlantic Union* rely on this concept. Individual agreements may also serve to adjust the structure and functions of

[92] Rebecca Crootof, "Change Without Consent: How Customary International Law Modifies Treaties", 41 *Yale J. Int'l L.* 237 (2016).

the United Nations in more moderate ways. In practice, many — if not all — proponents of formal Charter amendment would likely turn first to agreement-based procedures as a testing ground before pursuing formal revisions. Observing the effects of such limited foundational changes may persuade even persistent opponents to participate or acquiesce. Unconstrained by the veto problem, this procedure provides supporters of reform with a viable avenue for revising the *Charter* while avoiding the divisive consequences associated with withdrawal, revolutionary replacement, or vetoed amendment proposals.

Fourth, interpretation and practice. Amendment of the *Charter* is legally possible but is exceedingly difficult in practice. The reasons are twofold. Firstly, the *Charter* was originally designed to preserve the stability and continuity of its core structure, particularly the key prerogatives of the permanent members of the Security Council. Secondly, compared with the charter of organizations such as the European Union or the International Monetary Fund, amendments to the *Charter* are far more political in nature and substantially harder to achieve. As a result, any substantive amendment is unlikely to materialize in the foreseeable future.[93] The inaction of the Security Council in responding to the crises in Gaza and Ukraine has once again drawn attention to the structural problems of the United Nations. Scholars and policymakers have long called for reform, largely in vain. Traditional views hold that *Charter* amendment is the only path to reform, but the veto power of the UN permanent members renders this virtually impossible. The repeated failures of amendment-based reform efforts since 1965 do not signal that reform is unattainable; they indicate instead that if reform is to occur, it may need to take place outside the formal amendment procedure.[94]

Such forms of "non-amendment reform," though distinct in nature, develop through a logic similar to that of customary international law. Rather than directly modifying the *Charter* text, they gradually form shared

[93] John Gerard Ruggie, "The United Nations and Globalization: Patterns and Limits of Institutional Adaptation," *Global Governance* 9, no. 3 (July-September 2003): 301-322.

[94] Most scholars agree that constitutional change often occurs outside the formal amendment process. Some even argue that nearly all major transformations in the history of the United States Constitution were not brought about through constitutional amendments. Although Article V of the U.S. Constitution establishes a formal amendment procedure, this mechanism has not functioned as the principal avenue for constitutional transformation. At certain historical junctures, "ordinary legislation" effectively gives way to "higher-order lawmaking," thereby generating new consensus on the constitutional order and enabling substantive constitutional change without formal amendment. See Baccarini, Mariana Pimenta Oliveira, "Informal Reform of the United Nations Security Council," *Contexto internacional* 40.01 (2018): 97-115.

understandings of functions and competences through the practice of UN organs. The legitimacy of such reforms is often not recognized in advance but relies on progressive consolidation afterwards. Because these measures often go beyond the original provisions of the *Charter*, they are frequently contested at the outset; some may even be criticized initially as unconstitutional or lacking legality. Yet as they are increasingly accepted and applied by a majority of States in practice, these measures eventually acquire institutional recognition and evolve into widely observed normative operations within the international legal system.[95] In fact, a series of significant reforms have quietly emerged through this multi-stage process. Interpretation and practice constitute an old, conservative, and often arduous technique for institutional development — one that lacks the dramatic force associated with withdrawal, revolutionary replacement, subordinate concordant agreements, or formal amendment. Yet it is more reliable and effective. Advocates of interpretation- and practice-based reform reasonably assume that the existing written *Charter* represents the best common denominator of the interests and preferences of the international community and its Member States. Although gradualism may be pragmatic, piecemeal, and at times awkward, it is far preferable to the absence of reform. Any incremental change achieved through this technique — whose concrete modalities fall into five categories (see Table 3) — relies on the premise that the unamended *1945 Charter* is capable of accommodating a larger legal and institutional load. In other words, the Charter itself possesses sufficient flexibility to allow for wide-ranging internal transformation without losing its character as a regulator of international politics.[96]

