

“Liberating the United Nations: Realism with Hope”

by Richard Falk and Hans von Sponeck
(Stanford University Press, 430pp, July 2024)

Review by John Burley

Contemporary reports of the birth of the United Nations in June 1945 in San Francisco warmly welcomed the news of its establishment and congratulated the United States for conceiving and delivering the new international organisation. President Truman’s remarks at the closing ceremony - “what a great day this can be in history” – were widely shared. There were enormous expectations that, in contrast to the discredited League of Nations, there was now a strong institution that would keep the peace and promote international cooperation.

The momentum of San Francisco was maintained in the later months of 1945 in London where with the new Labour government and decisive leadership from the Foreign Office, the necessary practical measures were taken very quickly to put in place the principal organs, especially the Security Council, the General Assembly and the secretariat. A major deficiency of the Charter – the absence of provisions on human rights – was corrected relatively early on with the adoption of the Universal Declaration in 1948. So the auguries appeared to be fine.

But as we now know, the seeds of the UN’s current difficulties were sown from the start. The fact that the new organisation closely resembled the old was not the problem. It was rather the tensions inbuilt and inherent in the Charter that would become ever more evident over the years. There are four major problems:

- the contrast between the lofty words of the Preamble and the absence of effective enforcement measures;
- the clash between national sovereignty (otherwise known as non-interference in domestic affairs) and the application of international norms and standards;
- the juxtaposition of the principle of sovereign equality of all members with the reality that the veto-wielding members are decidedly more equal than the rest;
- above all, Roosevelt’s belief that the great powers would be able to maintain their war-time unity never really stood a chance.

The rules-based world order established after the second world war is currently in severe difficulties, for a number of reasons. Wars in Gaza, Myanmar, Sudan, Ukraine, Yemen, to cite just a few, reflect the breakdown of order around the world, a devastating remark on the capacity of member states of the United Nations to live up to the commitments to maintain international peace and security they expressed in its founding Charter.

So perhaps it is legitimate to ask whether the current difficulties are more acute than those that have afflicted the UN in the past and if so, whether there are measures that member states could be encouraged to take so as to render their organisation more effective in facing its current challenges. In September this year, the UN is hosting a “Summit of the Future” that will in part try to tackle precisely this task. There could be no better preparation for the meeting than a careful reading of an important new book from two very experienced observers with profound knowledge of the workings of the Organisation.

In showing what “*realism with hope*” could mean for multilateralism, Richard Falk and Hans von Sponeck call for the United Nations to be “*liberated*” from “*geopolitical manipulation and*

short-sighted nationalism". Such a liberation would free the Organisation to act solely, with neutrality and objectivity, in the interest of all member states.

The authors complement each other perfectly. The one, a renowned academic, a vigorous proponent of the indispensability of international law, and a courageous spokesman for those denied their rights. The other, a former senior United Nations official with more than 30 years' experience, who saw at first hand – in Iraq in the late 1990's – how the organisation can be discredited and misused by some powerful member states and yet still retain a moral and ethical purpose.

The UN has always had policy-making and promotional roles, in addition to its primary objective of the prevention of war. Here, the authors find a number of successes, citing for example its advocacy as regards the right to development, its attempt to create norms such as the responsibility to protect, its law-making functions such as the Law of the Sea and the making of international consensus on environmental and related challenges such as climate change. It accommodated a four-fold increase in membership and the inclusion of many new topics requiring international co-operation. Inherited from the League of Nations, the UN and its agencies rest on the international civil service so ably explained and defended by Dag Hammarskjöld in his Oxford lecture a few weeks before his plane was crashed in Ndola, in the then Northern Rhodesia. The series of global summits on human rights, women, environment and social issues consistently broke new ground. This "convening power", solely because of the universality and legitimacy of the UN, cannot be over-emphasised.

But even these successes are not fully sufficient, say the authors: "*Such an assessment should not be confused with an expectation that the UN can address such basic structural problems as predatory capitalism, global militarism, and ecological unsustainability. The transformation of these underlying conditions depends on the rise of a progressive transnational movement of peoples that becomes strong enough to exert a benevolent influence on governmental and international institutional practices.*" (p. 210).

Today's world, as one UN body has put it, "simultaneously connects and divides, enriches and impoverishes, empowers and marginalizes", a state of affairs that creates and worsens political instabilities and economic inequalities. It is a world beset by wars, crises, emergencies and intense challenges. It is thus perhaps not totally surprising that the effectiveness of a universal organization designed to maintain international peace and security, to reaffirm human rights and to promote social progress should be increasingly questioned. It is perhaps also a best of times/worst of times moment. The crises provide the opportunities to act: if things were better, there would be less need to seize the occasion.

Falk and von Sponeck are very explicit on the deficiencies in the UN and where the UN must reform or risk the danger of becoming irrelevant. The principal responsibility for this state of affairs lies in the hands of member states themselves, and in particular the five permanent members (P5) of the Security Council, and especially the United States, for the manipulation of the UN for geo-political purposes. It is from this that the UN needs liberation.

