

Contents

Acknowledgments xxiii

About the Authors xxiv

Introduction 3

Is the UN Charter a Constitution? 4

A Note on Sources 13

Part One **Relevance**

Chapter 1: The UN Charter 19

UN Charter, Preamble 20

1.1 Select Provisions of the Charter 21

UN Charter, Chapter I—Purposes and Principles 21

UN Charter, Chapter VI—Pacific Settlement
of Disputes 26

UN Charter, Chapter VII—Action with Respect
to Threats to the Peace, Breaches of the Peace,
and Acts of Aggression 27

1.2 The New Interventionism: The UN Charter After
the Cold War 33

George H. W. Bush, Address Before a Joint Session of Congress,
11 September 1990 33

Security Council Summit Statement Concerning the Council's
Responsibility in the Maintenance of International Peace
and Security, 31 January 1992 36

1.3 Putting Development Back on the Agenda 38

Millennium Declaration, 8 September 2000 38

In Larger Freedom: Towards Development, Security, and
Human Rights for All (Report of the Secretary-General), 21
March 2005 43

Report of the High-Level Panel on Threats, Challenges, and Change: A More Secure World: Our Shared Responsibility, 1 December 2004	46
Further Reading	51
Chapter 2: Hard Cases	52
2.1 Iraq, 1990–1991	53
Security Council Resolution 660 (1990)	53
Security Council Resolution 661 (1990)	54
Security Council Resolution 678 (1990)	56
Security Council Resolution 687 (1991)	57
2.2 Kosovo, 1999	64
Security Council Resolution 1203 (1998)	65
Draft Security Council Resolution Sponsored by Belarus, India and Russia, 26 March 1999	67
Secretary-General's Address to the General Assembly, 20 September 1999	68
2.3 Iraq, 2002–2003	71
Security Council Resolution 1441 (2002)	71
Security Council Resolution 1483 (2003)	74
Further Reading	79

Part Two **Capacity**

Chapter 3: Legal Status	83
3.1 Legal Personality	84
General Assembly Resolution 258(III) (1948): Request for Advisory Opinion	84
Reparation for Injuries Suffered in the Service of the United Nations (Advisory Opinion) (1949) ICJ Reports 174	85
Applicability of the Obligation to Arbitrate Under Section 21 of the United Nations Headquarters Agreement of 26 June 1947 (Advisory Opinion) (1988) ICJ Reports 12	93

<i>United States of America v. The Palestine Liberation Organization, et al.</i> , 695 F. Supp. 1456 (SDNY 1988)	95
3.2 Who Interprets the Charter?	99
Statement of Committee IV/2 of the San Francisco Conference, Report of Committee IV/2 of the United Nations Conference on International Organization, San Francisco, 12 June 1945	100
Security Council Resolution 731 (1992)	101
Security Council Resolution 748 (1992)	102
Questions of Interpretation and Application of the 1971 Montreal Convention Arising from the Aerial Incident at Lockerbie (<i>Libyan Arab Jamahiriya v. United States of America</i>) (Provisional Measures) (1992) ICJ Reports 114	103
Questions of Interpretation and Application of the 1971 Montreal Convention Arising from the Aerial Incident at Lockerbie (<i>Libyan Arab Jamahiriya v. United States of America</i>) (Preliminary Objections) (1998) ICJ Reports 115	104
Application of the Republic of Bosnia and Herzegovina in Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (<i>Bosnia and Herzegovina v. Serbia and Montenegro</i>), 20 March 1993	106
3.3 Law Making by the Security Council	109
Security Council Resolution 1368 (2001)	110
Security Council Resolution 1373 (2001)	111
Security Council Resolution 1540 (2004): Non-Proliferation of Weapons of Mass Destruction	113
Security Council Resolution 1566 (2004)	115
3.4 Law Making by the General Assembly	117
General Assembly Resolution 2131(XX) (1965): Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty	117
3.5 Special Courts and Tribunals	119
Security Council Resolution 955 (1994), Annex: Statute of the International Tribunal for Rwanda	120