Table 3. Five Pathways for Institutional Reform

Reform Pathway	Legal Nature	Key Characteristics
Formal Amendment	Amendment under Articles 108–109 of the	Requires proposal by the General Assembly / Review Conference and ratification by the five

[95] E. Luck, *Reforming the United Nations: Lessons from a History in Progress*, International Peace Academy 2003, page 3.
[96] Hathaway, O., Mills, M. & Zimmerman, H., "2024. Reforming the UN Without Charter Amendments: A Path Forward", CEIP: Carnegie Endowment for International Peace. United States of America, accessed 0 September, 2025, https://coilink.org/20.500.12592/3h0cnrl.

Reform Pathway	Legal Nature	Key Characteristics
	Charter	permanent members of the Security Council and 2/3 of Member States.
Withdrawal Mechanism	Unilateral termination of treaty relations	Invocation of the *rebus sic stantibus* principle or material breach by another party.
Revolutionary Replacement	Creation of a new charter order	Adoption of a new charter through a constituent assembly or equivalent body.
Subordinate Concordant Agreements	Conclusion of compatible supplementary treaties	Creation of new obligations in areas not prohibited by the Charter (e.g., regional defense pacts like the *North Atlantic Treaty*).
Interpretive Practice	Amendment through subsequent practice	Dynamic interpretation of the connotation of the provisions shall be carried out through institutional practices to adapt them to the needs of contemporary global governance.

IV. Future Pathways: Amendment Through Practice

Under Article 31(3)(b) of the *Vienna Convention on the Law of Treaties*, subsequent practice in the application of a treaty shall be taken into account as a supplementary means of interpretation. In other words, practice is generally understood as evidence revealing the common intention of the parties, rather than as an autonomous mechanism for generating new legal obligations. Within the prevailing framework of international law, subsequent practice functions primarily as an interpretive tool. In the context of the *Charter*, practice has likewise long been framed as “interpretation.” For example, the

expansion of Security Council authority in peacekeeping operations is often described as a flexible reading of Articles 24 and 42; the General Assembly's creation of subsidiary organs is treated as an interpretive exercise within the meaning of Article 22. Yet a closer examination reveals that these practices go far beyond mere interpretation. They do not simply "clarify" the meaning of provisions; they "alter" the functional operation of those provisions in practice. In this sense, these forms of practice approximate — if not amount to — de facto amendment of the *Charter*.[97]

A notable example is the expansion of UN peacekeeping after the Cold War. Although peacekeeping forces were not expressly provided for in the original *Charter* design, the Security Council gradually developed a mechanism for their deployment, and this mechanism gained broad acceptance. Today, peacekeeping is widely regarded as part of the peace-maintenance functions of the Security Council. Such a conclusion is difficult to reach through strict textual interpretation. It became possible only because "practice" effectively modified the Charter's application. Accordingly, practice in the application of the *Charter* has a dual character: on the one hand, it is formally situated within the interpretive framework; on the other hand, it operates with an amendment-like effect. This grey zone has rendered the boundary between "interpretation" and "amendment" increasingly elusive. For this reason, some scholars argue that it is time to confront this legal fiction and acknowledge that practice may serve not only as a tool of interpretation but also as a pathway to amending the *Charter*.[98] It is widely observed that interpretation and amendment have become so intertwined in the evolution of the *Charter* that their boundaries are blurred, not due to a clear legal distinction but rather through deliberate conceptual construction. Many actions in practice possess the functional effect of "quasi-amendments," yet remain framed as interpretation, thus avoiding the demanding amendment procedures under Articles 108 and 109 and preserving the façade of textual stability.

