Cadernos de Pós-Graduação em Direito Político e Econômico
Published by: Centro de Estudos Acadêmicos Press
ISSN: 1678-2127
Volume 26 *Issue 1,* 2026
Website: https://ceapress.org

The Reality of the Substantive Constraints Imposed on the Powers of the United Nations Security Council

Pr. saffo nardjesse
University of Mohammed Lamine Debbaguine, Setif2, Algeria
Email: n.saffo@univ-setif2.dz

Submission Date : 27.09.2025| Acceptance Date : 30.11.2025| Publication : 30.01.2026

Introduction

The Security Council enjoys particular importance as a result of its responsibility for achieving the primary objective for which the Organization was established, namely the maintenance of international peace and security. The General Assembly also enjoys certain competences in this field. However, assigning this principal responsibility to the Security Council is mainly due to the desire to achieve a degree of effectiveness and speed in resolving problems that threaten peace, since it is a body of limited membership, which makes it more suitable and in a better position to carry out this task.

To this end, the Charter of the United Nations recognized its right to issue binding decisions and its authority to intervene in international disputes regardless of the consent or objection of the disputing states. Yet, for a long period, the Council remained unable to effectively carry out its core tasks, which were very limited, whether in the field of the peaceful settlement of disputes under Chapter VI of the Charter, or in the field of taking the necessary measures in the event of a threat or act of aggression under Chapter VII, whether those disputes concerned situations arising from conflicts of interest between colonial states and newly independent states, or issues affecting the vital interests of the permanent members. There was near consensus that the reason for this incapacity lay in the veto power.

After the end of the Cold War, the Council's activity increased and a series of resolutions were issued to strengthen peacekeeping operations in regions that had previously paralyzed the Security Council. The end of the Iraqi war appeared to signal a new phase in the vitality of the Security Council and the authority of the United Nations in decision-making regarding international peace and security in a manner consistent with the rules of international law, making it difficult to question the legitimacy of the decisions it issued.

However, actions and decisions may sometimes be issued that are far removed from the rules of international law, prompting questions about the legitimacy of these decisions and the extent of the obligation to implement them, or at least about the specific legal bases governing the exercise of its powers. Discussing the powers of the Security Council necessarily entails addressing their legal foundation through interpretation of the Charter provisions that grant the Council certain powers, as well as deducing their limits. Accordingly, it was necessary to deal with several issues revolving around the limits of the International Security Council's powers. Did the Charter grant the Security Council absolute or restricted powers? To what extent does

Cadernos de Pós-Graduação em Direito Político e Econômico
Published by: Centro de Estudos Acadêmicos Press
ISSN: 1678-2127
Volume 26 *Issue 1,* 2026
Website: https://ceapress.org

the Council enjoy freedom to intervene or refrain from intervening in international disputes according to its own will? Are there obligations that impose on the Council the necessity of intervening in all international disputes in order to seek their resolution in accordance with the rules of international legitimacy? Does the Security Council enjoy absolute freedom in performing the functions entrusted to it, or are there legal limits to its practices? To answer these questions, we adopted an inductive legal method based on analyzing the provisions that contain substantive constraints on the International Security Council's exercise of its powers under Chapter VII of the Charter, with the aim of deriving them and subjecting them to analytical reading in order to identify the legal basis that prevents the Security Council from exceeding or deviating from these constraints, as they constitute binding rules. The research is divided into two points: defined by adherence to the basic principles and objectives upon which the Charter is founded, as set out in Articles 1(1), 2(1), 24, and 25 of the Charter, in the first point, and within the general system of competence and the provisions that impose constraints on its actual exercise, as indicated in Article 2(7) of the Charter, in the second point.

First: Commitment to the Purposes and Principles of the Organization

The Charter entrusted the Security Council with the primary responsibility for the maintenance of international peace and security. Although the provisions of Chapter VII of the Charter contain no explicit texts restricting the powers granted to the Security Council under this Chapter, reality indicates the actual existence of such constraints—whether explicitly stated in the Charter or implicitly inferred from its provisions. A reading of the Charter reveals that the fundamental constraint on the Security Council's work is found in Article 24, whose second paragraph obliges the Council to ensure that its actions conform to the purposes and principles of the Charter.

A. The Constraint of Subjection to the Purposes and Principles of the Charter

The Preamble of the Charter indicates the determination of the peoples of the United Nations to live together in peace in an atmosphere of tolerance and good neighborliness, to unite their strength to maintain international peace and security, to practice restraint and refrain from the use of armed force except in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples.

The first paragraph of Article 1 of the Charter summarizes these objectives in the purposes of the United Nations, namely the maintenance of international peace and security, the taking of effective collective measures for the prevention and removal of threats to peace, and the settlement of international disputes by peaceful means in conformity with the principles of justice and international law. The second paragraph of the same article refers to another objective, namely the development of friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples.

Achieving international cooperation in economic, social, cultural, and humanitarian fields and promoting respect for human rights were objectives set out in the third paragraph, while the

fourth and final paragraph provided for making the United Nations a center for harmonizing the actions of nations in the attainment of these ends.

These are the objectives for which the global organization was established, and they determine the course of the activities of its various organs, particularly the Security Council, which was entrusted with the task of maintaining international peace and security—the most serious objective that must be pursued within its limits, on the one hand, and alongside the realization of the other objectives of the Organization, on the other.

