

LEGALFOXES LAW TIMES

UN SECRETARY-GENERAL FOR THE GROWTH OF LEGISLATION, AUTHORITY AND INTERNATIONAL FUNCTIONS

By Anuj Bassi

INTRODUCTION

The Secretary-General of the United Nations plays very important role in international relations and in the maintenance of a peaceful world order with respect to international law. It makes sense that most important of these critical roles is to use your good offices as a mediator in conflict situations.

The Secretary-General of United Nations has also played a key role in resolving the crises that have plagued countries since the end of World War II. Before World War II there was a League of Nations which was created by the Treaty of Paris, which included 37 countries of which India was part of British crown but later League of Nations failed due to the dominance of groups of countries such as USA, the Germany, USSR (Union of Soviet Socialist Republics), and Japan. Thus in 1939 when the League of Nations failed Franklin D. Roosevelt, President of the US State Department had the idea of making the United Nations at broader level control of the US Department itself even the United States. After World War II there were four main countries: United States, Great Britain, Soviet Union, and China also called in four police officers to sign a short declaration called "The United Nations Declaration for the 'post-1942'. In 1945 50 governmental NGOs and many other non-governmental organizations jointly developed a United Nations project in San Francisco and the USA on October 24, 1945, the United Nations Charter was ratified by 5 permanent members and 46 member countries, including India. In practice, the role went far beyond what one would expect from reading these provisions of the United Nations Charter for the office. However, the role was developed precisely through the skilful use of the opportunities inherent in the provisions of the Charter of the United Nations.

The Secretary-General of the United Nations, using his good offices, takes action from the public and private sectors in the spirit of his independence, impartiality, and honesty to prevent the emergence, escalation, or spread of international disputes around the world. Australian international politician Gareth Evans, in his book on United Nations peacekeeping efforts, noted that most efforts to ensure diplomacy through office of the Secretary-General have been ad hoc. In emergency response to a crisis Staff selection showed that staff was very limited and people often did not have the resources to support them. They had to rely mainly on their own prestige and the weight of public opinion in order to succeed in their missions.

Meanwhile, since the outbreak of World War II, the UN Secretary has played a vital role in maintaining order and peace in world. The Secretary and Secretariat without any doubt are an integral part of the UN, unlike serious organs of UN which are essentially political and represent the interests of various governments and are intended to be a forum. Wherever people can testify not in the interest of the government, but as an impartial spectator. The vital role played by the Secretary-General of the United Nations under Article Ninety-nine of the Charter of the United Nations enables him to draw the attention of the Council to matter that, which in his opinion could threaten the maintenance of international peace and security, and this right is in addition to his role as head of the United Nations administration under article seventy-nine. In fact, the Secretary-General has a considerable margin of appreciation and is highly dependent on the opinions and thoughts of the person in the office at any given time, in addition to the political scene.

NATURE OF THE POWERS OF THE UN SECRETARY-GENERAL

To better understand what exactly is the authority, credibility and strong the influence of the Secretary-General of the United Nations, we must understand what the Charter of the United Nations is.

It is the legal source of the office's mandate and examines the role of the Secretary-General as an influential legal entity on the international scene in relation to the evolution of office concepts with successive or permanent Secretaries-General.

The Charter also specifies that Secretary-General of UN, as the "Chief Administrative Officer" of the United Nations and shall act in that capacity and perform "all other functions entrusted to him" by the Council.

The Charter endorses power to the Secretary-General to "bring to the concentration of the Security Council on any matter that in his opinion may be a threat for the maintenance of international peace and security."

SECRETARY-GENERAL AND SECRETARIAT

The final report of the Preparatory Commission, which worked to establish the United Nations after the adoption of its Charter in 1945, noted that the United Nation's Secretariat and Secretary-General as head of administration and are the key to your success to achieve the objective of the Charter.

