Reviving the ‘Spirit of San Francisco’: The Lost Proposals on Human Rights, Justice and International Law to the UN Charter

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Abstract. While it has been claimed that no subject matter has been referred to as frequently in the United Nations (UN) Charter as human rights, a close analysis of its travaux préparatoires reveals that it contains but a fragment of what was actually proposed during the drafting of the Charter in 1945. This article presents and analyses these ‘lost proposals’, particularly those seeking strong references to human rights, international law and justice in the Charter’s preamble and chapters on the purposes and principles of the UN. Presented by smaller states, they include suggestions that respect for and protection of human rights constitutes a principle of the UN and that the maintenance of peace and security is conditioned on adherence to international law. It concludes that UN peacemakers of today struggle with the same conundrum as the drafters of the UN Charter 60 ago: “What comes first, justice or peace?”

Keywords. UN Charter; human rights; international law; justice; peace.

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1. Introduction

We are united above all in the necessity to assure a just and an enduring peace in which the peoples of the world can work together to achieve at last freedom from fear and from want. . . . We must always bear in mind, however, that there are at least two conditions essential to the establishment of a world organization which can successfully maintain peace. One [is] that the states with military and individual strength agree and act together against aggression. . . . The second essential condition of success in our endeavour is the voluntary cooperation of all peaceful nations, large and small, acting with full respect for the equal sovereignty of each to promote justice among nations, to foster respect for basic human rights, and to solve these common problems upon which the security and the economic and social advancement of their peoples so largely depends.”

This statement by US Secretary of State Mr. Edward Stettinius, at his address to the United Nations Conference on International Organization at its first plenary session, echoes what conference participants believed would be referred to in the future as ‘the spirit of San Francisco’. A key element of that spirit was a conviction that peace was preconditioned on respect for human rights, international law and justice. A ‘Magna Carta of Mankind’, a ‘Charter of Peace and Justice’ was to be drafted. This spirit, however, most forcefully advocated by the smaller powers, was never fully embodied in the Charter of the United Nations as adopted on 26 June 1945. In matters of human rights and international law, the Charter is far from representative of the ambitious proposals introduced in San Francisco. One of the most advanced proposals was that respect for human rights would form part of the principles of the UN, thus constituting the “methods and regulating norms” by which the organization and its members “shall do their duty and endeavour to achieve the common ends.”

While references to human rights were included in the Charter only as a result of amendments presented and approved in San Francisco, the Charter largely remained true to the original Dumbarton Oaks Proposals of the four sponsoring Governments: the United States, the United Kingdom, the USSR and China.

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4) Delegate of Saudi Arabia, ibid., p. 675.

The negotiations on the Dumbarton Oaks Proposals, forming the basis of the UN Charter, were pursued between basically two camps: the great powers with military, political and economic might on the one hand and the smaller powers defending principles of justice and law on the other. Ultimately, the former group of states retained the prerogative to decide on “those objects, norms and rules which are fundamental, and only those” which were to be retained in the Charter.6 As a result, much of the ‘spirit of San Francisco’ remained in halls of the Opera House overlooking the Pacific Ocean.

The purpose of this article is to resuscitate the forgotten debates and proposals on the interrelationship between human rights, international law and peace that took place during the drafting of the UN Charter. It will demonstrate that arguments on the indivisibility of these notions were much more advanced than is reflected in the Charter. In particular, it highlights that the dilemma of peace versus justice and the protection of human rights were the two main points of contention in the drafting of the purposes and principles of the UN. By analogy, it suggests that UN staff, diplomats, peacemakers and peacekeepers of today grapple with very similar questions as did the San Francisco delegates over 60 years ago. Through an analysis of the *travaux préparatoires* of the 1945 Conference,7 the article purports to bringing back the lost spirit of San Francisco into the present discussion of integration of human rights in the peace and security activities of the UN. It starts by examining the support for human rights and international law in the general debate at the opening of the San Francisco Conference, against the background of its founding documents. The focus of the article lies in the subsequent consideration of human rights, international law and justice during the Conference proceedings on the: (i) preamble, (ii) the purposes; and (iii) the principles of the new organization. Such a focus is justified in that these parts were considered by the drafters to “constitute in practice the test for effectiveness of the Organization as well as the expected faithful compliance with the provisions of the Charter by all members.”8

2. The ‘Spirit’ Takes Form: The Opening of the San Francisco Conference

The idea of a ‘general international organization’ to secure world peace was born in the midst of World War II with the adoption of four key documents which led to the San Francisco Conference: Atlantic Charter of 1941; Declaration by

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6) ‘Report of Rapporteur, Subcommittee I/1/A (Farid Zeineddine, Syria), to Committee I/1’, 1 June 1945, in Documents of the UN Conference, Vol. VI, supra note 2, p. 700.
7) A deliberate choice is made to rely almost exclusively on the original documents and to leave intact the wording of Conference delegates and rapporteurs so as to remain as faithful as possible to the drafting process.
United Nations of 1942; Moscow Declaration of 1943; and Dumbarton Oaks Proposals of 1944. All but the Moscow Declaration contain references to human rights norms, and are always framed in connection to the establishment of peace. Roosevelt and Churchill in the 1941 Atlantic Charter "hope[d] to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want." The 25 signatories to the 1942 United Nations Declaration were “convinced that complete victory over their enemies is essential to defend life, liberty, independence and religious freedom, and to preserve human rights and justice in their own lands as well as in other lands. . .” The only reference to human rights in the 1944 Dumbarton Oaks Proposals, which formed the basis for the UN Charter, was in the chapter on arrangements for international economic and social cooperation: “With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the Organization should facilitate solutions of international economic, social and other humanitarian problems and promote respect for human rights and fundamental freedoms.” The resemblance of this language to the third purpose of the UN as expressed in Article 1(3) is striking. However, this resemblance is also indicative of the reluctance among the sponsoring Governments to diverge from their original perceptions of the raison d’être of the new organization, which may also explain why the connection to peace is lost in Article 1(3) as finally adopted.

