

A Critical Evaluation of the Role of the Security Council of the United Nations

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ABSTRACT

The establishment of the United Nations at the end of the Second World War in 1945 was a welcome development after the failure of the League of Nations to ensure the protection of international peace and security. After the war, the victorious allies founded the UN under the principles of the UN Charter of 1945; under the charter, the United Nations Security Council was given the responsibility of ensuring the UN's prompt and effective actions in carrying out its duties for the maintenance of international peace and security, which is a primary objective of the United Nations. The Security Council is indeed one of the most important of the 6 organs of the United Nations, as all decisions of the organization must be deliberated upon by members of the Council, and the resolutions or decisions from the Council play an important role in the actions of the United Nations towards ensuring the maintenance of international peace and security. The Iraqi invasion, the Syrian issue and the increase in international terrorism and the failure of the United Nations to provide an effective and sustainable solution that will bring about the end of the crises has caused many to doubt the effectiveness of the Security Council in carrying out its mandate of ensuring the maintenance of international peace and security. This paper thus takes a critical look at the roles of the Security Council, with a view to understanding how its composition and functions affect the way the United Nations acts in response to crisis and matters where international aid is needed. This paper also discusses the effectiveness of the Security Council in carrying out its duties, and the many criticisms of the Council on its composition and its mode of operation.

I. INTRODUCTION

In the years before the end of the Second World War, it became clear that the defunct League of Nations had failed in carrying out its mandate to maintain world peace, and so the allies, victorious from WWII, established the United Nations to take the place of the League of Nations in 1945. Under the charter of the United Nations, the main purpose for its creation was to maintain international peace and security¹, amongst other functions aimed at ensuring peace and cohesion amongst nations.

The Security Council is one of the 6 principal organs of the United Nations Organization, these organs include a General Assembly, an Economic and Social Council, a Trusteeship Council, an International Court of Justice and a Secretariat.² On its establishment, the Security Council consisted of eleven members of the United Nations, The Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, which were the permanent members of the council.³ Besides the 5 permanent members, the Security Council comprised of 6 non-permanent members on inception. In present years however, the Security Council consists of 15 members, with 10 non-permanent members joining the 5 permanent members; the non-permanent members are elected every two years based on a regional basis. In line with the purposes of the creation of the United Nations, the Security Council has the primary responsibility of maintaining international peace and security, and therefore carries out acts on behalf of the United Nationsⁱ that are towards the maintenance of peace and security among nations.

The Security Council has several functions in the United Nations, besides being the organ that ensures that peace prevails, the council is also responsible for the election of judges to the International Court of Justice, an arbitrary body for nations, and the council also recommends a person to be elected by the General Assembly to be the United Nations Secretary General. The Security Council serves as an organ that ensures that no nation violates the sovereignty of

¹ *Charter of the United Nations*, 26 June 1945, Article 1 states the functions and purpose of the United Nations. The maintenance of international peace and security as well as the body's commitment to keeping the peace between nations is stressed therein.

² *Charter of the United Nations*, 26 June 1945 Article 23(1), the "permanent 5" are listed as comprising the victorious allies from the Second World War. The current number of members of the council is 15, with 5 permanent members, and 10 non-permanent members elected regionally in a term of two years.

³ *Charter of the United Nations*, 26 June 1945, Article 24(1)

another, and also acts as a mediator in situations where tensions are high between nations who are members of the United Nations. The Security Council has the power to convene over matters concerning the peace between member nations, and as such has the power to impose sanctions on erring nations, as well as draft resolutions concerning a particular matter. There have been varying opinions about the power that the Security Council holds over time. In some quarters, it is believed that the Security Council's system works well when all five permanent members agree unanimously on any issue, and when they do not agree, there is a lag in the resolution of disputes, a situation that questions the ability of the council to fulfil its main purpose. For example, the Syrian issue has led many to constantly question the effectiveness of the Security Council in enforcing its own resolutions, as there has been no permanent solution to the festering problem in that region. The fact that certain permanent members of the Security Council, members who also wield veto power, have been unable to come to a consensus as to how to deal decisively with the Syrian issue amongst others have led many to believe that the council has not been able to fulfil its mandate, which is to secure the global peace and security, and also foster cohesion amongst member states. When the United States of America invaded Iraq in March 2003, the Security Council was seen as failing a crucial test, it failed to some for refusing to authorize the US led war on Iraq, and failed for some because the council did nothing to stop it⁴, further questioning the fairness of the Council's interventions.