While the importance of the Secretariat was noted, the report of the Preparatory Commission indicated that:

While the responsibility for formulating and adopting a coherent international policy rests with the bodies representing the member, the main tasks of preparing the ground for these decisions and their implementation, in cooperation with the members, will rest with the Secretariat. . The way in which the Secretariat carries out these tasks largely determines the degree to which the objectives of the Charter are achieved. While also pointing to the importance of the Secretary-General as Chief and Chief Administrative Officer of the Secretariat, the report highlights the following:

The United Nations cannot prosper, just as its goals cannot be achieved without the activity and support of the peoples of the world. The objectives of General Assembly, Security Council, and Economic and Social Council will be presented publicly by the President of these bodies. But the United Nations as a whole will be first Secretary-General in the eyes of the world as well as in the

eyes of its staff, it must embody the principles of the Charter of the United Nations, which the organization seeks to implement.

As the symbolic head of the United Nations, the Secretary-General also serves as a diplomat and lawyer, civil servant, and executive director. He is a symbol of the ideals of the United Nations and a spokesman for the interests of the peoples of the world, especially the poor and vulnerable around the world. As Administrative Director of the United Nations, the Secretary-General is responsible for a wide range of administrative, managerial, and critical tasks.

The most important function of the Secretary-General is the ability to use his good offices to mediate in conflict situations and to help resolve international disputes. Although the Security Council authorizes peacekeeping missions and the General Assembly approves the fund, it is the Secretary-General who often plays a major role in cooperation and mediation between the parties to a conflict. But the main tasks of the Secretary-General are participation in sessions of United Nations bodies; consult with world leaders, government agencies, and others, and visit the country to meet people keepingside by side problems and prepare reports on various conditions so as to publish a statement on work of UN which assesses its performance and sets priorities.

Secretariat on the other hand is composed of international staff recruited “from the widest possible geographic base” and performs various functions around the world. It is the Secretariat that also provides services to the other principal organs of the United Nations, which administer and direct the programs and policies they have developed. The functions performed by the Secretariat are as varied as the issues dealt with by the United Nations. These tasks range from managing peacekeeping operations to resolving international disputes between parties, from studying trends and economic and social issues to preparing and conducting research on human rights and sustainable development. As international civil servants, staff members, as well as the Secretary-General, they report to the United Nations only on their own activities and take an oath not to seek or receive instructions from any government or authority.

UNITED NATIONS SECRETARY-GENERAL AS A LEGAL ACTOR

It seems that the Charter of the United Nations does not clearly explain the functions or powers of the Secretary-General of the Organization, so Article 7 of the Charter simply paves the way

for his superiority or excellence by listing the Secretariat where he presides as Executive Director of the 6 “Principal Organs” of the United Nations.

This is stated in article 7 of the UN Charter, the main organs of the United Nations are the General Assembly, Economic-Social Council, the Security Council, the ICJ, the Trusteeship, and the Secretariat. And subsidiary bodies as they deem necessary may be created in accordance with this Charter.

Article 97 of Charter states that the Secretariat shall be composed of Secretary-General and such personnel as Organization may require. The Secretary-General will be appointed by the General Assembly on the recommendation of Security Council he will be the Executive Director of Organization or Executive Director of the United Nations. In other words, this means that he is not just the admin.

Article 98 of the Charter too provides that Secretary-General shall proceed in that competence in all of the meetings of the Assembly, Security Council, Economic and Social Council, and Trusteeship Council shall hold such other meetings. Meetings functions for the purpose of these bodies. The Secretary-General prepares an annual report to the General Assembly on the work of the Organization. In other words, the Secretary-General can be appointed along with “other functions” by the principal intergovernmental bodies, other deliberative or serious organs of the United Nations.

Article 99 of Charter provides the opportunity to Secretary-General to bring to the attention that “any matter which in his belief, may threaten the maintenance of international peace and security, and shall be considered from him.