<i>Elizaphan Ntakirutimana v. Janet Reno, Attorney General of the United States; and Others</i> , 184 F.3d 419 (5th Cir., 1999)	125
Further Reading	130
Chapter 4: The Secretary-General and the Secretariat	132
4.1 Secretary or General?	133
Report of the Preparatory Commission of the United Nations, 23 December 1945	133
General Assembly Resolution 11(I) (1946)	135
4.2 The United Nations Administrative Tribunal	137
The Chinese Translators Case: <i>Qiu, Zhou, and Yao v. Secretary-General of the United Nations</i> (United Nations Administrative Tribunal Judgment No. 482, 25 May 1990)	139
4.3 Reports on the Reform of the Secretariat	143
Report of the High-Level Panel on Threats, Challenges, and Change: A More Secure World: Our Shared Responsibility, 1 December 2004	144
In Larger Freedom: Towards Development, Security, and Human Rights for All (Report of the Secretary-General), 21 March 2005	146
2005 World Summit Outcome Document, 16 September 2005	148
4.4 Good Offices of the Secretary-General	151
Thomas M. Franck, <i>The Secretary-General's Role in Conflict Resolution: Past, Present and Pure Conjecture</i>	152
Thomas M. Franck and Georg Nolte, <i>The Good Offices Function of the UN Secretary-General</i>	158
Further Reading	161
Chapter 5: Membership	163
5.1 Admission	163
Conditions of Admission of a State to Membership in the United Nations (Advisory Opinion), 1948	
ICJ Reports 57	164
Memorandum of Greece Concerning the Application of Former Yugoslav Republic of Macedonia for Admission to the United Nations, 21 January 1993	169

Letter to the President of the Security Council from the President of Macedonia, 24 March 1993	171
Security Council Resolution 817 (1993): Macedonian Membership	171
5.2 Succession (I): The Soviet Union	173
Decision by the Council of Heads of State of the Commonwealth of Independent States, 21 December 1991	174
Letter from President of the Russian Federation Boris Yeltsin to the Secretary-General of the United Nations, 24 December 1991	174
5.3 Succession (II): The Socialist Federal Republic of Yugoslavia	176
Security Council Resolution 777 (1992)	176
Provisional Verbatim Record of the Meeting Held at Headquarters, New York, on Saturday, 19 September 1992, at 12.55 pm, S/PV.3116	177
General Assembly Resolution 47/1 (1992)	179
UN Legal Counsel's Opinion on General Assembly Resolution 47/1 (1992), Addressed to the Permanent Representatives of Bosnia and Herzegovina and Croatia, 29 September 1992	180
Application for Revision of the Judgment of 11 July 1996 in the Case Concerning Application of the Convention on the Prevention and Punishment of the Crime of Genocide (<i>Bosnia and Herzegovina v. Yugoslavia</i>) (Preliminary Objections) (International Court of Justice, Judgment of 3 February 2003)	181
Legality of Use of Force (<i>Serbia and Montenegro v. United Kingdom</i>) (International Court of Justice, Judgment of 15 December 2004)	182
Legality of Use of Force, Joint Declaration of Vice-President Ranjeva, Judges Guillaume, Higgins, Kooijmans, Al-Khasawneh, Buergenthal, and Elaraby	185
Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (<i>Bosnia and Herzegovina v. Serbia and Montenegro</i>) (International Court of Justice, Judgment of 26 February 2007)	187

5.4 Credentials 191

Statement by the Legal Counsel: Scope of Credentials in
Rule 27 of the Rules of Procedure of the General Assembly,
1970 192

Statement by the President of the General Assembly, Mr.
Edvard Hambro, 25th Session, 1901st Plenary Meeting,
A/PV.1901 (1970) 194

Ruling by the President of the General Assembly, Mr.
Abdelaziz Bouteflika, 29th Session, 2281st Plenary Meeting,
A/PV.2281 (1974) 195

General Assembly Resolution 46/7 (1991): The Situation
of Democracy and Human Rights in Haiti 197

Daily Press Briefing by the Offices of the Spokesman for the
Secretary-General and the Spokeswoman for the General
Assembly President, 24 September 2003 198

Further Reading 200

Chapter 6: Financing 201

6.1 Expenses of the Organization 203

Certain Expenses of the United Nations (Article 17,
Paragraph 2, of the Charter) (Advisory Opinion)
1962 ICJ Reports 151 204

6.2 The Regular Budget 216

General Assembly Resolution 14(I) (1946): Budgetary and
Financial Arrangements 216

General Assembly Resolution 60/247 (2005): Programme
Budget for the Biennium 2006–2007 219

6.3 Assessment of Contributions 222

General Assembly Resolution 55/5 (2001): Scale of Assessments
for the Apportionment of the Expenses of the United
Nations 222

General Assembly Resolution 55/235 (2000):
Scale of Assessments for the Apportionment
of the Expenses of United Nations Peacekeeping
Operations 224