Over time since the establishment of the United Nations, there has been a steady growth in the number of member states of the body; there are currently 150 member states of the United Nations, and as such, there have been agitations amongst many for inclusion of more member states in the United Nations Security Council. There have also been calls for expansion of the membership of the council, with some calling for the inclusion of states like Brazil, Germany and Japan as part of the permanent members of the council. While past UN Secretaries like Kofi Annan⁵ and Ban Ki Moon have called for the reform of the Security Council in the past. The question for many has been, how feasible is the reform of the United Nations Security Council? Considering the fact that for a reform to take effect, it would require the agreement of at least two-thirds of the United Nations member states, and all the permanent members of

⁴ Ian Hurd, *After Anarchy; Legitimacy and Power in the United Nations Security Council*, (Princeton University Press, Princeton and Oxford, 2007).

⁵ *Kofi Annan Proposes United Nations Reforms*, VOA News Online March 31, 2005.
<<https://learningenglish.voanews.com/a/a-23-2005-03-31-voa1-83123687/123946.html>>

the Security Council currently enjoying the right to veto. This raises serious questions as to the legitimacy of the Council, since it can be held to ransom on the whims of the permanent members, depending on their interests.

This paper will focus on understanding the role of the Security Council, with a view to analysing critically, its functions and the effectiveness of the organ as an integral part of the United Nations. What are the clear and defined roles of the Security Council, and how has the council fared in fulfilling its mandate as stated in the United Nations Charter? This paper will also attempt to understand the dynamics of the roles of the council, is the Security Council really autonomous, or is the functionality of the council dictated by the whims of its permanent members who wield veto power? How much has the Security Council done to ensure that it stays true to its mission of peace keeping across regions where violence is rife, and how effective are the sanctions of the Security Council? This paper will take a look at the political economy of the Security Council, and how the economies of veto power affect the council's role in the maintenance of global peace and security.

II. ROLES AND PURPOSES OF THE SECURITY COUNCIL

In the months before the United States of America decided to invade Iraq, there had been several debates at the United Nations Security Council concerning the legality of the planned military action. The US had claimed that Iraq possessed Weapons of Mass Destruction, an allegation, if true, was in violation of the founding Charter of the United Nations. The Security Council then passed resolution 1441 on November 8 2002, adopted unanimously by the members of the Security Council, offering Iraq a final warning to comply with its disarmament obligations that had been stipulated in previous resolutions. The US subsequently invaded Iraq, despite the fact that there was no unanimous decision by the Security Council to enforce military action in Iraq. The decision of the US to invade Iraq, an illegal action that was in complete violation of the United Nations Charter, as admitted by former UN Secretary General, Kofi Annan in 2004⁶, raised questions about the effectiveness of the Security Council in ensuring that its resolutions are binding on all member states.

⁶ Ewen Macaskill and Julian Borger, *Iraq War Was Illegal and Breached UN Charter Says Annan*, The Guardian Online, 16 September, 2004. <<https://www.theguardian.com/world/2004/sep/16/iraq.iraq>>

The functions of the Security Council cover a broad spectrum of roles that make it a very vital organ of the United Nations. In pursuance of its goal to ensure that global peace and security is maintained, the Security Council has the power to act on behalf of the United Nations to ensure prompt and effective action by the body⁷. The council has the responsibility of settling disputes amongst member nations, acting as a mediator between nations; the council also determines what course of action the United Nations would take in the event of a breach of the peace, or acts of aggression. It is instructive to note here that the Security Council decides what actions constitute a breach of the peace, and the council also determines what acts are indeed acts of aggression. Security Council decisions on procedural matters are made by the affirmative vote of 7 members of the council, and the decisions of the council on other matters are made by an affirmative vote of 7 members of the council, including the concurring votes of the permanent members.⁸ In line with the provisions of the UN Charter, the Security Council is allowed to establish subsidiary bodies as it sees fit to help it properly carry out its functions⁹, these bodies include special commissions, committees and tribunals that help the council carry out its functions. All existing committees and working groups are comprised of the fifteen members of the council, and the mandate of the subsidiary bodies can range from procedural matters to substantive issues. The International Criminal Tribunal for the former Yugoslavia and the International Criminal Tribunal for Rwanda are subsidiary organs of the Security Council within the terms of article 29 of the Charter, and they are independent of member states, including their parent body, the Security Council.¹⁰