1. Article 100 of Charter also guarantees your independence protecting you from any influence outside the United Nations itself. Thus the legal authority of the Secretary-General is based on Articles 7, 97, and 98-101 of Charter, "while on duty".
2. The Secretary-General stressed that there are 3 important principles in particular maintenance of peace. In UN it is the permission of the parties, impartiality, and non-use of force. While these three elements may characterize traditional peacekeeping and observation missions although they were developed in the

1990s they do not necessarily apply to new form of peace-keeping governed by United Nations.

The main objective of article 100 is to guarantee the independence of the Secretary-General. But before testing the section 100 provision, it is important to note that empowerment offers the cumulative impact of section 99 on a "broader view" of the roles, in addition to the protective provision of Article 100 the independence of the Secretary General and his staff can reflect a fundamental change in the objectives of an international organization. While the League of Nations was conceived primarily as an organization that would help to protect the balance of power surrounded by great powers, the UN concept on the other side was based on the idea of collective security - the dual use of force in the common interest of the participants.

Now it is important to understand the concept of collective security. Undoubtedly the United Nations needs truly liberated Secretariat. This is in a sense, that what the provision of Article 100, paragraphs 1 and 2, seeks to achieve when it establishes that:

In the routine of their duties Secretary-General with his staff does not receive directions from any management or from everyone external to the society. They must refrain from any action that may affect their position as international public officials who depend solely on the Organization.

Each constituent of United Nation undertakes to value whole international character of the functions of the Secretary-General and the team not to manipulate them in the routine of their duties.

Boutros Boutros-Ghali was an Egyptian politician and diplomat who served as the sixth Secretary-General of the United Nations from January 1992 to December 1996, in another presentation he also highlighted the importance of Article 100 of Charter described the role of the Secretary-General in the following words:

If in the first place, one word must characterize the role of the Secretary-General, it is independence. The holder of this position should never be seen as acting out of fear of a State or

a group of States. Article 100 [No United Nations personnel shall receive instructions from any government] is Psalm 100 addressed to the Secretary-General.

As a legal entity, the Secretary-General also plays an important role in understanding the Charter the United Nation's laws.

THE SECRETARY-GENERAL AS A POLITICAL AND MORAL ACTOR

The functions of the Secretary-General have varied according to who occupies this prestigious position, as well as the times and global circumstances that have developed during his tenure in the Secretariat.

The political influence exercised by the Secretary-General both in the interpretation environment and outside it depends, to a large extent not on a material force of the Charter, but on the power that can be controlled through the instrument of persuasion and opinion of his personality.

In fact, the UN Secretary-General has the ability to dominate world affairs. It depends on how international groups perceive their moral authority and goals of the United Nations on international stage, such as maintenance of peace and security, promotion of human interests and rights under international governance.

International law describes responsibility of states in their behaviour towards others in their actions towards people within state borders. His field of activity covers a wide range of issues of international importance, such as human rights, disarmament, refugees, migration, citizenship issues, international crime, as well as the treatment of prisoners, the use of force, as well as hostilities and the like, It regulates global common goods such as environmental protection and sustainable development, international waters, outer space, communications, and trade.

The Secretary-General's ability to persuade and thus influence world affairs is no less dependent on the formal command of the office and, in part, on the balanced acceptability of the situations he faces. Consequently, his political and moral authority is not limited to his legal function. The political role of the Secretary-General has always been and remains, regardless of whether the Secretary-General is “more an assistant to the intergovernmental system or part of a broader process of global governance that goes beyond government structures.

But given the nature of the burden on the Secretary-General, it is imperative that he be both a politician, a diplomat and an international public official whom he will certainly attract as in general state descriptions, former secretaries-general, critical inquiries, and each other's ordeals.

FUNCTIONS AND POWERS OF THE SECRETARY-GENERAL OF THE UNITED NATIONS

In the Charter of the United Nations, the Secretary-General is described as the “head of administration” of the entire organization which will act in his capacity and carry out “unusual function assign to him” via Security convention.

Punish the Secretary for “bringing to the concentration of the Defence convention on any matter he considers may be threat for the maintenance of international peace and security” and these guidelines defines mandate of office and give it a significant degree of action.