The idea that respect for human rights was a precondition for peaceful co-existence among and within nations had thus already been acknowledged as 50 states assembled in San Francisco from 25 April–26 June 1945. While it

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13) Charter of the United Nations, Article 1(3): “To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”
14) The US Government had issued invitations to the following states: Australia, Belgium, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, the Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, the Philippines, Saudi Arabia, Syria, Turkey, Union of South Africa, Uruguay, Venezuela and Yugoslavia. Subsequently, Argentina, the Byelorussian Soviet Socialist Republic, Denmark and the Ukrainian Soviet Socialist Republic sent representatives to the Conference.
cannot be disputed that “no other subject matter is so often referred to in the Charter as human rights and freedoms”. Such acknowledgment is meaningful only if considered in light of what was actually presented in San Francisco. As the Conference opened, high hopes were attached to the importance of the new organization to be built on the rule of law and to its ability to advance international law. Belgium and Egypt were two strong proponents of these two points, positions they maintained throughout the Conference:

[I]t is only on justice that a lasting peace can be found. . . . This very preoccupation leads us to hope with other delegations, that the principles of law and morality on which the new organization is to be founded will be defined more thoroughly. We cannot disentangle, in our minds, the idea of justice from that of peace. And we must never be placed before the painful dilemma of having to choose between peace and justice.16

We plead for the continued earnest thought of all people for the development and clarification of international law. Several other governments have spoken out on this point . . . . The obvious weakness of international law was that, contrary to all other branches of law, its rules could not be enforced . . . . It is logical that the rules of international law need to be determined, defined and codified.17

The relevance of the future organization in the field of human rights was explicitly advocated by the smaller powers rather than the sponsoring Governments, who maintained that the purpose of the Conference was to establish an “international security organization” concerned primarily with “political and economic” tasks.18 India, the Union of South Africa, Norway and Panama voiced specific proposals as to the role of human rights in the new organization. “Fundamental human rights” was identified by the delegate of India as the “one great reality, one fundamental factor” that the future organization should recognize.19 To Field Marshal Smuts from South Africa, the drafter of the preamble, the Charter should commence with clear commitment to human rights:20 The new Charter should not be a mere legalistic document for the prevention of war.

19) Mr. Cordell Hull, senior adviser to the US delegation, in ibid., p. 140.
20) ‘Verbatim Minutes of the Third Plenary Session’, 29 April 1945, Doc. 22, P/7, 1945, in ibid., p. 245.
21) Field Marshal Smuts served as Prime Minister of the Union of South Africa at the time of the San Francisco Conference and opposed a continuation of the de facto apartheid system of the Inter-War years. After World War II he set up the Fagan Commission in 1948 that was tasked to investigate changes to the system of segregation. The same year, Smuts was defeated by the Herenigde Nasionale Party that entrenched the system of apartheid in South Africa.
I would suggest that the Charter should contain at its very outset and in its preamble, a declaration of human rights and of the common faith which has sustained the Allied peoples in their bitter and prolonged struggle for the vindication of those rights and that faith."

South Africa never presented a specific draft Declaration on Human Rights, which however Panama did. At the very opening of the Conference, Panama was even more ambitious: “Panama will stand in favour of every solution that may be based on the following fundamental postulates; . . . [2] That the Charter must contain an International Bill of Rights, that is to say, a statement of the essential freedoms and rights of the individual, which is after all the supreme value of international life and of all human relationships.” The task to draft a Declaration on Human Rights was eventually delegated by the Conference to the first session of the General Assembly. Norway introduced the proposal that human rights be one of the principles of the future world organization:

"It seems essential that this Conference should include among the principles of its Organization the aspirations expressed in the United Nations declarations: to defend life, liberty, independence, and religious freedom, to preserve human rights. . . . It is obvious that lasting peace must be based on economic progress and social justice. . . . It must be one of the main tasks of the new International Organization to secure an increasingly higher standard of living and social security for all."

These propositions suggest that to several delegates present in San Francisco a strict interpretation of state sovereignty was anathema to the functions they

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23) A ‘Declaration of Essential Human Rights’, *see infra in section 3.2.1.*
25) “The subcommittee receive the idea [of a Declaration on Human Rights] with sympathy, but decided that the present Charter, be it only for time, cannot proceed to realize such a draft in an international contract. The Assembly, once formed, can better proceed to consider the suggestion.” (Report of the Rapporteur, Subcommittee I/1/A, to Committee I/1’, 1 June 1945, Doc. 723, I/1/A/19, 1 June 1945, in *Documents of the UN Conference, Vol. VI*, supra note 2, p. 705.) Committee I/1 at its sixth meeting had proposed that the first Assembly of the new organization should issue a declaration of human rights. The delegate of Panama felt that “in view of the strong support with which this proposal had received in the conference, . . . it should be specifically stated in the report so that the first meeting of the Assembly could take it fully into account.” (Summary Report of Fifteenth meeting of Committee I/1’, 11 June 1945, Doc. 926, I/1/36, 12 June 1945, in *ibid.*, p. 423.)
26) An interesting comparison can be made between the Charter and the Constitution of the International Labour Organization (ILO). Its preamble opens by a much more explicit affirmation of the link between peace and justice than that of the Charter: “Whereas universal and lasting peace can be established only if it is based upon social justice;” *See also* Annex II to the ILO Constitution, adopted on October 1919.
predicted for the organization. When in 1992 Boutros Boutros-Ghali made the statement that the "time of absolute and exclusive sovereignty [had] passed" it was perceived as a turning point in the work and activities of the UN. In the Conference proceedings of 1945, Haiti made a very similar statement:

The concept of the sovereignty of the state may thus no longer be an inviolable principle. . . . The actual world conflict arose, not only of economic causes, but also . . . from psychological disturbances that were created by racial and religious discrimination in the political doctrines against which the UN are fighting. . . . This is why Haiti believes that, together with the fundamental principle of equality of states, and mentioned in chapter 2 of the Dumbarton Oaks proposals, it is also necessary to express there the principle of racial and religious non-discrimination in relations between peoples.

Similarly, statements defending principles of human rights were made by Uruguay, Bolivia, Peru, Syria, the Philippines, Egypt and the Netherlands.

As one of the last countries to take the floor in the opening plenary sessions, the delegate of Luxembourg posed a most relevant question, pre-empting a debate replete with friction and contention in the drafting process: "It is up to us to create this international order. Our success depends on how we answer this question: what comes first, justice or peace?"