President Truman received a spontaneous and deafening applause when he said, in his speech to the 50 nations present at the signing ceremony of the Charter on 26 June 1945: *We all have to recognize - no matter how great our strength - that we must deny ourselves the license to do always as we please. No one nation, no regional group, can or should expect any special privilege which harms any other nation. If any nation would keep security for itself, it must be*

ready and willing to share security with all. That is the price which each nation will have to pay for world peace. Unless we are all willing to pay that price, no organization for world peace can accomplish its purpose.

It is ironical that the P5, and especially the United States itself, did not follow this wise advice. One of the strengths of Falk and von Sponeck is that they have presented three case studies of recent crises, in two of which they were themselves very directly involved on behalf of the United Nations, in which some powerful member states have acted in ways contradictory to the Charter. These are the long history of Israel/Palestine, when Falk was for a time the Special Rapporteur for the Human Rights Council, the humanitarian disaster in Iraq following the imposition of sanctions in the 1990's, when von Sponeck was the Secretary-General's Special Representative from late 1988-early 2000, and the more recent case of the use of chemical weapons in Douma, Syria, in the mid-2010's.

The UN's responsibility for the maintenance of peace and security has been heavily exposed in each of these crises, and Falk and von Sponeck show how the geopolitical manipulation of the UN took place and why.

It is not comfortable reading. The UN's greatest failure, perhaps because it has always had a special responsibility following the British abandonment of its mandate in 1947, has been the inability to find peace between Israel and Palestine that satisfies the interests and human rights of both parties. But this has not been the fault of the institutions or the structures of the Organisation: it was rather the United States which protected its ally Israel from recognising the legitimate rights of the Palestinian people. Likewise, the people of Iraq and their human rights suffered monstrously and without any good reason from the US and UK led Security Council sanctions. And the case in Syria, as in Iraq, demonstrated clear breaches of honesty, integrity, objectivity and transparency from UN bodies and individuals.

The Charter also sought to integrate the drive for economic progress with the maintenance of peace and security. The experience of the 1930's, when precisely the opposite occurred, was crucial in this respect. Truman, in the same speech, said *"we have experienced how deeply the seeds of war are planted by economic rivalry and by social injustice. The Charter recognizes this fact for it has provided for economic and social cooperation as well. It has provided for this cooperation as part of the very heart of the entire compact."*

Here again, powerful member states sought otherwise. Although the IMF and World Bank are tied to the UN through the Economic and Social Council, it is a very loose relationship. The US administration at the time always intended to control the Fund, and not to let it, or the Bank get too close to the UN. It was also the US Senate that refused in 1947 to ratify the agreement to establish the International Trade Organisation, the third leg of the triad of money, finance and trade. Trade negotiations were relegated to interim arrangements, until the establishment almost 50 years later of the World Trade Organisation that is not part of the UN system. Thus the UN's emphases on trade rules designed to help developing countries, or on human development, or on adjustment "with a human face" of economies in crisis all suffered second place to the western domination of global economic governance.

The UN and the US have always had a relationship that veered and diverted over time. The UN cannot be run by the US, but nor can the UN be run without the US. And with US power now becoming less dominant, and the so-called unipolar world giving way to a multi-polar one, the relationship may become even more difficult. The juxta-position in 2024 of the wars in Ukraine and in Gaza exposed to everyone the western demonstration of double standards. As

others have said, the charge against the west from much of the rest of the world is that it has imposed the rules-based multilateral order with their own interests in mind. The US, and the west more generally, may find that its time has come.

Three (France, UK and US) of the five (with China and Russia) veto-holding members are from the West, representing 31% of world GDP and 6% of world population. And it is this which presents the most arduous set of issues. The veto was the price to pay for having the UN at all: neither the US, nor the then Soviet Union would have accepted otherwise. The public at large regards, understandably, the veto as rendering the UN useless. There is no justification whatsoever to continue with an arrangement that rewards those powers that won the second world war but which is now so obviously out of date. Either the veto is abolished, but how, given that the veto powers have the exclusive right to deny their self-abolition. Or new veto members are appointed, but why some countries and not others and on what criteria? Or the veto powers agree to a “self-denying ordinance “ on their use thereof, in which case what could be penalties for non-observance thereof?

Given both the current state of relations among the P5, and the difficulties inherent in the process itself, Falk and von Sponeck recognise, realistically, the “near impossibility” of any formal revision of the Charter that modifies veto and/or permanent membership. A long overdue increase in the size of the Security Council might be possible. This alone, however important and necessary, will not change the fundamental problem.

They do however, emphasise that geopolitical manipulation of the Organisation could be offset by reforms in three possible directions: first, changes that reflect how the state of international relations has evolved since 1945, for example the development priorities of a post-colonial world and human security concerns such as climate change, bio-diversity and energy security; second, changes in voting rules, funding and the autonomy of the Secretary-General that strengthens the political independence of the secretariat; and third, changes that ensure greater operational capacities of the UN to protect vulnerable peoples, especially migrants and victims of war and repression.

Most of their suggestions make good sense, are politically feasible and appeal to different parts of the UN’s constituencies. Article 109 of the Charter allows for a general conference of all Members to review its founding document: this has never been held. Falk and von Sponeck urge such a conference, a decision on which will however need significant pressure from the public and heightened political will from members. It remains to be seen whether the September 2024 Summit will so decide.