The Security Council is tasked with helping member states settle disputes amicably in line with its mandate to ensure the maintenance of global peace and stability. It investigates disputes and urges the parties in dispute to seek solutions through diplomatic or legal means, including negotiations, mediations, judicial settlement, conciliation and more. The Security Council also works to identify potential threats to global peace, as can be seen in the Security Council's

⁷ *Charter of The United Nations*, Chapters VI-VIII list the specific powers granted to the Security Council for the discharge of its duties.

⁸ *Charter of The United Nations*, 26, June 1945, Article 27(3) states that decisions of the Security Council on all other matters will be made by affirmative votes by 7 members, including the 5 permanent members, and a party to a dispute shall abstain for voting. It is interesting to note that the US was allowed to vote in the decision concerning the invasion of Iraq.

⁹ *Charter of The United Nations*, 26 June, 1945, Article 29

¹⁰ *Security Council Subsidiary Bodies: An Overview*, United Nations Online, <<https://www.un.org/sc/suborg/en/>>

reactions to situations like the Iraqi Affair, where several resolutions were made and a final warning was issued to the government of the time regarding its non-compliance with previous resolutions and the proliferation of weapons of mass destruction and long range missiles.¹¹ The Security Council has the power to authorize military action to enforce decisions made, as well as impose sanctions on defaulting member states that have failed to comply with the directives of the council. All members of the United Nations provide military assistance to the council as their contribution to the maintenance of international peace and security as enshrined in the Charter.¹² The council also authorizes the deployment of peace keeping missions, as well as humanitarian efforts in regions where there are violent unrests.

In the arriving at decisions pivotal to the execution of its decisions, the fifteen members of the Security Council vote to determine a course of action on issues before it. According to the Charter, each member of the council has one vote, with the 5 permanent members having veto power, an arrangement that has sparked debates among member states and scholars alike. As E. C Luck observed;

“debates over the composition of the council, as well as over the veto power of the five permanent members (p-5), reflect the inherent tension between the founding goal of assuring the leadership and collaboration of the states most capable of enforcing the Council’s will and the norms of universality and representativeness espoused by a growing and increasingly diverse membership.”¹³

Member states have actively argued for an expansion of membership of the Security Council, with some arguing that an addition of new members would make the Council more democratic and representative in nature. However, there has been disagreement as to whether new members would be permanent or should have veto power, and this indirectly affects the way Council carries out its roles. For instance, Brazil, India, Japan and Germany have indicated interest in getting a permanent seat in the Council, with some countries threatening to reduce their financial or military contributions to the United Nations if they are not made permanent members.¹⁴ There have also been calls from African countries for the need to include African

¹¹ SC Res 1441 of 8 November 2002

¹² *Charter of The United Nations*, June 26, 1945, Article 43(1-3)

¹³ Edward C Luck, *United Nations Security Council: Practice and Promise*, (Routledge: London, 2006) p.20

¹⁴ Colum Lynch, *India Threatens to Pull the Plug On Peacekeeping*, June 14, 2011, Foreign Policy Online. <<https://foreignpolicy.com/2011/06/14/india-threatens-to-pull-plug-on-peacekeeping/>>

nations in the group of permanent nations to have some sort of regional balance, with P-5 members like China backing the claims of countries like Nigeria.¹⁵ Another main role of the Security Council is the appointment of judges and the election of members to the International Court of Justice, an international arbitrary organ of the United Nations designed to settle disputes between member states.