Commission I of the San Francisco Conference, responsible for drafting the preamble, purposes and principles of the new organization, was among the last of the four Conference Commissions to present its work to the Conference in plenary. On the occasion, two main problems with respect to the substance of these three core sections were identified by the president of the Commission: "the problem of peace and the problem of the improvement of conditions of mankind by international cooperation." First, "[w]ith regard to peace, we felt the need to

30) Ibid., p. 187.
31) Ibid., p. 565.
32) Ibid., p. 571.
33) Ibid., p. 571.
34) Ibid., p. 293.
35) Ibid., p. 234.
36) Ibid., pp. 157, 158.
37) Verbatim Minutes of the Seventh Plenary Session, 1 May 1945, Doc. P/15, 2 May 1945, in ibid., p. 504.
emphasize that our first object was to be strong to maintain peace, to maintain peace by our common effort and at all cost, at all costs with one exception—not at the cost of justice. There the difficulty lay.”

Secondly, “international cooperation should not limit itself to the preservation from fear. It must also contribute, . . . and should contribute even more in the future toward giving to humanity that other freedom, freedom from want, as well as toward promoting respect for civilian and political rights which are called the rights of men and citizens.”

Essentially, thus, the main problems that confronted the drafters to define the “ideology” (the preamble), “the raison d’être” or “common ends” (the purposes) and the “methods and regulating norms” (the principles) of the UN were those of peace and human rights. But how could it not be when the de facto scope of power and authority of the organization vis-à-vis its member states was still unknown; when assaults on state sovereignty and territorial integrity had resulted in World War II, the repetition of which its victors were now assembled to prevent; when international law was considered to be “subject to constant change and therefore escaped definition”; and when human rights were yet to be defined and agreed upon at an international level?

### 3.1. The Preamble: A Bold Colombian Proposal

These challenges were likely the reasons why it had been “very difficult, practically impossible” for the drafters to draw up “a sharp and clear-cut distinction between what fall under the Preamble or under Purposes or Principles.” Some questions were in fact transferred from purposes, then to principles, to finally end in the preamble. The provisions were thus to be read and interpreted in a holistic manner, as “indivisible as in any other legal document” since they were “equally valid and authoritative.” It was indeed stressed that there were “no grounds for supposing that the Preamble has less legal validity than the two preceding chapters.”

The main provision in the preamble on human rights is paragraph 2: “To reaffirm faith in fundamental human rights, in the dignity and worth of the human rights.”

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38) Ibid.
39) Ibid.
40) Ibid., p. 12.
41) Ibid., p. 16.
42) Ibid.
44) Documents of the UN Conference, Vol. VI, supra note 2, p. 16.
45) Ibid., p. 17.
46) Ibid.
person, in equal rights of men and women and of nations large and small.” In reporting on the work of the Subcommittee I/1, its Rapporteur Mr. Zeineddine concluded his commentary on this provision by stating that “[i]t is oppression, after wars, which is the scourge of humanity and oppression is inconsistent with the faith we reaffirm.” While this comment appears to distinguish violations of human rights from war, it still is an important acknowledgement of the need for the new organization to view peace and the protection of human rights as mutually reinforcing. The following paragraph 3 is of equal importance, especially in light of the amendment to include in the preamble reference to the “obligations arising from treaties and other sources of international law.”

Mr. Zeineddine highlighted that in this phrase the word ‘treaties’ required a word of explanation: “The respect for treaty obligations and the pledged word under any form is not only a moral concept of high value but is undoubtedly an important factor in international order and stability.” Read in conjunction with the second part of the preamble, that to this end “to unite our strength to maintain international peace and security”, an indirect link can be interpreted to exist between compliance with human rights treaties and the maintenance of peace and security.

The original proposal of the Union of South Africa encompassed wording that would have provided stronger support to this thesis. In order to reach the ends aspired for, contracting parties were to establish conditions “under which justice and respect for the obligations under international law and treaties and fundamental human rights and freedoms can be maintained.” An express provision to give solid effect to this interrelationship was proposed by Colombia whose delegate presented an entirely new preamble which would commence as follows:

The High Contracting Parties; In order to promote cooperation among nations and to guarantee them peace and security; Agree that the following are necessary:

I. To declare that the international recognition and protection of the essential rights of the individual is a necessary condition of peace, both within States and in their relations with other;


48) Reading, after insertion of amendment: “determined ... to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained” (‘Appendix to the Rapporteur’s Report, Committee I/1 (Doc. 885, I/I34, June 9, 1945)’, Doc. 908, I/I/34 (a), 11 June 1945, in ibid., p. 402).

49) ‘Report of the Rapporteur, Subcommittee I/1/A (Farid Zeineddine, Syria), Section 3, to Committee I/1’, 5 June 1945, Doc. 785, I/1/28, 5 June 1945, in ibid., p. 359.

50) “The emphasis of the preamble on combining justice with respect for international obligations is in line with the authority given to the Assembly under article 14, implicitly rather than explicitly, to review and make recommendations with respect to the revisions of international agreements in the interest of peace and justice.” (Goodrich et al, supra note 9, p. 21.)

Had a provision as ‘modern’ as this been agreed to in 1945, a number of questions come to mind. Would the mandates as well as functions of peacekeeping operations have looked different during the Cold War? Would ceasefire and peace agreements have incorporated human rights provisions earlier than 1990? Would technical assistance in the field of human rights protection and promotion have gained prominence earlier?

3.2. The Purposes
In view of the fact that the provisions of the Dumbarton Oaks Proposals dealing with the purposes and principles did not contain any references to human rights, international law or the right of self-determination of peoples, the outcome of the San Francisco Conference must be considered fairly successful. The spirit that went missing in the section on purposes, however, resides in three main issues that will be examined here: first, the failure to include “justice” as one of the main purposes of the organization (Article 1(1)); second, the loss of express language on the protection of human rights (Article 1(3)); third, the proposal to include a Declaration on Essential Human Rights in the Charter was lost. While all three proposals enjoyed considerable support, none succeeded in obtaining the required two-thirds of the votes necessary for approval of amendments. Such voting arrangements thus limited the freedom of debate and the equality of voting power of the San Francisco Conference by creating “a political context which gave the major powers, because of their leading role in the conduct of the war and their indispensability to the success of the organization, a measure of influence on the decisions that the smaller powers could not hope to equal.” Since the purposes constitute the “cause and object of the Charter to which member states collectively and severally subscribe”, these omissions are particularly regrettable.