In exercising its functions, the Security Council is also required to adhere to the principles set out in the Charter of the United Nations, particularly those contained in Article 2, under which the Organization and its Members, in pursuing the purposes set forth in Article 1, shall act in accordance with specified principles.[1]

Accordingly, the Security Council must adhere to and respect these principles, as they constitute the substantive limit to the validity and legality of its exercise of its broad powers, particularly those provided for in Chapter VII, as affirmed by the second paragraph of Article 24 of the Charter, which states that "the Security Council shall act in accordance with the Purposes and Principles of the United Nations."

Thus, the principles enshrined in Articles 1 and 2 of the Charter constitute an important constraint on the powers and actions of the Council.

Since 1947, the question has arisen as to whether the constraints provided for in Article 24(2) of the Charter are confined only to the texts of Chapter I of the Charter, or whether they can extend to other provisions of the Charter.

Referring to the preparatory works for drafting the Charter, Norway did not succeed in amending the wording of Article 24 to oblige the Council to act not only in accordance with the purposes and principles of the Charter set out in Articles 1 and 2, but also in conformity with other provisions[2]. This latter possibility was excluded, and the first option was retained[3]. This was confirmed by the Secretary-General of the United Nations in his statement of 10 January 1947, in which he said: "The only constraints are the basic purposes and principles set forth in Chapter I of the Charter."[4]

---

[1] These principles are: the principle of sovereign equality, the principle of good faith, the principle of the peaceful settlement of disputes, the principle of refraining from the threat or use of force against the territorial integrity of states or in any other manner inconsistent with the purposes of the United Nations, and the principle of non-intervention in the internal affairs of the member states of the Organization.

[2] Leland M. Goodrich, Edward Hambro, and Bruno Simma, *Charter of the United Nations*, 3rd rev. ed., p. 253.

[3] Segui D. René, "Commentary on Article 24," in J. P. Cot and A. Pellet, *The Charter of the United Nations (Article-by-Article Commentary)*, 2nd ed. (revised and expanded), Economica, Paris (1991), pp. 447–465, at 463.

[4] See: *Repertoire of the Practice of the Security Council*, 1946–1951, p. 515

Cadernos de Pós-Graduação em Direito Político e Econômico
Published by: Centro de Estudos Acadêmicos Press
ISSN: 1678-2127
Volume 26 *Issue 1,* 2026
Website: https://ceapress.org

It is clear that the founders of the Charter refrained from establishing a mechanism for its interpretation, granting the Security Council primary responsibility for the maintenance of international peace and security, and allowing it to act in carrying out this task in accordance with the purposes and principles of the United Nations, pursuant to Article 24(2) of the Charter. Judge Bedjaoui, however, considers that this ambiguous affirmation of the Security Council's compliance with the Charter[5] may generate within the organ a sense of obligation to adhere to the purposes and objectives of the United Nations rather than to the precise observance of the Charter's texts. One should not overlook the notable difference between acting "in accordance with the purposes and principles of the United Nations" and acting "in accordance with the provisions of the Charter." The wording in Article 24 of the Charter is less restrictive for the Security Council, since it suffices not to lose sight of the "purposes and principles" of the United Nations in general, without being obliged to respect the specific provisions of the Charter. In other words, there is concern that the Security Council may not strictly adhere to the purposes of the United Nations, but only to the specificity of one provision or another of the Charter.[6] By contrast, Professor Pellet considers that "the issue of the Security Council's obligation to respect the Charter is a clear matter, since it was established by a treaty and derives its legitimacy and existence solely from it,"[7] and that "the acts of the Security Council are subject to respect for the Charter, which constitutes the basis of its existence and establishes the absolute constraints on its action."[8]

It remains to be determined whether the Security Council, which is subject to the Charter according to clear principles but with uncertain or ambiguous application, is also subject to general international law.

B. The Constraint of Subjection to General International Law

A reading of the Charter shows that the fundamental constraint on the Council's work is found in Article 24 of the Charter, which obliges the Security Council to ensure that its actions conform to the "purposes and principles of the United Nations," which requires reference to Article 1(1) of the Charter, which determines the course of the Security Council [9]"in accordance

[5] Members of the Council often invoke this principle—namely the "limitations" contained in Chapter One of the Charter—to justify their intervention in a particular matter; see the initial issues addressed in the same reference, p. 510.

[6] Mohamed Bedjaoui, "Is Judicial Review of the Legality of Acts of the Security Council Possible?", in *Chapter VII of the Charter of the United Nations*, SFDI Colloquium of Rennes, 2–4 June 1994, Pedone, Paris (1995), p. 266.

[7] Mohamed Bedjaoui, *New World Order and the Review of the Legality of Acts of the Security Council*, Bruylant, Brussels (1994), p. 24.

[8] Alain Pellet, "Introductory Report: Can and Should the Actions of the Security Council Be Reviewed?", in *Chapter VII of the Charter of the United Nations,* SFDI Colloquium of Rennes, *Op.Cit.*, p. 232.

[9] Ibid., p. 233.

with the principles of justice and international law." While the subjection of the Security Council to international law does not pose problems, extending this subjection invites certain comments that require delineating its limits regarding the possibility of excluding certain rules of international law and replacing them with new measures that substitute existing law. When the Security Council adopts regulations to address a specific crisis, it may exclude treaty law, a possibility arising from Article 25 of the Charter, whereby Members of the United Nations undertake "to accept and carry out the decisions of the Security Council in accordance with this Charter," and confirmed by Article 103, which provides: "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." This view was supported by the representative of the United States of America, who stated: "No country may invoke any treaty as an excuse for refusing to comply with such decisions; once again, this matter is clear in the Charter itself."[10]

However, if the Security Council must exclude certain rules of general international law, can it create new measures to respond to a specific crisis?