6.4 The Advisory Committee on Administrative and Budgetary
Questions 226

General Assembly Resolution 32/103 (1977): Enlargement of the Advisory Committee on Administrative and Budgetary Questions	227
6.5 Financial Challenges	229
Investing in the United Nations: For a Stronger Organization Worldwide (Report of the Secretary-General), 7 March 2006	231
6.6 Alternative Financing	232
Further Reading	234

Part Three **Practice**

Chapter 7: Conflict Prevention	237
7.1 Statements on Conflict Prevention	239
Security Council Summit Statement Concerning the Council's Responsibility in the Maintenance of International Peace and Security, 31 January 1992	239
An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping (Report of the Secretary-General), 17 June 1992	240
Supplement to An Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations, 3 January 1995	245
Report of the Secretary-General on the Prevention of Armed Conflict, 7 June 2001	246
Security Council Resolution 1366 (2001)	249
Interim Report of the Secretary-General on the Prevention of Armed Conflict, 12 September 2003	252
7.2 Rwanda	257
Report by Mr. B. W. Ndiaye, Special Rapporteur, on His Mission to Rwanda from 8 to 17 April 1993, 11 August 1993	258
Code Cable from Dallaire/UNAMIR/Kigali to Baril/DPKO/UNations (New York), Subject: Request for Protection of Informant, 11 January 1994	261
Code Cable from Annan, UNations, New York to Booh-Booh/Dallaire, UNAMIR only (No Distribution), Number: UNAMIR 100, Subject: Contacts with Informant, 11 January 1994	263

Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda, 15 December 1999	264
Further Reading	267
Chapter 8: Peace Operations	268
8.1 Enforcement Actions: Korea, 1950	271
Security Council Resolution 82 (1950)	271
Security Council Resolution 83 (1950)	273
Security Council Resolution 84 (1950)	273
General Assembly Resolution 377(V) (1950): Uniting for Peace	274
Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion), (2004) ICJ Reports 136	275
8.2 Peacekeeping: UNEF I	277
General Assembly Resolution 998(ES-I) (1956)	278
General Assembly Resolution 999(ES-I) (1956)	278
General Assembly Resolution 1000(ES-I) (1956)	279
General Assembly Resolution 1001(ES-I) (1956)	279
8.3 Post–Cold War Opportunities	281
<i>Mikhail Gorbachev</i> , Reality and Safeguards for a More Secure World,	282
An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping (Report of the Secretary-General), 17 June 1992	284
8.4 Failing States: Sierra Leone	290
Security Council Resolution 1270 (1999)	291
8.5 Reform	295
Report of the Panel on UN Peace Operations (Brahimi Report), 21 August 2000	295
Further Reading	300
Chapter 9: Peacebuilding	301
9.1 Policies	303

An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping (Report of the Secretary-General), 17 June 1992	304
Supplement to An Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations, 3 January 1995	305
Report of the Panel on UN Peace Operations (Brahimi Report), 21 August 2000	309
9.2 Kosovo, 1999–	311
Security Council Resolution 1244 (1999)	312
Report of the Secretary-General Pursuant to Paragraph 10 of Security Council Resolution 1244, 12 June 1999	318
Regulation 1999/1, On the Authority of the Interim Administration in Kosovo, 25 July 1999	318
Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, 22 April 2002	320
Ombudsperson Institution in Kosovo, Second Annual Report 2001–2002, 10 July 2002	321
9.3 East Timor, 1999–2002	322
Security Council Resolution 1272 (1999)	324
Report of the Secretary-General on UNTAET, 26 January 2000	326
Report of the Secretary-General on UNTAET, 26 July 2000	328
Jose “Kay Rala Xanana” Gusmão, New Year’s Message: The Right to Live in Peace and Harmony, 31 December 2000	330
Report of the Secretary-General on UNTAET, 17 April 2002	332
Statement by the President of the Security Council, 20 May 2002	334
General Assembly Resolution 57/3 (2002)	335
9.4 Institutions	336
Report of the High-Level Panel on Threats, Challenges, and Change: A More Secure World: Our Shared Responsibility, 1 December 2004	336