3.2.1. Justice as a Main Purpose of the United Nations
“We do not conceive of possibilities for a stable peace except on the bases of international justice and of profound social justice... As long as this is not so,

52) No peacekeeping operation deployed during the Cold War included a human rights component or human rights officers with an explicit mandate to protect and promote human rights as would become the norm rather than the exception during the 1990s.
54) See Goodrich et al., supra note 9, p. 21.
55) Interestingly, the same voting pattern is laid out in the Charter, Articles 108 and 109, for amendments to the Charter (including the permanent members of the Security Council).
56) Goodrich et al., supra note 9, p. 7.
there will not be lasting peace and only force will be able to maintain an ephemeral order.” Mr. Diego Payssé from Uruguay outlined the rationale of his country’s proposal to include the maintenance of “justice” as a third main purpose of the Organization in addition to those of “peace” and “security” in Article 1(1). While the proposal gained a majority of the votes in the drafting Committee (19 in favour, 12 against), it did not reach the required two-thirds majority. A second amendment was subsequently presented by the Government of Panama, and brought to the table by Egypt. It read: “To maintain international peace and security, in conformity with the principles of justice and international law; and to that end...” The proposal reflected the spirit among a majority of the conference delegates that the answer to the question “how are peace and security going to be maintained?” resided in adherence to law and justice. As many as 19 governments had proposed specific amendments to include “justice” and/or “international law” in the section on purposes. When put to a vote in Committee I, the Egyptian proposal received the majority of the votes (19 in favour, 15 against), but again the proposal failed to reach the two-thirds majority. Due to the strong support for the amendment, delegates requested that it be voted on also in Commission I. The Commission was split down the middle: 21 votes in favour, 21 votes against. These voting patterns are of utmost importance since they carry authoritative testimony to the support among the drafters of the Charter that the organization and its member states must adhere to international law in its work to maintain international peace and security.

Supporters of these amendments “felt that the prevailing opinion of the Conference had been that the chief purpose of the Organization must be accomplished in accordance with some rules. They felt that there was an inference that the Organization did not intend to follow the rule of justice, and feared that its

58) ‘Verbatim Minutes of First Meeting of Commission I’, Doc. 1006, I/6, 15 June 1945, in ibid., p. 32.
59) The proposal thus read: “To maintain international peace, security and justice, ...” (emphasis added).
60) ‘Verbatim Minutes of first meeting of Commission I, Doc. 1006, I/6, June 15, 1945, in Documents on the UN Conference, Vol. VI, supra note 2, p. 34. Text in italics represents the proposed Egyptian amendment.
61) The answers provided were: “under the rule of justice” (Bolivia), “under the rule of justice and law” (Ecuador), “in accordance with law and justice” (Egypt), “in conformity with right and justice” (France), “with due respect for the generally accepted principles of international law, justice and morality” (Greece), “on the basis of right, justice and the principles of international law” (Iran), “within a system of law, justice, and equity, in conformity with the elementary principles of morality and justice and on the basis of due respect for international law” (Netherlands), “in conformity with right and justice” (Panama) (ibid., p. 27).
62) The Committee voted 19 in favour and 15 against (Documents of the UN Conference, Vol. VI, supra note 2, p. 318).
63) Ibid., p. 34.
omission might mean that the Organization intended to impose a peace of expediency rather than a peace founded on justice."64 Those opposing the proposals, primarily the US and the UK, felt that the statement of "justice" would "weaken the Charter" given that the primary purpose of the organization was to maintain peace and security.65 It was considered to "provide a loophole for questioning specific actions as not being in conformity with justice, and for delaying procedures while discussing abstract definitions."66 In addition, the Subcommittee held that "adding 'justice' after 'security' brings at that juncture a notion which lacks in clarity after the more clear (sic) notions of peace and security."67 Instead, it was believed more appropriate to connect the Egyptian wording of "in conformity with the principles and international law" to the third and last section of Article 1(1) so as to act as a reference for the adjustment and regulation of conflicts.68 The essence of this argument was summarized by the Rapporteur: "When the Organization has used the power given to it, and the force at its disposal to stop war, then it can find latitude to apply the principles of justice and international law, or can assist the parties to find a peaceful solution."69 It provides little scope to the view that adherence to international law and principles of justice have a preventive effect, supporting the main purpose of the organization to maintain international peace and security.

The perhaps most radical amendment proposed to Article 1(1) of the Charter was that of directly linking the maintenance of peace and security with a Declaration of Essential Human Rights. According to its sponsor, Panama, the first purpose of the new organization would be: "To maintain international peace and security in conformity with the fundamental principles of international law and to maintain and observe the standards set forth in the 'Declaration of the Rights and Duties of Nations' and the 'Declaration of Essential Human Rights' which are appended to the present Charter, and which are made an integral part thereof."70 The very first paragraph of the preamble to the proposed Declaration

64) 'Report of the Rapporteur of the Subcommittee I/1/A to Committee I/1', in ibid., p. 318.
65) Ibid.
66) Ibid.
67) Ibid.
68) Consequently, Article 1(1) of the UN Charter reads: "To maintain international peace and security; and to that end to take effective collective measures for the prevention and removal of threats to the peace and the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which may lead to a breach of the peace." (emphasis added)
69) 'Verbatim minutes of first meeting of Commission I, June 14', Doc. 1006, I/6, June 15, 1945, in Documents of the UN Conference, Vol. VI, supra note 2, p. 22.
70) Documents of the UN Conference, Vol. VI, supra note 2, pp. 545, 546.
commenced as follows: “Upon the freedom of the individual depends the welfare of the people, the safety of the state and the peace of the world.” A more succinct formulation as to the interdependency between individual human rights, state security and the world peace would be difficult to find.

3.2.2. Protecting and Guaranteeing Respect for Human Rights

The Latin American states were in the forefront on the other key provision relating to human rights in paragraph 3 of the Article on the purposes of the Charter. Uruguay not only proposed that the protection and promotion of human rights should be a stand-alone provision in its own right, but its amendment furthermore implied a legal commitment by member states “[t]o promote the recognition of and guarantee respect for the essential human liberties and rights without distinction as to race, sex, belief or other social status. These liberties and rights are to be defined in a special charter [Charter of Mankind].”