The Secretary-General will fail if he does not carefully consider the concerns of his member States as, he must also uphold the values and moral superiority of the UN, even though it may at times challenge the very same member states that are causing the initial tensions with the General through day-to-day work, which includes contribution in sessions of UN's consultation with leaders, officials, and travels the world with the intention of keeping you connected with people of the Organization states and informing you of the enormous agreements on matter of worldwide importance. Annually the Secretary publishes a description on performance of UN which assesses its performance clarifies prospect priorities. Secretary is a part of CEB which brings together the management heads of all United Nations funds, programs, and specialized agencies twice a year seek greater brotherhood and partnership on all-important governance issue in front of the UN system.

The most important functions performed by General is to use his offices, measures taken openly and privately, using his character, his independence, and his integrity to avoid the proliferation of international disputes. Each general defines his duty in their specific mandate.

FUNCTIONS OF SECRETARY-GENERAL

- Report to UN Security Council, any matter that is in the opinion of the General, may threaten international peace and security.

- Submit issues for discussion by the General Assembly or to any one of main UN bodies.
- Act as an “arbiter” in conflicts arising between member countries.
- The Secretary-General and Security Council are concerned with international law, such as peacekeeping missions, sanctions and resolutions adopted in the Charter. In accordance with "Article 13 (b) of the Rome Statute", the Security Council may refer certain situations to the Prosecutor of ICC if they appear to be international crimes such as genocide, against humanity, war crimes, and the crime of aggression.

WHAT WAS THE SECRETARY-GENERAL CALLED?

AntónioGuterres, Secretary-General of the United Nations. He is the ninth general secretary; His term of office began on January 1, 2017. The current term of office of the Secretary-General is five years, with the possibility of re-election for a second five-year term. In accordance with Article 97 of Charter, the appointment is made by General Assembly under the direction of the Security Council. Thus choice of the Secretary-General is vetoed by any of the five permanent members of the Board of Directors.

The predecessors of the Secretary-General were:

- “Ban Ki-moon (Republic of Korea) 2007 to 2016.
- Kofi A. Annan (Ghana) 1997 to 2006.
- Boutros Boutros-Ghali (Egypt) 1992 to 1996.
- Javier Pérez de Cuéllar (Peru)1982 to 1991.
- Kurt Waldheim (Austria) 1972 to 1981.
- U Thant (Burma then Myanmar)1961to 1971.
- Dag Hammarskjöld (Sweden 1953 to 1961
- Trygve Lie (Norway) 1946 to 1952.”

While there is officially no limit to figure of five-year of the Secretary, none of them have served even additional than two terms.

After all, as noted above, the political influence exercised by the Secretary-General, both within and outside the context of interpretation, does not necessarily depend on a material force on the part of the Charter, but on the domain that it is able to command, using the persuasion and worship tool of his personality. And that is why we said that the legal role that the Secretary-General has played and the use of his political power of persuasion, based on well-coordinated diplomacy, has always been a shift between his normative legal status and his persuasive moral influence (using his good offices). Furthermore, the Secretary-General's ability to continuously monitor world affairs depends on how the international community evaluates his moral authority. Regarding this moral authority, however, the predecessor General Secretaries turned to their own ethical and religious convictions, among other things, to the dark waters of national and international politics to carry out the activities of the Organization. In general, the Secretary-General's ability to motivate and influence global affairs also depends, to a lesser extent, on the formal mandate of the office, as well as on the balance of the positions he occupies. Therefore, its political and moral power does not exclude its legal role.

Finally, it should also be noted that the exercise of international leadership by the UN Secretary-General continues to be strongly influenced by the comprehensive and organizational limitations of the unilateral world order, which is based on the principle of sovereignty of the States. Therefore, the Secretary-General is not sufficient to act independently of the power structures of world politics. Thus, if he can "certainly" use his good offices to shape policy and change the rules, the parallelism and impact of those efforts will always have the same effect on "outside forces" beyond his control.

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