A. PEACEKEEPING MISSIONS

In staying true to its main objective of maintaining peace and security, the Security Council sanctions the deployment of troops on peace keeping missions in states where there has been civil unrest or violent conflicts. In the early years after its establishment, the United Nations was confronted with a series of regional conflicts with broader security implications, yet none fit the mould of classic state-to-state aggression.¹⁶ Before sending a mission into an affected region, the Security Council requires a report to be submitted to it by the Secretary General, the report usually contains the weighed options for the establishment of a peacekeeping mission in the area, putting into consideration all factors relevant to sustaining the mission. The Council then deliberates on the appropriate decision to take, before finally adopting a resolution that would outline the mission's mandate and the tasks it will be required to achieve.

The United Nations sent out its first two peacekeeping missions in 1948; the United Nations Military Observer Group in India and Pakistan (UNMOGIP), and the United Nations Truce Supervision Organization (UNTSO), missions which are still in operation, and which employed observation and monitoring tactics in the states where they were deployed. The Security Council displayed its commitment to ensuring the maintenance of peace and security in Africa in 2000, when it adopted Resolution 1318, "*reaffirming its determination to give equal priority to the maintenance of international peace and security in every region of the world and, in view of the particular needs of Africa, to give special attention to the promotion of durable peace and sustainable development in Africa, and to the specific characteristics of African conflicts;*"¹⁷ The Council also emphasized the importance of cooperation between the United Nations and regional organizations like the Organization of African Unity, in addressing conflict in Africa, at the same time stressing the point that conflicts would only be resolved

¹⁵ Mayowa Tijani, *China "Backs" Nigeria for Permanent UN Seat*, August 31, 2015, The Cable NG. <<https://www.thecable.ng/china-supports-nigeria-permanent-un-security-council-seat>>

¹⁶ Supra note 13, p.31

¹⁷ SC Res 1318 of 7 September, 2000

quickly when parties to it are committed to making peace.¹⁸ The demonstration of this commitment is seen in its resolutions that established missions like the UN Mission in Sudan, (UNMIS) in Darfur, and also mandates of multidimensional UN presence in Chad and the Central African Republic (MINURCAT) in 2006.¹⁹

In the Middle East, the United Nations has established several missions to observe and report, as well as work towards maintaining peace in the region. In 1974 the UN established the United Nations Disengagement Observer Force (UNDOF) following an agreement between Israeli and Syrian forces to disengage in the Golan Heights. The mission was mandated by the Security Council to maintain the ceasefire between Israel and Syria and to supervise the implementation of the disengagement agreement in a resolution adopted unanimously by members of the Council.²⁰

Among the earliest peacekeeping operations in the Middle East, the UN Emergency Force (UNEF I), was a mission deployed to address the Suez Crisis in 1956.²¹ The mission was established to supervise the cessation of hostilities in the region, including the withdrawal of the French armed forces, the Israeli and British forces from the territory, and after the withdrawal, to provide supervision of the ceasefire; the mission was withdrawn in 1967 at the request of Egypt. The Security Council has also sanctioned military actions, most notably the authorization of military force in the Korean Peninsula in 1950, the invasion of Iraq in 1990, and the 2011 bombing of Libya²² There have been concerns about the effectiveness of the peacekeeping missions sanctioned by the Security Council; in some cases, the actions of the missions sent to conflict zones have been frowned on by observers, with growing allegations of trafficking and exploitation and calls for peacekeepers to be punished for their crimes. In one instance, an internal report identified repeated patterns of sexual abuse and rape perpetrated by soldiers supposed to be restoring the international rule of law. Owen Bowcott reported that *“allegations surfaced that troops sent to maintain monitor the electoral process in Liberia*

¹⁸ Ibid.

¹⁹ SC Res 1706 of 31 August, 2006

²⁰ SC Res 350 of 31 May, 1974

²¹ United Nations Peacekeeping, *The Early Years*, United Nations Online.
<<https://www.un.org/en/peacekeeping/operations/early.shtml>>