Likewise, Panama put forward a similar amendment to the effect that paragraph 3 would read “promotion and protection of human rights and fundamental freedom.” The travaux inform that “[s]everal delegates supported his view that the words in the text ‘promotion and encouragement of respect for fundamental human rights’ were a dilution of the meaning of the paragraph and of the intent of the Organization as expressed by the Secretary of State of the United States in his speech of 28 May.”

The delegates of the UK and the US and the Rapporteur, on the other hand, objected to this amendment. They believed that it “would raise the question as

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71 Ibid., p. 546.
72 The strong pressure for inclusion of human rights provisions in the UN Charter by the Latin American states can be viewed in the light that the Inter-American Conference (predecessor of Organization of American States (OAS)) as early as 1938 adopted a ‘Declaration in Defence of Human Rights’. Also, shortly before the San Francisco Conference, the Inter-American Conference held a meeting in Mexico City where member states had “resolved to seek an inclusion of a transnational declaration on human rights in the UN Charter” (see M. A. Glendon, ‘The Forgotten Crucible: The Latin American Influence on the Universal Human Rights Idea’, 16 Harvard Human Rights Journal (2003) p. 28; see also note 73).
73 Apart from Uruguay and Panama, the delegates of Brazil, Dominican Republic and Mexico drafted a joint amendment: “To ensure respect for human rights and fundamental freedoms, without discrimination against race, sex, condition, or creed.” Immediately after, the travaux reads: “In support of the above, we point out that the proposal is in accord with the progress and development of international law and policy, as most recently affirmed by the Final Act of the Inter-American Conference on Problems of War and Peace, approved in Chapatultepec, Mexico, March 7, 1945.”
74 The paragraph continued: “The ‘Charter of Mankind’ mentioned above shall be submitted to the consideration of the Assembly within a period of not more than six months, by a Technical Commission designated by the Assembly, with notice in advance.”
75 ‘Summary Report of Tenth Meeting of Committee I/1’, 2 June 1945, Doc. 756, I/1/25, 2 June 1945, in Documents of the UN Conference, Vol. VI, supra note 2, p. 325.
to whether or not the Organization should actively impose human rights and freedoms within individual countries, and that it would lead many peoples of the world to expect more of the Organization than it could successfully accomplish.”

When reporting on this delicate issue of terminology to the Committee, the Rapporteur provided further explanation, which contains very significant wording:

The subcommittee held that assuring or protecting such fundamental rights is primarily the concern of each state. If, however, such rights and freedoms were grievously outraged so as to create conditions which threaten peace or obstruct the application of provisions of the Charter, then they cease to be the sole concern of each state.

The Rapporteur of the Subcommittee thus explicitly recognized and pre-empted what would take another few decades before the Security Council asserted that violations of human rights within sovereign states constituted a threat to and/or a breach of the peace. France, however, later introduced an amendment that would have provided scope of action for the organization exactly in these situations.

3.3. The Principles

In the understanding of the San Francisco delegates, the principles of the new organization would “serve as actual standards of international behaviour.” The Dumbarton Oaks Proposals placed primary responsibility for the maintenance of international peace and security in one sole body, the Security Council. The sole legal regulatory framework for its functions and activities was the reference that “the Security Council shall act in accordance with the Purposes and Principles of the Organization.”

Considering that this was the only limitation envisaged for the Council, the delegate of Czechoslovakia stressed that “Chapters I and II which enumerated these purposes and principles are, therefore, of the utmost importance and the Conference will certainly submit their contents to a very exhaustive and careful examination.” It was, however, the reluctance of major powers to have this

76) Ibid.
77) Report of the Rapporteur, Subcommittee I/1/A, to Committee I/1’, 1 June 1945, Doc. 723, I/1/A/19, 1 June 1945, in ibid., p. 705, emphasis added.
78) The first reference to human rights in a Security Council resolution was resolution 161 (1961) in relation to the UN Operation in the Congo (ONUC): “Noting with deep regret and concern the systematic violations of human rights and fundamental freedoms and the general absence of the rule of law in the Congo,” (Section B, para. 2). The SC resolution which is commonly referred to as the first to determine that oppression of civilian populations constitute a threat to international peace and security is resolution 668 (1991) with respect the treatment of the Kurdish population in Northern Iraq.
79) See infra under section 3.3.3. on ‘The Forgotten French but Withheld Australian Proposal’.
81) Chapter VI (B) (2), p. 538. The Charter remained faithful to this formulation.
82) Documents of the UN Conference, Vol. VI, supra note 2, p. 538.
course of action restricted by the constitutive document of the new organization that determined how human rights, international law and the principle of domestic jurisdiction would be considered in the debate on the principles of the UN.

3.3.1. Human Rights as a Principle of the UN?
While acknowledging the need for flexibility of the Council to master different situations, the Czech delegate stressed the need to expressly include in the Charter “certain fundamental principles”.

“In it seems to the Czechoslovak Government that these Principles should at least include, in addition to those already mentioned in Chapters I and II of the Proposals, the observance of international law and treaty obligations; and, further, respect for the territorial integrity and political independence of states-members.”

In addition, at least four states presented concrete proposals which would have included ‘respect for’ and ‘protection of’ human rights as a principle of the UN: Uruguay, Norway, New Zealand and Cuba. Uruguay’s amendment read: “All members of the Organization should respect the essential rights of mankind under the provisions provided for by Article 3 of Chapter 1.”

This amendment was based on “the premise that the paramount concern of any government should be the essential rights of the human person, and that these rights could be best guaranteed by the united pledge of all nations to respect them.”

Norway and New Zealand presented more specific amendments in the same spirit. That of New Zealand included specific reference to Roosevelt’s Four Freedoms: “All members of the Organization undertake to preserve, protect, and promote human rights and fundamental freedoms, and in particular the rights of freedom from want, freedom from fear, freedom of speech and freedom of worship.”

Cuba also presented its own amendment to a similar effect.