Kelsen considered that the restoration of peace is a primary task of the Council, which does not have the same meaning as the restoration of law. He expressed serious doubt about the Council's ability to take into account the principles of justice and international law, asserting that it applies the decision it deems correct regardless of its conformity with international law, thereby creating "new law for an abstract case.[11]" This analysis, however, has been subject to extensive criticism, as:

– All organs of the United Nations must respect international law in addition to the Charter, since the latter does not show that states have relinquished their exclusive powers to create new custom—through consistent practice—in favor of United Nations organs. States may create new custom within an international organization, provided that such custom arises within the most representative organ; however, the highly restricted composition of the Security Council does not permit such creation.

– The Security Council is not required to ensure that its actions simultaneously conform to both the provisions of the Charter and general international law, which do not coincide in substance

[10] Judge Bedjaoui considers that the Security Council's compliance with "principles of justice" is a broad expression; what matters is adherence to the "principles of international law," as this wording is more precise. See: Mohamed Bedjaoui, "Is Judicial Review…," *Op.Cit.*, p. 269.

[11] See the case concerning questions of interpretation and application of the 1971 Montreal Convention arising from the aerial incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom), provisional measures, public sitting of the International Court of Justice, 15 October 1997.

Cadernos de Pós-Graduação em Direito Político e Econômico
Published by: Centro de Estudos Acadêmicos Press
ISSN: 1678-2127
Volume 26 *Issue 1,* 2026
Website: https://ceapress.org

or methods of application; it suffices that the Council's actions conform to one of the two systems and are carried out within the framework of international legitimacy.[12]

– The Charter provides for various procedures for the peaceful settlement of disputes between states, but it does not require—certainly not—that all of them be employed. The Security Council only strengthens its mission of maintaining international peace and security when it uses the supplementary sources that general international law may provide.[13]

Thus, according to Kelsen, action under Chapter VII of the Charter does not allow the Security Council to respect international law; rather, the use of force would compel it to exclude international legitimacy in order to restore international peace and security, which constitute its primary objective. But will the Charter and international law allow the Security Council to exclude the existing standards of the law of war, humanitarian law, human rights, and the right of peoples to self-determination?

If modern developments have imposed upon states and the global conscience respect for these standards as a whole, how can the Security Council—whose primary mission is confined to the framework of the "purposes and principles of the United Nations"—ignore these fundamental standards?[14]

Accordingly, no academic distinction can be made between peace and law, as the construction of peace cannot but be disappointing if it does not comply with international law. The Security Council cannot be exempted from respecting international law when it itself relies on that law as a basis for its action[15]. Therefore, the Security Council is bound to respect the Charter just as it is bound to respect international law.

C. Representation as a Constraint on the Powers of the Security Council

The Security Council enjoys coercive authority. While it has the ability to act by issuing either a "recommendation" or a "decision" under Chapter VII of the Charter, when it confers upon its actions—explicitly or implicitly[16]—the character of decision-making, these acts impose obligations on states by coercive force, requiring them to accept the legal characterizations it provides and to implement the decisions it adopts for the purpose of protecting peace. This coercive authority of the Security Council is legally based on Articles 24 and 25 of the Charter. The first paragraph of Article 24 grants the Security Council the authority to "act" on behalf of the Member States, thereby enshrining the idea of legal representation of the Council on the basis that it acts as a representative of all Member States, as stated in the text: "…and they agree that the Security Council acts on their behalf in carrying out the duties imposed upon it by these responsibilities." This provision suffices to give the Council's actions the character of decision-

[12] Hans Kelsen, *The Law of the United Nations: A Critical Analysis of Its Fundamental Problems*, Stevens and Sons, London (1958), p. 294.

[13] Mohamed Bedjaoui, "Is Judicial Review…," *Op.Cit.*, p. 270.

[14] Ibid., p. 271.

[15] Ibid., p. 272.

[16] See Security Council Resolution 731 (1992) of 21 January 1992 in the Lockerbie case.

making, since states themselves recognized this authority and empowered it to "act on their behalf," and cannot ignore the actions carried out by the Council pursuant to this article. The International Court of Justice relied on this meaning in its advisory opinion on the Namibia issue when it refused to grant Member States the freedom to challenge the unlawful declaration submitted by the Security Council under Article 24 of the Charter, stating: "In view of the existence of this illegal situation, it is for the Members of the United Nations to draw the consequences of the declaration made on their behalf."[17]

This coercive character of the Security Council's authority is also grounded in Article 25 of the Charter, which contains an unequivocal undertaking by Member States "to accept and carry out the decisions of the Security Council in accordance with this Charter." The legal scope of this article has not escaped controversy. For some, the coercive force of the Council's acts is confined only to the texts specified in Chapter VII of the Charter; others extend these constraints to all actions taken by the Council in the exercise of its functions and powers[18]. This latter view was adopted by the International Court of Justice in its 1971 advisory opinion, affirming that "Article 25 of the Charter is not limited to decisions concerning enforcement measures but also applies to decisions of the Security Council adopted in accordance with the Charter."[19]

There is no doubt that the wording of the first paragraph of Article 24 of the Charter, which makes the Council a representative of the Member States in matters of maintaining international peace and security, rather than a representative of the Organization itself, constitutes a clear defect, since the Council is an organ of the Organization and acts on its behalf in specific matters. However, this wording is not erroneous so much as it is deliberate and intended by the major powers to affirm their status and highlight their role in determining the fate of important global issues.