It was originally envisaged that the General Assembly would not address peace and security issues in deference to the Security Council. It was assumed then that the Council would be able to function. This was broken in 1950, at the time of the war in Korea, when members adopted a “uniting for peace” decision whereby the General Assembly may call an emergency session if the Security Council fails to fulfil its responsibilities for the maintenance of international peace and security. The process has been used over twenty times since then. The 2022 Liechtenstein initiative obligates the General Assembly to meet within 10 days of a veto in the Security Council.

The growing involvement of the General Assembly in peace and security issues is a practical example on how the United Nations could function in the event of non-action by the Security Council. It requires political will and courageous leadership. This expansive interpretation of

the Charter is reminiscent of Dag Hammarskjöld's initiatives when he put in place the first UN peace-keeping operations in Suez in 1956 and the Congo in 1960. Peace-keeping operations are not mentioned in the Charter. Hammarskjöld used to say that any such action is permissible as long as it was consistent with - and not prohibited by - the Charter. What is required is political savvy, courage and imagination, qualities which are not unknown to humankind.

Security Council resolutions vary greatly in whether or not the resolution itself sets out agreed methods for its implementation. When it doesn't, it often means there is no such agreement among the members of the Council, which means in turn that the resolution remains a dead letter and eminently ignorable by the parties concerned. The inclusion of enforcement measures in the resolution should become the norm, with the requisite degree of imagination, resources, courage and leadership.

The authors, following the lead of Richard Falk, also urge a far greater use of the normative architecture and advocacy functions of international law. These do set limits on the international behaviour of states. There should be greater use of the distinction between legality, as given by a Security Council resolution, and legitimacy: if the first is not available, the moral force of near-consensus decisions in the General Assembly or the Human Rights Council is often a very good second-best. Independent judicial tribunals play a critical role in purely domestic situations, yet there is no international equivalent. Here, the authors argue for greater use of the International Court of Justice through, for example, adjusting the practice of Advisory Opinions. Reforms could include more frequent recourse to requesting opinions, allowing bodies other than the Security Council or the General Assembly to request opinions (e.g. the Secretary-General, or agencies) and, especially, rendering the Opinion obligatory rather than advisory. At the moment, those adversely affected by an Opinion can ignore the finding.

There are three distinct set of issues that need reform in the financing of the United Nations. First, late or non-payment of the regular assessed contribution is nothing short of a scandal. This is nothing new. It is disgraceful for the Secretary-General to have to go to member states with a begging bowl to keep the lights on. A handful of very poor countries of course have a problem, but for rich countries to delay or postpone payments is shocking. Late payers should be penalised. Second, earmarked contributions from donors for particular items of special interest to them have got out of hand. They distort priorities agreed upon by the membership as a whole. The practice should be severely limited. The third issue is the most difficult of all. Independent funding, through for example, forms of international taxation, would be the single most desirable and significant reform to strengthen the autonomy and independence of the UN and the agencies. Considerable resources could be generated this way, thereby saving contributions from member states. But the major powers would not agree to such arrangements: it is the power of the purse that enables them to maintain control.

A final comment on a subject on which the authors place - and quite rightly - very considerable emphasis, namely the role of civil society. The involvement in the UN's work of non-governmental organisations, as very broadly defined to include a wide range of actors, has increased of late. But there is still a long way to go. Greater involvement can operate to the benefit of all sides on reinvigorating the UN whilst also helping to liberate it from geopolitical manipulation. Huge public pressure in favour of reform, of the kind which is building up for the September 2024 Summit is absolutely crucial if we are to see any real change.

There is a lovely section in the book based on a “What If” approach: it shows what the UN could do if it all worked according to the Charter, with meetings concluding with consensus decisions, with sufficient resources being provided to finance the subsequent action, with the public appreciating what was being done and above all, with the needs of the target population being met. Unfortunately, as the book demonstrates, this has rarely been the case.

One issue which is perhaps missing in this otherwise comprehensive study concerns the manner in which the Charter was prepared, and likewise, the Covenant of the League of Nations. In both cases, the key governments – in the case of the Charter, the US and the UK – spent several years, at the highest level in government, in considering options and different approaches to a possible constitution for the new international organisation. This is no longer the case, the work having been outsourced to diplomatic missions in New York. The current “make or break” point for the UN is such that heads of government should now be directly involved in finding ways forward and in placing UN reform on the agenda of their meetings with fellow leaders.

The book contains a set of valuable comments from young representatives of countries from around most of the world – Africa is unfortunately missing – on how their generation sees the United Nations. They expect a great deal from multilateralism and hope that their views will be listened to. A foreword from Dr. Walden Bello, of the Philippines, a long-standing NGO activist on behalf of the Global South and an Afterword from the former Turkish Prime Minister, Ahmet Davutoglu, provide excellent end-pieces to the book.

Richard Falk and Hans von Sponeck have given us a realistic analysis of the problems besetting the UN and a set of hopeful recommendations designed to liberate the UN from its many tribulations.