These proposals had in common the concern that if references to human rights were included only in Chapter I on purposes, it would “bind only the

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83) Ibid.
84) Ibid., emphasis added. Similar pledges were made by Brazil (p. 559), Dominican Republic (p. 561), Ecuador (p. 561), Egypt (p. 562), Ethiopia (p. 563), Mexico (p. 564), Panama (p. 565), Peru (p. 566), Uruguay (p. 568).
85) ‘Summary Report of Fourteenth Meeting of Committee I/1’ , 7 June 1945, Doc. 856, I/1/32, 8 June 1945, in ibid., p. 381.
86) Ibid.
87) Ibid., p. 564. The Norwegian proposal read as follows: “All members of the Organization undertake to defend liberty, independence, and religious freedom and to preserve human rights and justice.”
88) Proposing that members act according to the ‘Declaration of the International Duties and Rights of Nations’ and the ‘Declaration of the International Rights and Duties of the Individual’ to be adopted by the General Assembly (ibid., p. 560).
89) In the Dumbarton Oaks Proposals, the purposes and principles were subdivided in two distinct Chapters (I and II).
Organization and would relieve member governments from the obligation to respect the fundamental freedoms of individuals within their own countries.\footnote{90) ‘Summary Report of Fifth Meeting of Committee I/1’, 14 May 1945, Doc. 308, I/1/14, 15 May 1945, in Documents on the UN Conference, Vol. VI, supra note 2, p. 291.}

Hence the importance of explicit references to human rights in the Chapter on principles, determining the “actual standards of international behaviour.” The proponents of these amendments most likely viewed the Charter as the constitution of the organization, as “a constituent instrument of the international community”,\footnote{91) Prof. Tomuschat quoted in B. Fassbender, ‘The United Nations Charter as Constitution of the International Community’, 36 Columbia Journal of Transnational Law (1998) p. 578.} outlining the rules of conduct of the organization and its member states. While inclusion of human rights as a purpose of the UN is fundamental in that they constitute a “constitutional requirement” of the organization to integrate human rights in all its activities,\footnote{92) See K. Kenny, ‘Fulfilling the Promise of the UN Charter, Transformative Integration of Human Rights’, 10 Irish Studies in International Affairs (1999) p. 44.} it remains a hollow requirement unless member states take measures—at least in respect of financial means—to their effective implementation.\footnote{93) This is particularly the case with respect to the reluctance of the Fifth Committee of the General Assembly and the Advisory Committee on Administrative and Budgetary Questions (ACABQ) to approve allocation of assessed contribution to human rights activities (i.e. not only staff) in UN peace operations.}

Those advocating inclusion of human rights as principles thus understood their importance for the purposes of the organization, peace and security. In hindsight, therefore, one cannot but ask whether there is a deliberate omission so that the only standards of conduct by which the Security Council is legally bound to respect, the principles of the Charter, are void of any reference to international law or human rights?\footnote{94) It should, however, be noted that apart from the provisions of the Charter, the Security Council is bound also by norms of jus cogens (see A. Orakhelashvili, ‘The Impact of Peremptory Norms on the Interpretation and Application of United Nations Security Council Resolutions’, 16:1 European Journal of International Law (2005) especially p. 63).}

3.3.2. Domestic Jurisdiction, International Law and the International Court of Justice

Alongside the question of peace versus justice, the issue of the definition of domestic jurisdiction of states caused protracted debates in San Francisco. The topic gained in importance as the Conference proceeded and it became clear that the scope and functions of the organization would exceed those originally foreseen, especially with the broad competence accorded to the Economic and Social Council.\footnote{95) See ‘Summary Report of Seventeenth Meeting of Committee I/1’, 14 June 1945, Doc. 1019, I/1/42, 16 June 1945, in Documents on the UN Conference, Vol. VI, supra note 2, p. 510.} Mr. Dulles raised a rhetorical question which captured the essence of...
Article 2(7)—that it did not concern intervention of one state in matters falling within the jurisdiction of other states, but rather the relation between the organization and member states: "Would the Organization deal with the governments of the member states, or would the Organization penetrate directly into the domestic life and social economy of the member states?" To the US Government, the answer clearly lay with the former since "no one in the 10-member Council would go behind the governments in order to impose its desires." A second and third question concerned: How was the matter of domestic jurisdiction to be defined, and who had the authority to determine what constitutes domestic jurisdiction? Disagreement on the latter two questions would trigger major division between the smaller and major states represented in San Francisco.

It should be noted, first, that the provision on non-interference in the domestic jurisdiction of states was originally envisaged in the Dumbarton Oaks Proposals as paragraph 7 of Chapter VIII related to arrangements for the maintenance of international peace and security including prevention and suppression of aggression. The original proposal read that the provisions of the Security Council should not apply to "situations or disputes arising out of matters which by international law are solely within the domestic jurisdiction of States." As the provision transferred, at the suggestion of the sponsoring Governments, to Chapter II on principles, two main textual changes were made: the reference to international law was deleted and the substitution of "essentially" for "solely."

The dilution of the reference to international law met serious criticism. Delegates claimed that it undermined the authority and influence of the United Nations, weakened the role of law in the new organization and opened the way to arbitrary acts based on considerations of expediency and national interests. To rectify this absence of a legal framework regulating such a sensitive issue, counter-amendments were presented. Above all, a formal amendment was tabled by Greece proposing that the International Court of Justice (ICJ) should have the authority, upon the request of a party to the dispute, to determine whether a...
situation fell within the sphere of domestic jurisdiction or not.\textsuperscript{101} This Greek delegate explained that this wording would “proclaim the supremacy of justice as a rule governing the Organization.”\textsuperscript{102} Mexico, Peru, Uruguay, Greece, Brazil, Czechoslovakia, Ecuador, Turkey and Venezuela made similar proposals according to which the ICJ would be the arbiter on the domestic jurisdiction clause.\textsuperscript{103} Belgium proposed a second amendment without explicit reference to the ICJ but with international law as the determining framework for decisions on domestic jurisdiction: “Nothing in this Chapter shall authorize the Organization to intervene in matters which, in the judgement of the Organization are according to international law exclusively (or solely) within the domestic jurisdiction of any State or shall require the members to submit such matters under this Charter. . . .”\textsuperscript{104} Both amendments were supported by a clear majority of the delegates: 17 in favour and 14 against the Greek amendment, and 18 in favour and 14 against the Belgian amendment on “according to international law.”\textsuperscript{105}

The main reasons for the sponsoring Governments to resist these proposals can be found in the statement by Mr. Dulles following the introduction of the Greek amendment. Four main substantive rationales for rejecting the amendment can be found: first, international law was “subject to constant change and therefore escaped definition”; second, it was inappropriate for the ICJ to determine the limitations of domestic jurisdiction or that it be called upon to give advisory opinions “since some countries would probably not accept the compulsory jurisdiction clause”; third, the organization “in none of its branches of organs should intervene in what was essentially the domestic life of member states”; and fourth, would the world Court then pronounce also on limitations and determination of other clauses in the Charter?\textsuperscript{106}