Nevertheless, this representation is not absolute but is limited by the scope of the mission entrusted to the Security Council, namely maintaining international peace and security or restoring them to their proper state. Any departure by the Council from this objective through the decisions it issues constitutes an violationof the limits of competence established by the concept of representation.

Accordingly, the constraint of adherence to the purposes and principles of the Organization encompasses all the powers of the Security Council set out in Chapters VI, VII, VIII, and XII, which are subject to a single criterion contained in Article 24(2): the consolidation of legal principles to preserve the legitimacy of the Charter and the will of the Member States, on the one hand, and adherence to the rules of competence, on the other. It is a constraint that governs the exercise of the Security Council's powers through commitment to act in accordance with

[17] See: *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*, Advisory Opinion, I.C.J., Reports 1971, p. 53.

[18] Ibid., p. 52.

[19] Segui D. René, *Op.Cit.*, p. 461; and I.C.J., *Reports*, 1971, p. 53.

the purposes and principles enshrined in Articles 1 and 2 of the Charter, as well as the prior determination of the essence, scope, and objective of the exercise of competence, extending to all the Council's legal and factual actions.

There is an integral relationship between Article 24(2) and Article 25 of the Charter. The former determines the conformity of Security Council decisions, in terms of their nature and legal effect, with the purposes and principles of the Charter, thereby constituting a constraint on the manner in which punitive decisions are issued under the Council's discretionary authority[20]. The latter requires Member States to submit to and implement Security Council decisions in accordance with the provisions of the Charter.

Second: The Principle of Non-Intervention in the Domestic Jurisdiction of the State

Article 2(7) of the Charter provides: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state, nor shall it require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII."

The general rule inferred from the wording of this provision is the protection of state sovereignty from intervention in the absence of the substantive conditions specified in Article 39 of the Charter; the exception is interference with the domestic jurisdiction of Member States. The sequence set out in Article 2(7) links the immunity of domestic jurisdiction with the right of intervention within a single legal provision that combines two interests: the interest of Member States in respecting their sovereignty and domestic jurisdiction from any intervention inconsistent with the Charter, and the interest in achieving peace and security through recognition of the legitimacy of intervention in accordance with Chapter VII of the Charter. This study focuses solely on the first interest, as sovereignty constitutes a legal and material limit to the exercise of the Security Council's jurisdiction. Article 2(7) establishes the principle of non-intervention "in matters which are essentially within the domestic jurisdiction of any state," a principle affirmed by the International Court of Justice in the Corfu Channel case[21].

[20] The legal nature of paragraph 2 of Article 24 is evident in that it contains a substantive limitation binding the Security Council, expressly requiring that, in the exercise of its functions, the Council must act in accordance with the principles and purposes of the Charter: "In discharging these duties the Security Council shall act in accordance with the purposes and principles of the United Nations."

[21] The Court stated: "The alleged right of intervention can only be regarded by the Court as the manifestation of a policy of force—a policy which in the past has given rise to the most serious abuses and which cannot, whatever the present shortcomings of international organization may be, find any place in international law. Between independent States, respect for territorial sovereignty is one of the essential foundations of international relations." See: *Corfu Channel Case*, pp. 14, 35.

Cadernos de Pós-Graduação em Direito Político e Econômico
Published by: Centro de Estudos Acadêmicos Press
ISSN: 1678-2127
Volume 26 *Issue 1,* 2026
Website: https://ceapress.org

To clarify the meaning of this provision, it is necessary to explain the scope of the principle of non-intervention in the Charter of the United Nations and in the practices of the Security Council.

A. Scope of the Principle of Intervention in the Charter of the United Nations

It should be recalled that the principle of non-intervention by an international organization in the internal affairs of a state existed in Article 15(8) of the Covenant of the League of Nations.[22]It should be noted that the scope of the prohibition on intervention by United Nations organs in domestic affairs is not absolute or based solely on international law, as indicated by Article 15(8) of the Covenant[23], but rather applies to matters that are essentially—i.e., as a matter of principle—within the domestic affairs of states.

The principle of non-intervention was the subject of extensive debate. The American, Soviet, and British delegations did not welcome the inclusion of such a provision in the Charter of the United Nations, and together with the committee of experts composed of representatives of the four governments, they proposed a number of amendments before the final text set out in Article 2(7) of the Charter was adopted.[24]

However, it is necessary to know whether this provision imposes an obligation of non-intervention not only vis-à-vis the Organization, but also vis-à-vis the Member States themselves. From a reading of the paragraph, it appears that the prohibition is limited solely to the Organization. This was stated by the rapporteur of the sub-committee entrusted with examining the proposals: "It is clear that the matter which concerns us does not in any way refer to the intervention of a State in matters which fall essentially within the domestic jurisdiction of another State…".[25] This view was supported by the representative of the United Kingdom during the 66th session, stating: "I have noted that this article provides for nothing else, but merely prevents the United Nations, as an organization, from intervening."[26]

Contrary to this view, and on the occasion of examining the Greek question before the Security Council during the 60th session held on 04/09/1945, the representative of the Ukrainian

[22] Article 15(8) of the Covenant of the League of Nations provides: "If one of the parties to the dispute claims, and the Council finds, that the dispute arises out of a matter which by international law is solely within the domestic jurisdiction of one of the parties, the Council shall make no recommendation as to its settlement."