The core question, then, is whether the international community should continue maintaining the interpretive fiction, or instead acknowledge that

[97] Kadelbach, Stefan, "Main Text", in *The Charter of the United Nations*: A Commentary, volume I, 3rd Edition, Bruno Simma, and others eds. (Oxford: Oxford Commentaries on International Law, 2012), Oxford Law Pro, p. 98.

[98] Christopher Peters, "Subsequent Practice and Established Practice of International Organizations: Two Sides of the Same Coin?" *Goettingen Journal of International Law* 3 (2011): 2 and 617-642.

certain practices substantively constitute amendments to the *Charter*. If the latter, appropriate normative conditions and constraints must be developed to prevent abuse that could jeopardize the *Charter*'s legal stability. This leads to a further question: should this reality be openly recognized and refined into a systematic and transparent theory?

We believe that the contemporary international legal system has reason to construct a doctrinal framework for amending the *Charter* through practice, thereby achieving a clearer and more institutionalized balance between adaptability and stability. Functionally, the United Nations must be capable of responding to emerging global challenges and governance needs. As the Organization's constitutional foundation, the *Charter* must possess a degree of viability and adaptability. Exclusive reliance on stringent amendment procedures risks confining the *Charter* within the historical context of 1945, rendering it increasingly mismatched with the evolving dynamics of international relations. From the perspective of treaty law, although the *Vienna Convention on the Law of Treaties* (1969) ultimately did not codify a doctrine of "informal amendment," it nonetheless provides indirect doctrinal support through Article 31(3)(b) on *subsequent practice* and Article 39 concerning formal amendment procedures, which can be seen in both international legal doctrine and state practice. In many multilateral treaties, parties have, in effect, adjusted or even reshaped the legal meaning and operative scope of certain provisions through sustained and consistent practice, producing new normative outcomes.[99] Moreover, this doctrine is not incompatible with the existing international legal framework. Amendment through practice does not aim to displace formal amendment procedures; it operates as a supplementary mechanism for areas where formal amendment is politically unachievable yet where timely adjustment is urgently needed. Its purpose is to enhance the *Charter*'s effectiveness and contemporary relevance, not to undermine its stability. Integrating such a mechanism into the UN Charter system would help clarify the current "grey zone" between interpretation and amendment. Rather than continuing to cloak substantive normative evolution under the label of

[99] Ljubo Runjic, "Reform of the United Nations Security Council: The Emperor Has No Clothes," *Braz. J. Int l L*. 14 (2017): 268.

"interpretation," it would be preferable to recognize the amendment-like legal effects of practice under carefully circumscribed conditions.[100]

Thus, the core question becomes: what normative criteria should be established to ensure that such practices may be recognized as possessing amendment-like legal effect?

First, the practice must reflect a broadly consistent and general consensus among Member States, rather than the conduct of a single Member State or a narrow group of Member States. Only when the overwhelming majority of Member States engage in consistent behavior over an extended period—and when such behavior demonstrates a shared normative understanding—may the practice be regarded as expressing the collective will of the international community. This resembles the formation of customary international law, but requires an even higher degree of consistency and generality. Second, the practice must exhibit a clear normative awareness, meaning that Member States not only behave in a certain way in fact but also recognize subjectively that such behavior has the effect of creating or modifying *Charter* norms. Without *opinio juris*, such conduct cannot be considered an amendment-generating practice; it amounts only to expedient action or political accommodation. Third, the practice must occur within the institutional framework of the United Nations, and receive either explicit or implicit endorsement from its principal organs. Confirmation through Security Council or General Assembly resolutions, or implementation by the Secretariat in its operational practice, can significantly reinforce the legitimacy of the practice. Conversely, measures that remain persistently contested or fail to attain organizational recognition cannot plausibly be regarded as effective amendments. Finally, the substantive scope of the practice must be functionally constrained. Fundamental constitutional provisions, such as the veto power of the permanent members of the Security Council, sovereign equality, and non-intervention, should not be subject to substantive modification through practice. Doing so could precipitate a legitimacy crisis at the level of the Organization's constitutional structure. Accordingly, this doctrine should apply primarily to