\textsuperscript{101} The proposal as presented by the Greek delegate read: “It should be left to the International Court of Justice at the request of a party to decide whether or not such a situation or dispute arises out of matters that under international law, fall within the domestic jurisdiction of the State concerned.” (Summary Report of Seventeenth Meeting of Committee I/1’, 14 June 1945, Doc. 1019, I/1/42, 16 June 1945, in Documents of the UN Conference, Vol. VI., supra note 2, p. 510.)
\textsuperscript{102} Ibid.
\textsuperscript{103} See Suggestions of Participating Governments for the Amendment of Chapter VIII, Section A, of the Dumbarton Oaks Proposals; Together with Other Proposed Amendments Bearing on This Section’, Doc. 207, III/2/A/3, 10 May 1945, in Documents on the UN Conference, Vol. XII, supra note 85, pp. 190–192.
\textsuperscript{104} Summary Report of Seventeenth Meeting of Committee I/1’, 14 June 1945, Doc. 1019, I/1/42, 16 June 1945, in Documents of the UN Conference, Vol. VI., supra note 2, p. 510. Italized text represents the suggested Belgian amendment to the provision.
\textsuperscript{105} Ibid., pp. 510, 512. The travaux do not specify how individual states voted.
\textsuperscript{106} See reproduction of Mr. Dulles statement in ibid., pp. 507–509.
\textsuperscript{107} The example provided by the US delegate was that of Article 5, Chapter II, stating that the “Organization shall give every assistance” (emphasis added).
As a result, entire Chapter II on principles, determining the rules of conduct\textsuperscript{108} of the organization, and the Security Council in particular, remained void of references to international law. To the delegate of Uruguay this represented regression, not progression.\textsuperscript{109}

Mr. President, with the rule now proposed a great jump backwards will be taken; the definition of the question according to domestic law made by the interested member itself, made according to a political criterion, and not according to a juridical criterion. . . . In this debate on Article 8 there is implied an unfortunate regression which will indicate to the world a state of mistrust regarding the rule of international law and the organs of international justice.

Likewise, the Belgian delegate stressed that the Covenant of the League of Nations was “undoubtedly better” than final Article 8, Chapter II.\textsuperscript{110} Article 15(8) of the League’s Covenant had provided a criterion for “the determination of the limits to exclusive jurisdiction and that was the reference to international law.”\textsuperscript{111} In fact, when comparing the introductory parts of the UN Charter with those of the Covenant of the League of Nations, the latter established a more explicit link between peace and security, on the one hand, and international law as well as respect for international treaties, on the other.\textsuperscript{112} Can the absence of the United States from the League of Nations and its participation in the United Nations partly find its explanation here?\textsuperscript{113} A UN Charter inclusive of a reference to international law in Article 2(7) and a reference to the International Court of Justice in conjunction would probably have met enough resistance in the US Senate so as to block ratification of the same.

\textsuperscript{108} Verbatim Minutes of First Meeting of Commission I’, 14 June 1945, Doc. 1006, I/6, 15 June 1945, in Documents of the UN Conference, Vol. VI, supra note 2, p. 19.

\textsuperscript{109} ‘Verbatim Minutes of Third Meeting of Commission I’, 19 June 1945, Doc. 1167, I/10, 23 June 1945, in ibid., pp. 110, 111.

\textsuperscript{110} To become Article 2(7) of the UN Charter.

\textsuperscript{111} ‘Verbatim Minutes of Third Meeting of Commission I’, 19 June 1945, Doc. 1167, I/10, 23 June 1945, in Documents of the UN Conference, Vol. VI, supra note 2, p. 111. Article 15(8) of the Covenant read: “If the dispute between the parties is claimed by one of them, and is found by the Council, to arise out of a matter which by international law is solely within the domestic jurisdiction of that party, the Council shall report, and shall make no recommendation as to its settlement.”

\textsuperscript{112} The ‘Introduction’ read: “In order to promote international cooperation and to achieve international peace and security. . . . by the firm establishment of the understanding of international law as the actual rule of conduct among Governments and, by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organized peoples with one another.”

\textsuperscript{113} According to a book review of G. B. Ostrower, Collective Security: The United States and the League of Nations During the Early Thirties (Buckell University Press, Cranbury, NJ, 1979), Ostrower identified three areas where a ‘more powerful isolationist mood of the country prevented close association and cooperation between the United States and the League’; the Permanent Court of Justice being one of the three (see T. R. Hensley, 74:2 The American Political Science Review (1980) p. 512).
Rapporteur Zeineddine most likely had this in mind when explaining that the Charter cannot be amplified to include all the major Purposes and Principles that cover international behaviour but should include the essential ones, which, being basic, can and should serve the Organization and its Members. To my mind, particular notice should be taken of divergences of opinion which may render the ratification of the Charter difficult, especially in those countries where ratification, whether we like it or not, is a condition *sine qua non* of its very existence.\(^{114}\)

### 3.3.3. The Forgotten French but Withheld Australian Proposal

While not forming part of the sponsoring Governments, France was nevertheless one of the ‘Big Five’ and likewise a member of the Executive Committee of the San Francisco Conference. Mindful of the power dimensions of France, its proposed amendment to former paragraph 7 of Chapter VIII is quite remarkable. Had the French proposal been approved in San Francisco, the Charter provision specifying the exception to the domestic jurisdiction of member states would have read as follows: “Nothing contained in this Chapter shall authorize the Organization to intervene in matters which are essentially within the domestic jurisdiction of the State concerned, *unless the clear violation of essential liberties and of human rights constitutes in itself a threat capable of compromising peace...*”\(^{115}\)

There is nothing in the available *traveaux* that suggests that this amendment was ever put to a vote. France’s proposed exception clause was probably interpreted as leaving far too broad powers of intervention to the new Organization to determine what constituted matters falling within the scope of domestic jurisdiction. In view of modifications to the original paragraph by the sponsoring Government as it transferred to the section on principles,\(^{116}\) France later considered the amendment to be “unnecessary.”\(^{117}\) But as the paragraph came to include a new and more narrow exception clause as proposed by Australia—that of “but this principle shall not prejudice the application of enforcement measures

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\(^{114}\) ‘Report of the Rapporteur, Subcommittee I/1/A, (Farid Zeineddine, Syria), to Committee I/1’, 1 June 1945, Doc. 723, I/1/A/19, 1 June 1945, in *Documents of the UN Conference, Vol. I*, supra note 1, p. 700.