[23] For a comparison between Article 2(7) of the Charter and Article 15(8) of the Covenant of the League, see: Imran Abd al-Salam al-Safrani, *The Security Council and the Right of Intervention to Enforce Respect for Human Rights (A Legal Study)*, Garyounis University, Benghazi, 2008, pp. 59–60.

[24] *Dumbarton Oaks: Preparatory Work on the Establishment of a General International Organization*, OHAWA, Wartime Information Commission, p. 16.

[25] See: Supplement to the Report of the First Committee of the First Commission of the San Francisco Conference, Doc. No. 1070, I.134, 18 June 1945.

[26] See: *Repertoire of the Practice of the Security Council*, 1946–1951, p. 490.

Cadernos de Pós-Graduação em Direito Político e Econômico
Published by: Centro de Estudos Acadêmicos Press
ISSN: 1678-2127
Volume 26 *Issue 1,* 2026
Website: https://ceapress.org

Republic stated: "Paragraph seven of Article 02 of the Charter does not grant States the right to intervene in the internal affairs of another State; but if this were so, then this article and this paragraph would also concern the British authorities which violated the provisions[27]." Likewise, the representative of Uruguay raised—during the 1204th session on the occasion of the Dominican Republic question—the preamble of Article 02 of the Charter: "The United Nations and its Members… shall act in accordance with the following principles…".[28]

Thus, these differences in views and statements lead us to conclude that the principle of non-intervention implicitly binds the Organization as well as its Member States. In 1962, during its 17th session, the General Assembly decided: "to initiate, pursuant to Article 13 of the Charter, studies for the purpose of encouraging international cooperation and promoting the progressive development of international law and its codification in such a way as to ensure easier application of these principles[29]," among which is:[30] "the duty of non-intervention in matters which fall essentially within the domestic jurisdiction of a State in accordance with the Charter."

Although the members of the Special Committee[31] formed during the first session in 1964 agreed that the principle of non-intervention had become binding implicitly under the Charter, no agreement was reached on the basis of this principle. However, the majority found its basis in the first paragraph of Article 02, which states: "The Organization is based on the principle of the sovereign equality of all its Members." In this regard, the representative of France stated: "The duty of non-intervention is the natural, logical, and necessary consequence of the principle of sovereign equality; it may also be said to be another respect for the same existing principle, this time from the perspective of respect for the sovereignty of States by others."[32]

Since it is not possible to establish a precise definition of the phrase non-intervention in the internal affairs of States, the Latin American States as well as the Afro-Asian States agreed on

[27] Ibid.

[28] See: *Repertoire of the Practice of the Security Council*, 1965–1974, p. 210.

[29] See: *Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations*, A/Res./1815 (XVII).

[30] For the seven principles of international law, see: Gaëlle Kervarec, "Humanitarian Intervention within the Limits of the Principle of Non-Intervention," (32) *R.J.T.*, University of Montreal (1998), pp. 78–133, at 88.

[31] The Special Committee was composed of 26 States, including: Argentina, Australia, Cameroon, Canada, India, Italy, Lebanon, Japan, the Netherlands, Poland, Sweden, among others.

[32] See: *Official Records of the General Assembly*, Sixth Committee, 20th Session, UN Doc. A/C.1/PV. (1965) 1405, p. 62.

Cadernos de Pós-Graduação em Direito Político e Econômico
Published by: Centro de Estudos Acadêmicos Press
ISSN: 1678-2127
Volume 26 *Issue 1,* 2026
Website: https://ceapress.org

a general conception of the notion of intervention[33]. According to this conception, intervention should not be confined to armed intervention aimed at imposing an external will on a State; rather, it should be broadened to include every threat to the internal affairs of a State, whatever the nature of that threat—economic, political, or even ideological.[34]

This conception was endorsed by the General Assembly through its adoption of Resolution 2131 at its twentieth session on 21/12/1965, entitled: "Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty," following the draft declaration submitted by the Soviet Union,[35] which affirmed the right of every sovereign State and every people to freedom, independence, and the defense of its sovereignty, together with the obligation of United Nations Members to fulfill their commitments arising from the Charter. It further stipulated that all acts constituting armed intervention in internal affairs, as well as any actions directed against the legitimate defense of peoples for their freedom and national independence, must be subject to an obligation of immediate cessation, and that there must be no intervention in the internal affairs of another State under any economic, political, or ideological pretext. The General Assembly would also bear major responsibility before other peoples for sanctioning States that violate the principle of non-intervention.

After examining the various drafts[36] submitted to the First Committee, the General Assembly adopted Resolution 2131, which stated in its first paragraph: "No State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State, not only by armed intervention but also by any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements."[37]

The second paragraph of the resolution provided a broader definition of forms of intervention: "the use of economic, political, or any other measures to coerce another State in order to obtain

---

[33] On the meaning of the term "intervention," see: Imran Abd al-Salam al-Safrani, *Op.Cit*., pp. 36–67.

[34] Gaëlle Kervarec, *Op.Cit.*, p. 91.

[35] Mr. A. A. Gromyko, Minister of Foreign Affairs of the Soviet Union, requested the General Assembly to examine the issue of "the inadmissibility of intervention in the internal affairs of States and the protection of their independence and sovereignty," and to condemn armed intervention by certain States in the internal affairs of others, such as the events that occurred in Vietnam, the Dominican Republic, the Congo, and other regions of the world. See document: A/5977, p. 1.