²² Korean War: SC Res 84, (July 7, 1950), Gulf War in Iraq, SC Res 678, (November 29, 1990), Bombing of Libya: SC Res 1973, (March 17, 2011)

were regularly having sex with girls aged as young as 12, sometimes in the mission's administrative buildings. In the DRC, peacekeepers were said to have offered abandoned orphans small gifts – as little as two eggs from their rations, says the report – for sexual encounters.”²³ Cases of sexual exploitation by peacekeepers jeopardizes the mandates of the missions as sanctioned by the Security Council, as these actions undermine the goals and objectives of the Council as they align with the maintenance of peace and security in conflict torn regions. Peace keeping missions sanctioned by the Council have also been criticized in some quarters as failures, with the council failing to act as rapidly as possible to avoid the spread of violence in certain regions. A typical example is the affair in Srebrenica, where towards the end of Bosnia's 1992 – 1995 war, Bosnian Serb forces invaded the eastern Srebrenica enclave and executed 8,000 Muslim men and boys²⁴, subsequently dumping their bodies into pits. The UN had previously declared the town a safe area, “free from armed attack or any other hostile act”; about 600 Dutch infantry were to be in position to protect thousands of civilians who had taken refuge there earlier. Bosnian Muslim fighters had asked for their weapons to be returned, weapons they have surrendered to the UN peacekeepers earlier, but their request was refused; this led to the mass execution of the people, an action that could have been prevented if the peacekeepers had been diligent in carrying out their mandate of protecting the people. In Rwanda, peacekeepers stood by as Hutu slaughtered about 800,000 Tutsi people, the UN's intervention in these cases was described by Max Boot of Foreign Affairs as “worse than useless: its blue-helmeted troops were used as hostages by the Serbs to deter a military response from the west”²⁵ Boot goes on to refer to British journalist William Shawcross's book, “Deliver Us From Evil”, noting that Shawcross blamed most of the failures of peacekeeping missions on the permanent members of the Security Council whom he indicted for blocking the expansion of missions. For Boot, the failures of the United Nations should not be blamed on just the great powers, who are permanent members of the Security Council, according to him, they owe as much to the mindset of UN administrators who think that no problem in the world is too intractable to be solved by negotiation.²⁶

²³ Owen Bowcott, *Report Reveals Shame of UN Peacekeepers; Sexual Abuse by Soldiers 'Must Be Punished'*, the Guardian Online, 25, March 2005. <<https://www.theguardian.com/world/2005/mar/25/unitednations>>

²⁴ Barney Henderson, *What Have Been the Successes and Failures of UN Peacekeeping Missions?* The Telegraph Online, 28 September, 2015. <<http://www.telegraph.co.uk/news/worldnews/europe/bosnia/11729436/Srebrenica-20-years-on-What-have-been-the-successes-and-failures-of-UN-peacekeeping-missions.html>>

²⁵ Max Boot, *Paving the Road to Hell: The Failure of UN Peacekeeping*, Foreign Affairs Review Essay, March/April 2000 Issue. <<https://www.foreignaffairs.com/reviews/review-essay/2000-03-01/paving-road-hell-failure-un-peacekeeping>>

²⁶ *ibid.*

In response to growing allegation of ineffectiveness and failures of peacekeeping missions, the Security Council adopted several resolutions²⁷, “stressing that sexual exploitation and abuse by United Nations peacekeepers undermines the implementation of peacekeeping mandates, as well as the credibility of the United Nations peacekeeping”.²⁸ Under these reforms, the Security Council also reaffirmed its support for the United Nations zero-tolerance policy on all forms of sexual abuse and exploitation²⁹ as a response to the allegations of sexual exploitation and abuse by UN peacekeepers in host countries.

B. DISARMAMENT AND NONPROLIFERATION

The Security Council of the United Nations in line with its primary objective, determines the existence of any threat to the peace, breach of the peace, or act of aggression, and makes recommendations or decides measures to be taken to maintain the peace.³⁰ Over the years, the Security Council has issued warnings to member states whose actions have violated provisions of the UN Charter and are a potential breach to the peace. In August 1991, the Security Council demanded that Iraq halt all nuclear activity, demanding that the government of the time provide full disclosure of its weapons programmes, and to allow inspectors access all its sites.³¹ This was followed by a number of other resolutions, designed to warn Iraq to desist from developing its nuclear armament, an action which was in violation of the Non Proliferation Treaty, an international treaty designed to prevent the spread of nuclear weapons and weapons technology, and to promote cooperation in the peaceful uses of nuclear energy and to further the goal of achieving nuclear disarmament and general and complete disarmament.³² The Security Council established the 1540 Committee, a subsidiary organ established to ensure that states, inter alia, refrain from supporting by any means, non-state actors from developing, acquiring, manufacturing, possessing, transporting, transferring or using nuclear, chemical or biological weapons and their delivery systems. The resolution further imposed a binding obligation on all member states to adopt legislation to prevent the proliferation of nuclear weapons and to establish local control over related materials to prevent illicit trafficking.³³