\(^{115}\) See ‘Suggestions of Participating Governments for the Amendment of Chapter VIII, Section A, of the Dumbarton Oaks Proposals; Together with Other Proposed Amendments Bearing on This Section’, Doc. 207, III/2/A/3, 10 May 1945, in *Documents on the UN Conference, Vol. XII*, supra note 88, p. 191.

\(^{116}\) “Nothing contained in this Chapter shall authorize the Organization to intervene in matters which are essentially within the domestic jurisdiction of the State concerned or shall require the members to submit such matters to settlement under this Chapter; but this principle shall not prejudice the application of Chapter VIII, Section B.” (*Documents of the UN Conference, Vol. VI*, supra note 2, p. 567.)

\(^{117}\) ‘Summary Report of Sixteenth Meeting of Committee I/1’, Doc 976, I/1/40, 14 June 1945, in *ibid.*
under Chapter VII”—France withdrew her support to the provision, reminding delegates of her original amendment on essential liberties and human rights. Ironically, the statement of Australia on its proposed amendment confirmed why France had earlier considered its amendment “unnecessary” and the disagreement of Australia to the same:

> It is said that the clause in its present wide form [see footnote 101] is needed in order to enable the Security Council to deal with grave infringements of basic rights within a state. If the members of the Organization really desire to give the Organization the power to protect minorities, their proper course is either to declare that they recognize the protection of minorities as a matter of legitimate ‘international’ and not merely of ‘domestic’ concern, or to make a formal international convention providing for the proper treatment of minorities.\(^{119}\)

With the sponsoring Governments in support of the Australian proposal, exceptions to the domestic jurisdiction clause—involving or not breaches of basic human rights—were finally conveniently circumvented to be determined by the Permanent Five.

### 4. Concluding Reflections

It was due to the adamant positions of the smaller countries present in San Francisco that key provisions on human rights and international law were at all included in the final version of the UN Charter. While their proposals that explicitly affirmed the interrelationship between human rights, international law, justice and peace were meticulously resisted by the sponsoring Governments, those retained have partly succeeded in giving effect to their lost aspirations.\(^{120}\) This has been possible by a reading of the Charter as a ‘living instrument’ with the indivisibility of the preamble, purposes and principles in mind, as stressed by Rapporteur Zeineddine.

Dag Hammarskjöld, second UN Secretary-General, was a fervent proponent of such an interpretation. To him, the UN “is and should be a living, growing, and experimental institution. If it ever stops being one, it should either be

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\(^{118}\) ‘Summary Report of Fifteenth Meeting of Committee I/1’, 11 June 1945, Doc. 926, I/1/36, 12 June 1945, in *ibid.*, p. 424.

\(^{119}\) ‘Amendment by the Australian Delegation to Proposed Para 8 of Ch II (Principles)’, Doc 969, I/1/39, 14 June 1945, in *ibid.*, p. 439.

\(^{120}\) According to Glendon, two major events that occurred during the course of the Conference gave “a decisive boost to the movement for raising the profile of human rights in the Charter. First, conference members were shocked by the photographs that began to arrive from the newly liberated concentration camps in Europe. Second, an no doubt related to those revelations, the United States dropped its opposition to the idea of creating a UN Human Rights Commission.” (Glendon, *supra* note 72, p. 29.)
Consequently, Hammarskjöld saw in the purposes of the Charter, and increasingly attempted to interpret them in that way, a transfer of the democratic principles that had gained acceptance at a national level (political equality, equal economic opportunities, respect for rule of law and justice) and sought to regulate also the relationships between peoples at the international level according to the same. This is the philosophy behind Hammarskjöld’s statement that “[t]he work for peace is essentially working for the most elementary human right: the right to security and the freedom from fear.” Therefore, in his view, the UN had a “responsibility to assist governments in protecting this essential human right without them having to hide behind a shield of weapons.”

Fifty years later, the world is making the same plead. When Kofi Annan launched *In Freedom from Fear* in 2005, the title was deliberately chosen so as to “stress the enduring relevance of the Charter of the United Nations.” What the staunch delegates of Uruguay, Belgium, Panama and Egypt stressed in 1945, and Hammarskjöld shortly thereafter, was reiterated: “[N]ot only are human rights, security and development all imperative, they are also mutually reinforcing.” But the same report, nevertheless, bears witness of a continued reluctance to explicitly acknowledge an express link between human rights violations and the absence of peace and security: “While poverty and denial of human rights can not be said to ‘cause’ civil war, terrorism and organized crimes, they all greatly increase the risk of instability and violence.” The question posed by the delegate of Luxembourg—“what comes first, peace or justice?”—is still unresolved. It re-emerges in every single post-conflict situation that the UN is tasked to address, and it continues to split the UN family and staff in various groups. The Belgian delegate had been idealistic in his plead that we never must have to chose between peace and justice. The predominant, politically acceptable view appears to be an attempt of compromise that peace comes first, but, still, it should not be “at the cost of justice.” The following reflection by a UN staff seems to uphold this:

Human rights and delivering on a peace process are not always going in exactly the same direction and sequenced in the right way. Pressure on transitional justice on the one
hand, bounced against the need to just achieve political settlements to ensure that the peace process minimally stays on track. These two things can collide against each other quite easily, creating an enormous amount of friction between personnel who don’t necessarily understand that this dynamic is going on, a natural dynamic in a post-conflict environment.128

In Larger Freedom revives Hammarskjöld’s imperative of the responsibility of the international community to assist States in their obligations to secure human rights. This must continue to be hailed as one of the most effective preventive measure against breaches or threats to the peace. This is why the UN, but particularly its member states, should revive the lost proposals of the San Francisco Conference. Maintain peace and security, in conformity with international law. Let the regulating norm and method to that effect be to preserve, protect and promote human rights and fundamental freedoms. Assist more, in the ‘spirit of San Francisco’, and we may intervene less.

128 Interview, UN staff, UN Headquarters, New York, 25 October 2006.