[36] The Soviet draft was subject to numerous amendments, particularly by the United States of America and the United Kingdom. For further details on the proposed drafts and others, see: Gaëlle Kervarec, *Op.Cit.*, p. 95.

[37]See: *Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty*, A/Res./2131 (XX).

from it the subordination of the exercise of its sovereign rights…". All States must also refrain from organizing, assisting, fomenting, financing, encouraging, or tolerating subversive or terrorist activities aimed at overthrowing the regime of another State by force.[38]

Thus, the scope of this resolution was very broad[39], as the limits of intervention are not confined solely to the use of armed force; peaceful interventions may also constitute violations of international law insofar as they represent an infringement of the sovereignty of a State.

Despite the adoption of this resolution without an in-depth study—given the absence of any reference in its preamble to paragraph 07 of Article 02 or to any other provision of the Charter—it nonetheless acquired symbolic importance. On the one hand, it obtained the consensus of all States—except the United Kingdom—and, on the other hand, the United States of America—the State most targeted by this draft[40]—voted in favor of the resolution. Does this reflect a commitment to a path of peaceful coexistence and the rebalancing of Soviet-American power within the United Nations system, at a time when the current period has been characterized by significant interventions in the affairs of States that require clarification through the practices of the Security Council?

b/ Applications of the Principle of Non-Intervention:

The Security Council has discussed the principle of non-intervention on several occasions, referring to the distinction between matters that fall essentially within the national jurisdiction of a State and those that do not. In doing so, it has relied on three principles invoked in addressing numerous issues:[41]

- With regard to the general concept of national jurisdiction, the boundaries between intervention in domestic jurisdiction and matters not related to such jurisdiction are not fixed, because some issues fall essentially within the domestic jurisdiction of a State, yet the scope of international relations may extend to expose international peace and security to danger.
- It has been affirmed that the system of government of a State is an internal matter; however, such a system may create an "international interest" if it has an aggressive character constituting a threat to international peace and security.
- The Security Council considers that the "mere existence" of a fascist system, for example, or any other system of a similar nature, may constitute a "threat to peace." However, it is necessary to establish this fact before examining it and considering it an international matter, and then to question whether its continuation constitutes a threat to

[38] Ibid.

[39] Paragraphs 1 and 2 of Resolution 1231 were drawn from Articles 15 and 16 of the Charter of the Organization of American States (OAS), which set out the various forms of intervention.

[40] The Soviet Union sought to denounce cases of U.S. military interventions in various regions of the world.

[41] These included: the complaint submitted by Ukraine against Greece; the Czechoslovak question; the Indonesian question; the Spanish question; and others.

international peace and security or remains a matter falling within the State's domestic jurisdiction.[42]

Among the applications of these three principles are statements made by certain delegations during Security Council discussions of issues related to national jurisdiction:

- The inclusion of an item on the agenda of the General Assembly was opposed by those present, who expressed the view that it constituted an attempt to interfere in China's [43]internal affairs and a violation of Article 02(07) of the Charter. Others supported the matter, considering that "it requires an examination of the exceptional international circumstances relating to the Republic of China in Taiwan to ensure the fundamental rights of 32 million people to participate in the activities of the United Nations.[44]" It is therefore necessary to recognize the legitimacy of the rights and aspirations of the Taiwanese people and to make every effort to remove tensions between the two sides across the Taiwan Strait, which should not threaten international peace and security.
- The representative of the United Kingdom stated regarding the situation in the Middle East that the establishment by the Security Council of a tribunal in Lebanon "does not constitute interference in internal political affairs, but rather falls within the Council's special responsibility at the request of the Lebanese government to overcome the deadlock that persisted in Lebanon after serious attempts to find a solution."[45]
- The representative of Ireland stated candidly during the 11th plenary meeting of the General Assembly held on 20 September 2003: "When an internal situation of a State threatens international peace and security, it becomes a matter of concern to the international community, which does not accept gross and persistent violations of human rights."[46]

The Security Council has also adopted numerous resolutions explicitly referring to paragraph 07 of Article 02 of the Charter, including:

- Resolution No. 562 (1985),[47] in its consideration of the letter submitted by the representative of Nicaragua, recalling General Assembly resolution 38/10, which affirmed the inalienable rights of all peoples to determine their forms of government and to choose their economic, political, and social systems free from any external

[42] See: *Examination of the Provisions of Other Articles of the Charter*, Chapter XII, pp. 483–484.

[43] See: *Repertory of Practice of United Nations Organs*, Supplement No. 10, pp. 22–23.

[44] See: A/BUR/55/SR.2, para. 21.

[45] See: S/PV.5685, p. 6.

[46] See: A/58/PV.11, p. 20.

[47] See the letter submitted by the representative of Nicaragua dated 6 May 1985, paragraph 1, in: S/17172, Supplement October–December 1985, para. 1.

intervention, coercion, or constraint; as well as resolution 2625[48], which prohibited the use or encouragement of economic or political measures to coerce a State in order to prevent it from exercising its sovereign rights.[49]

- Resolution No. 1984[50] on the protection of civilians in armed conflicts, and certain resolutions concerning the situation in Africa, where the imposition of sanctions on Zimbabwe was opposed by permanent members of the Security Council on the grounds [51]that it fell within Zimbabwe's domestic jurisdiction, after its representative argued that national elections are an exclusive right of the Zimbabwean people and not within the competence of the Security Council.[52]

Conclusion:

From this study, the following conclusions may be drawn:

1. Article 24, paragraph 2, requires the Security Council, in carrying out the responsibilities entrusted to it for the maintenance of international peace and security, to act in accordance with the purposes and principles of the Charter. This limitation applies to all the powers of the Security Council set out in Chapters VI, VII, VIII, and XII of the Charter. It serves to entrench the legal principles enshrined in Articles 1 and 2, thereby preserving Charter-based legitimacy and the will of Member States on the one hand, and ensuring compliance with rules of competence by excluding subjective criteria on the other. Article 24(2) thus seeks to establish a balance between the Security Council's power to adopt binding decisions and the subjection of those decisions to the general foundations governing its personal and material jurisdiction.
2. The limitation contained in Article 2, paragraph 7, has lost some of its significance due to the evolving nature of international relations, which tends to reduce the scope of States' domestic jurisdiction in light of the comprehensive objectives of the United Nations—political, economic, humanitarian, and cultural—and its near-universal membership. Nevertheless, this provision remains the principal argument invoked by Member States when they consider that United Nations organs have exceeded their competences in matters regarded as domestic.

[48] See: Resolution 2625 (XXV), entitled: "Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations."

[49] See: *Examination of the Provisions of Other Articles of the Charter*, Chapter XII, p. 1196.

[50] See: Security Council Resolution 1894 (2009) of 11 November 2009, second preambular paragraph. Résolution 1894(2009) of 11 nov.2009, Second Préambule Para.

[51] See: S/2008/477.

[52] See: S/PV.5933, pp. 2–4, in: *Repertory of the Practice of the Security Council*, 16th Supplement (2008–2009), pp. 33–34.

Cadernos de Pós-Graduação em Direito Político e Econômico
Published by: Centro de Estudos Acadêmicos Press
ISSN: 1678-2127
Volume 26 *Issue 1,* 2026
Website: https://ceapress.org

3. There is no doubt that the paralysis of the Security Council has led to the gradual erosion of its credibility and to the weakening of its position in the eyes of most United Nations Members. The veto has constituted an obstacle preventing the Security Council from achieving the purpose for which the Organization was established and continues to stand as a major impediment to any reform.

Accordingly, discussions on reform have led to alternative proposals short of amending the Charter, aimed instead at offering alternative approaches to the veto. The five permanent members could, for example, exercise voluntary self-restraint by limiting the use of the veto to matters falling strictly within the scope of binding enforcement measures adopted under Chapter VII, and refraining from using it in cases of humanitarian intervention when their vital interests are not at stake.[53]

Such self-restraint, however, provides no guarantees and would create an unusual precedent requiring selected States to relinquish rights granted to them by international treaties. As an alternative, coalitions of States may seek moral or institutional endorsement outside the Security Council, as illustrated by the Kosovo Commission's assertion that NATO's actions in 1999 were illegal due to the absence of Security Council authorization, yet "legitimate" because they were morally justified.[54]

4. Some scholars have argued that "if the Security Council is undemocratic, it is not due to insufficient participation in decision-making procedures, but rather to the absence of oversight by another organ of the Organization.[55]" The essence of democracy lies in oversight, which is the secret of its strength and success. As the United Nations has effectively become the sole dominant power, the self-restraint mechanisms applicable to the Security Council under the Charter—particularly the veto—have ceased to function regularly. Moreover, the new consensus among the permanent members has led to increased intervention, disrupting the balance within the Council and exposing it to criticism as a "global board of directors."

Thus, mechanisms for reviewing the legality of the Security Council's actions can help dispel these concerns and enhance the organ's legitimacy, not only by ensuring respect for the Charter but also by subjecting it to the rule of law applicable to the body entrusted with maintaining international peace and security. As Professor Caron stated, "judicial review is one of the means of dispelling concerns about illegitimacy that may surround any institution[56]." Subjecting any organ to the law increases confidence in it and reduces the perception of arbitrariness associated

[53] See: *Independent International Commission on Kosovo, The Kosovo Report: Conflict, International Response, Lessons Learned*, Oxford University Press (2000), p. 4.

[54] J. E. Alvarez, "The Once and Future Security Council," 18(2) *The Washington Quarterly* (1995), pp. 5–20.

[55] D. D. Caron, "The Legitimacy of the Collective Authority of the Security Council," (4) *American Journal of International Law* (1993), pp. 552–588, at 561.

[56] Michael Bothe, *Op.Cit*., p. 81.

with unchecked authority. This was also emphasized by Professor Bothe, who noted that "the power exercised by organs must be legitimate by law, not by authority."[57]

References

First : Arabic sources

- Hossam Ahmed Hindawi, *Limits and Powers of the Security Council in Light of the Rules of the New World Order*, no publisher, Cairo, 1994.
- Qashi Al-Khayr, *Research in International Judiciary*, Dar Al-Nahda Al-Arabiya, Cairo, 1999.
- Imran Abdel Salam Al-Safrani, *The Security Council and the Right of Intervention to Enforce Respect for Human Rights (A Legal Study)*, Garyounis University, Benghazi, 2008.

Second : Foreign-language sources

1/ Books

- Bedjaoui, Mohammed, *Nouvel Ordre Mondial et Contrôle de la Légalité des Actes du Conseil de Sécurité*, Bruylant, Brussels (1994).
- Fleurance, Olivier, *Le débat actuel sur la réforme du Conseil de sécurité de l'Organisation des Nations Unies*, PhD thesis in International Law, Panthéon-Assas, Paris II (1998).
- Kelsen, Hans, *Law of the United Nations: A Critical Analysis of Its Fundamental Problems*, Stevens & Sons, London (1958).