In Larger Freedom: Towards Development, Security, and Human Rights for All (Report of the Secretary-General), 21 March 2005	338
2005 World Summit Outcome Document, 16 September 2005	339
General Assembly Resolution 60/180 (2005): The Peacebuilding Commission	340
Further Reading	341
Chapter 10: Sanctions	342
10.1 Cold War Sanctions (I): Southern Rhodesia	344
Security Council Resolution 221 (1966)	344
10.2 Cold War Sanctions (II): South Africa	345
General Assembly Resolution 1899(XVIII) (1963)	346
Security Council Resolution 418 (1977)	346
10.3 Comprehensive Sanctions: Iraq	348
Security Council Resolution 706 (1991)	350
Security Council Resolution 986 (1995) on Authorization to Permit the Import of Petroleum and Petroleum Products Originating in Iraq, as a Temporary Measure to Provide for Humanitarian Needs of the Iraqi People	352
10.4 Article 50 of the UN Charter	355
10.5 Sanctions as Leverage: Haiti	356
Security Council Resolution 841 (1993)	356
10.6 Sanctions as Symbol: Sudan	360
Security Council Resolution 1054 (1996)	360
10.7 Sanctions Against a Non-State Actor: Angola's UNITA	363
Security Council Resolution 1127 (1997): The Situation in Angola	363
10.8 Targeted Sanctions	366
Security Council Resolution 1267 (1999)	366
Security Council Resolution 1333 (2000)	369
Further Reading	370

Chapter 11: Development	372
11.1 The Evolution of Development Policy at the United Nations	373
<i>Richard Jolly, Louis Emmereij, and Thomas G. Weiss, The Power of UN Ideas: Lessons from the First 60 Years</i>	374
11.2 The Right to Development	389
Declaration on the Right to Development: General Assembly Resolution 41/128 (1986)	389
11.3 Quantifying the Goals of Development	394
Millennium Development Goals, Ten Key Recommendations, 17 January 2005	395
Chairman's Summary of the G8 Gleneagles Summit, 8 July 2005	398
11.4 Sustainable Development	402
General Assembly Resolution A/38/161 (1983) Process of Preparation of the Environmental Perspective to the Year 2000 and Beyond	402
Report of the World Commission on Environment and Development, "Our Common Future" (Brundtland Report)	403
United Nations Framework Convention on Climate Change, Adopted 9 May 1992, Entered into Force on 21 March 1994	405
Rio Declaration on Environment and Development, Adopted 14 June 1992	406
Kyoto Protocol to the United Nations Framework Convention on Climate Change, Adopted 11 December 1997, Entered into Force 16 February 2005	407
Further Reading	408
Chapter 12: Self-Determination	409
12.1 Self-Determination as a Right	411
General Assembly Resolution 1514(XV) (1960): Declaration on the Granting of Independence to Colonial Countries and Peoples	413
General Assembly Resolution 1541(XV) (1960): Principles Which Should Guide Members in Determining Whether	

or Not an Obligation Exists to transmit the information called for under Article 73(e) of the Charter	414
12.2 Western Sahara	418
<i>Western Sahara Case</i> (Advisory Opinion), 1975 ICJ Reports 12	419
Security Council Resolution 377 (1975)	422
Security Council Resolution 379 (1975)	422
Security Council Resolution 380 (1975)	423
General Assembly Resolution 3458(XXX) (1975): Question of Spanish Sahara	424
Report of the Secretary-General on the Situation Concerning Western Sahara (2002)	426
Security Council Resolution 1394 (2002)	427
Report of the Secretary-General on the Situation Concerning Western Sahara, 19 April 2002	428
12.3 North Borneo	429
The Manila Accord, 31 July 1963	430
<i>Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia) (Application by the Philippines for Permission to Intervene)</i> International Court of Justice, Judgment of 23 October 2001, Separate Opinion of Judge ad hoc Franck	431
12.4 The Falkland Islands/Islas Malvinas and Gibraltar	435
Statement by the President of the Security Council, 1 April 1982	435
Security Council Resolution 502 (1982)	436
Security Council Resolution 505 (1982)	436
Draft Security Council Resolution Proposed by Panama and Spain, 4 June 1982	437
Decolonization Committee Says Argentina, United Kingdom Should Renew Efforts on Falkland Islands (Malvinas) Question: Resolution Seeks Peaceful Solution to Sovereignty Dispute, Reiterating Commitment to Help Parties Comply with Assembly Request, 18 June 2004	438
12.5 Territorial Integrity or Self-Determination?	442
Further Reading	446