[100] Jessica Liang, "Modifying the UN Charter Through Subsequent Practice: Prospects for the Charter's Revitalisation," *Nordic Journal of International Law* 81.1 (2012): 1-20.

areas in which the underlying architecture of the Charter remains intact, but where enhanced adaptability and effectiveness are necessary.[101]

Although "amendment through practice" entails certain risks, the establishment of rigorous conditions and limitations can effectively mitigate potential drawbacks.[102] Only when the four criteria — general consistency, normative awareness, institutional endorsement, and functional compatibility — are fulfilled may a practice be regarded as an effective means of amending the *Charter*. On this basis, it becomes possible to facilitate an organic evolution of the *Charter*'s operative capacity while preserving the stability of its normative framework.[103] In this light, "amendment through practice" aligns both with the historical logic of international law's development and with the governance needs of the *Charter* as a "living constitution." If the international community succeeds in advancing the systematization and maturation of this doctrine in both theory and practice, the *Charter* may evolve in a more responsive and dynamic manner, without undermining the foundational stability upon which the Organization depends.

Conclusion

As Harry Truman declared at the opening of the San Francisco Conference, "Justice remains the greatest power on earth. To that tremendous power alone will we submit."[104] Yet the more sober words delivered by the Earl of Halifax, the British Ambassador to the United States and Chair of the United Kingdom delegation, at the closing session on June 26, 1945 still resonate as a lasting admonition: "We cannot indeed claim that our work is perfect or that we have created an unbreakable guarantee of peace. For ours is no enchanted palace to 'spring into sight at once,' by magic touch or hidden power. But we have, I am convinced, forged an instrument by which, if men are serious in wanting peace and are ready to make sacrifices for it, they may

[101] Colm? Néill, The UN Charter as a "living document," accessed August 21, 2025, https: //trinitycollegelawreview. org/the-un-char- ter-as-a-living-document/.
[102] Wilde R, Charlesworth H, Schrijver N, et al. "United Nations Reform Through Practice: Report of the International Law Association Study Group on United Nations Reform," Available at SSRN 1971008 (2011).
[103] Wilde R, Charlesworth H, Schrijver N, et al., "United Nations Reform Through Practice: Report of the International Law Association Study Group on United Nations Reform," Available at SSRN 1971008(2011).
[104] https:// www. trumanlibrary. gov/library/public-papers/10/address-united-nations-conference-sanfrancisco, accessed August 5, 2025.

find means to win it."[105] These words serve as a reminder that the success of the United Nations ultimately depends on the actions of each and every one of us.

Looking back over the 80-year evolution of the *Charter* from Cold War confrontation to persistent North-South disparities, from the rise of terrorism to the intensifying climate crisis, this foundational text of the modern international order has continually faced new challenges in its interpretation and application. The *Charter*'s true significance does not lie solely in its written provisions, but in how its principles are reinterpreted, operationalized, and gradually transformed into new institutional outcomes. Its vitality does not stem from perfection, but from its establishment of non-negotiable norms of conduct for the international community and the civilizational baseline it provides for humanity. The key to its future reform does not hinge on whether the international community requires a "Second United Nations Charter," but on whether it can, guided by the spirit of the *Charter*, recognize the flexibility and adaptability revealed through its practice and further advance the renewal of existing institutions to confront the multiple crises and challenges of a new era. This is not only a response to history but also a responsibility toward the future. It represents both a concrete articulation of the vision of a community of a shared future for humankind and a significant theoretical and practical embodiment of the Sinicization of Marxist thought on "community" in the new era.

(Translated by *QIAN Chuijun*)

[105] https://unpeacekeeping.live/www.un.org/en/sections/history-united-nations-charter/1945-san-francisco-conference/index.html, accessed August 5, 2025.