2/ Articles

- Alvarez, J. E., "The Once and Future Security Council," 18(2) *Washington Quarterly* (1995), pp. 5–20.
- Bedjaoui, M., "Débat sous la présidence de Gilbert Guillaume," in *Le Chapitre VII de la Charte des Nations Unies*, SFDI Colloquium, Rennes, 2–4 June 1994, Pedone, Paris (1995), pp. 299–309.
- ———, "Un contrôle de la légalité des actes du Conseil de sécurité est-il possible ?" in *Le Chapitre VII de la Charte des Nations Unies*, SFDI Colloquium, Rennes, supra note, pp. 258–297.
- Bothe, Michael, "Les limites des pouvoirs du Conseil de sécurité," in *Le Développement du rôle du Conseil de sécurité*, Hague Colloquium, 21–23 July 1992, Martinus Nijhoff, Dordrecht/Boston/London (1993), pp. 67–81.
- Combacau, J., *Le pouvoir de sanction de l'ONU: étude théorique de la coercition non militaire*, Pedone, Paris (1974), p. 100; cited in Peter H. Kooijmans, "The Enlargement of the Concept 'Threat to the Peace'," in Dupuy, *Le développement du rôle du Conseil de sécurité*, Hague Colloquium, supra note, pp. 111–337.

[57] Ibidem.

- Conforti, B., "Le pouvoir discrétionnaire du Conseil de sécurité…," in *Le Développement du rôle du Conseil de sécurité*, Hague Colloquium, supra note, pp. 51–60.
- Caron, D. D., "The Legitimacy of the Collective Authority of the Security Council," *AJIL* (1993), pp. 552–588.
- Pellet, Alain, "Rapport introductif: Peut-on et doit-on contrôler les actions du Conseil de sécurité ?," in *Le Chapitre VII de la Charte des Nations Unies*, SFDI Colloquium, Rennes (1995), pp. 221–238.
- ———, "Débat sous la présidence de Gilbert Guillaume," supra note, pp. 299–309.
- Kervarec, Gaëlle, "L'intervention d'humanité…," (32) *RJT*, University of Montreal (1998), pp. 78–133.
- Goodrich, L. M., Hambro, E., & Simma, B., *Charter of the United Nations*, 3rd revised ed., p. 253.
- Segui, René D., "Commentaire de l'article 24," in Cot & Pellet, *La Charte des Nations Unies*, 2nd ed., Economica, Paris (1991), pp. 447–465.
- Seksena, K. P., "Forty Years of the United Nations: A Perspective," *International Studies* (Dec. 1985), vol. 2, no. 4, pp. 290–291.
- Siciliano, L. A., "Le contrôle par le Conseil de sécurité des actes de légitime défense," in *Le Chapitre VII de la Charte des Nations Unies*, SFDI Colloquium, Rennes, supra note, pp. 59–95.
- Sur, Serge, "Conclusions générales," in *Le Chapitre VII de la Charte des Nations Unies*, SFDI Colloquium, Rennes, pp. 311–322.
- Weiss, Thomas G., "Is the Security Council the Sole Judge of Its Own Legality?", in O. Fleurance, supra note, p. 282.

Documentary sources and ICJ judgments

2/ Documentary Sources :

- A/48/PV.61, p. 17.
- A/58/PV.11, p. 20.
- A/C.6/48/SR.7, p. 7.
- Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, A/Res/2131 (XX).
- Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, *A/Res./1815 (XVII).*
- Official Records of the General Assembly, First Committee, 20th Session, UN Doc. A/C.1/PV. (1965) 1405, p. 62.
- Dumbarton Oaks, Preparatory Work Relating to the Establishment of a General International Organization, Ottawa, War Information Commission, p. 16.

- Review of the Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, A/Res./1815 (XVII).
- Review of the Provisions of Other Articles of the Charter, Chapter XII, pp. 483–484.
- Review of the Provisions of Other Articles of the Charter, Chapter XII, p. 1196.
- Independent International Commission on Kosovo, *Kosovo Report: Conflict, International Response, Lessons Learned*, Oxford University Press (2000), p. 4.
- *Repertoire of the Practice of the Security Council*, 1946–1951, p. 515
- Repertoire of the Practice of the Security Council, 1965–1974, p. 210.
- Repertoire of Practice of United Nations Organs, Supplement No. 10, pp. 22–23.
- Resolution 1894 (2009) of 11 November 2009, second preambular paragraph.
- Res. 731 (1992) of 21 January 1992
- Res. 751 (1992); Res. 814 (1993); Res. 529 (1994).
- Supplement to the Report of the First Committee of the First Commission of the San Francisco Conference, Doc. No. 1070, I.134, 18 June 1945.
- Supplement (2008–2009), pp. 33–34.
- S/PV.5933, pp. 2–4, in: Repertoire of Practice of the Security Council, 16th —
- S/PV.5685, p. 6.
- S/17172, Supplement October–December 1985, para. 1.
- S/2008/477.
- Res. 751 (1992); Res. 814 (1993); Res. 529 (1994).

Judgments of the I.C.J.:

- Corfu Channel Case, Judgment of 15 December 1949, I.C.J. Reports 1949, p. 244.
- Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962, I.C.J. Reports 1962, p. 168.
- Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971.
- Paragraphs 42 and 43 of the Order, *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie* (Libyan Arab Jamahiriya v. United Kingdom), Provisional Measures, Order of 14 April 1992, I.C.J. Reports 1992.