Chapter 13: Human Rights	448
13.1 Sovereignty and Human Rights	450
UN Charter	450
Universal Declaration of Human Rights, General Assembly Resolution 217A(III) (1948)	452
ECOSOC Resolution 1235 (XLII) of 6 June 1967	458
ECOSOC Resolution 1503 (XLVIII) of 27 May 1970	459
13.2 The Human Rights Council	461
Report of the High-Level Panel on Threats, Challenges, and Change: A More Secure World: Our Shared Responsibility, 1 December 2004	461
In Larger Freedom: Towards Development, Security, and Human Rights for All (Report of the Secretary-General), 21 March 2005	463
General Assembly Resolution 60/251 (2006): The Human Rights Council	465
13.3 Is the UN Bound by Its Own Human Rights Norms?	469
Vienna Declaration and Programme of Action, as Adopted by the World Conference on Human Rights, 25 June 1993	470
Statute of the International Court of Justice	472
<i>Ahmed Ali Yusuf and Al Barakaat International Foundation v. Council of the European Union and Commission of the European Communities</i> (Case T-306/01) (Court of First Instance of the European Communities, 21 September 2005)	473
Further Reading	479
Chapter 14: Humanitarian Assistance	480
14.1 Principles	482
General Assembly Resolution 46/182 (1991), Annex: Strengthening of the Coordination of Humanitarian Emergency Assistance of the United Nations	482
Office for the Coordination of Humanitarian Affairs, Belgrade: Humanitarian Risk Analysis No. 12—Humanitarian Principles and Humanitarian Assistance, 9 August 2000	484
14.2 Vulnerable Populations: Refugees	493

Convention Relating to the Status of Refugees, Done at Geneva 28 July 1951	493
Protocol Relating to the Status of Refugees, Done at New York on 31 January 1967	495
<i>Sale v. Haitian Centers Inc</i> , 509 US 155 (1993) (Supreme Court of the United States)	496
UN High Commissioner for Refugees Responds to US Supreme Court Decision in <i>Sale v. Haitian Centers Council</i> , 22 June 1993, 32 ILM 1215	503
14.3 Perverse Effects	504
Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief, 1994	505
Further Reading	509

Part Four **Accountability**

Chapter 15: Immunity and Responsibility	513
15.1 Immunities and Privileges	515
UN Charter, Art. 105	515
Convention on the Privileges and Immunities of the United Nations, 13 February 1946, 1 UNTS 15	515
We Are United Nations Peacekeepers (Pocket Card Distributed to UN Peacekeepers)	521
ECOSOC Decision 1998/297 (5 August 1998)	524
Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights (Advisory Opinion) (International Court of Justice, 29 April 1999)	524
15.2 Responsibility of International Organizations	530
International Tin Council Litigation (House of Lords, 26 October 1989)	531
International Law Commission, Draft Articles on Responsibility of International Organizations	535
Further Reading	539

Chapter 16: Accountability in Practice	540
16.1 Rwanda	541
Summary of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda, UN Year Book 1999	541
16.2 Srebrenica	546
Summary of the Report of the Secretary-General Pursuant to General Assembly Resolution 53/35: The Fall of Srebrenica, UN Year Book 1999	546
16.3 Kosovo	549
Special Report No. 3, On the Conformity of Deprivations of Liberty Under “Executive Orders” with Recognised International Standards, 29 June 2001	550
16.4 Sexual Exploitation by UN Peacekeepers	551
A Comprehensive Strategy to Eliminate Future Sexual Exploitation and Abuse in United Nations Peacekeeping Operations, 24 March 2005	552
16.5 The Iraq Oil-for-Food Programme Inquiry	558
Press Release—Independent Inquiry Committee finds mismanagement and Failure of Oversight: UN Member States and Secretariat Share Responsibility	558
Further Reading	563
Chapter 17: Reform	565
17.1 The Charter	567
UN Charter	567
17.2 Institutions: The Security Council	568
Report of the High-Level Panel on Threats, Challenges, and Change: A More Secure World: Our Shared Responsibility, 1 December 2004	569
17.3 Procedures: The Veto	572
International Commission on Intervention and State Sovereignty, The Responsibility to Protect, December 2001	573
Report of the High-Level Panel on Threats, Challenges, and Change: A More Secure World: Our Shared Responsibility, 1 December 2004	574

17.4 Political Will: Interdependence of Threats	575
Report of the High-Level Panel on Threats, Challenges, and Change: A More Secure World: Our Shared Responsibility, 1 December 2004	575
17.5 Visions of Order	583
US President George W. Bush's Address to the United Nations General Assembly, 12 September 2002	583
Secretary-General's Address to the United Nations General Assembly, 23 September 2003	585
British Prime Minister Tony Blair, Foreign Policy Speech at Georgetown University, 26 May 2006	585
Speech by Deputy Secretary-General Mark Malloch Brown at the Century Foundation, 6 June 2006	589
Statement by Dumisani Kumalo, Permanent Representative of South Africa to the United Nations, on Behalf of the Group of 77 and China, to General Assembly, 8 May 2006	594
Further Reading	596
<i>Appendix A. Charter of the United Nations</i>	598
<i>Appendix B. Statute of the International Court of Justice</i>	619
<i>Index</i>	630