²⁷ SC Res 2272 of 11 March, 2016

²⁸ *Ibid.*

²⁹ SC Res 2272 of 11 March, 2016

³⁰ Charter of the United Nations, June 26, 1945. Article 39

³¹ SC Res 707 of 15 August 1991

³² United Nations Office for Disarmament Affairs, Treaty on the Non-Proliferation of Nuclear Weapons (NPT), Online, <www.un.org/disarmament/wmd/nuclear/npt/>

³³ SC Res 1540 of 28 April, 2004.

Where diplomacy fails and negotiations prove ineffective in neutralizing perceived threats to the peace, the Security Council in line with article 41 has the power to make use of armed forces to enforce its decisions. Incorporating disarmament as one of the missions of the Security Council, article 47 of the UN Charter stipulates that “there shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council’s military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments and possible disarmament”.³⁴

When the allied coalition led by the United States of America and the United Kingdom invaded Iraq in 2003, there were questions as to the legality of the invasion, and if previous resolutions concerning Iraq had served to legitimise the military intervention carried out by the US-led allied forces. The invasion was highly criticized within the international community, causing divisions even within the Security Council, especially when upon thorough inspection and investigation, there was no conclusive evidence of the existence of any weapons of mass destruction in Iraq³⁵. The actions of the coalition greatly affected the credibility of the Security Council, considering the fact that its members, especially the permanent members had different opinions on the Iraqi matter.

Disarmament, demobilization and re-integration has become an integral part of post-conflict peace consolidation, they are crucial components of the initial stabilization of war-torn societies as well as their long term development.

C. COMPOSITION OF THE PEACEKEEPING COMMITTEE

The peacekeeping committee around the world is led by the Department of Peacekeeping Operations (DKPO) and works to create the conditions for lasting peace in a country torn by conflict. The operation consists of military, police and civilian personnel who work to deliver security, political and early peacebuilding support. The United Nations has no military forces of its own and member states provide on a voluntary basis, military and police personnel required for each operation.

D. FINANCING THE PEACEKEEPING COMMITTEE

³⁴ *Charter of the United Nations*, June 26 1945, Article 47

³⁵ *Security Council Press Release, SC/7777* of 5 June, 2003.

The financing of United Nations peacekeeping operations is the collective responsibility of all United Nations member States. Article 17 of the Charter of the United Nations provides that every member state is obligated to pay their respective share towards peacekeeping.³⁶ The General Assembly apportions peacekeeping expenses based on a special scale of assessments under a complex formula that member states themselves have established. This formula takes into account, among other things, the relative economic wealth of member States, with the five permanent members of the Security Council required to pay a larger share because of their special responsibility for the maintenance of international peace and security³⁷. Budgets of peacekeeping operations are based on the missions mandate from the Security Council. Each operation has its own budget and account which includes operational costs such as transport, logistics and staff costs such as salaries. Soldiers are paid by their own Governments according to their national rank and salary scale. Police and civilian personnel are paid from the peacekeeping budgets established for each operation and it reimburses member states for providing equipment, personnel and support services to military or police contingents. In 1996, the general assembly authorized procedures for determining reimbursements to member states for their contributions to peacekeeping missions. As a result, an MOU between the UN and the troop or police contributing country is established for every formed military or police unit deployed to a peacekeeping mission. The MOU details the major equipment, self-sustainment services and personnel which the contributing country is asked to deploy and for which it is entitled to be financially reimbursed.³⁸

III. THE POLITICS OF VETO

It has been established in the most part of this paper that the Security Council is an important organ of the United Nations because of its primary objective which is to maintain international peace and security. It has also been established that in carrying out its duty, the Council adopts resolutions and makes decisions that either determine possible threats to the peace or decide what cause of action will be taken to address same threats. In arriving at these decisions, the Council member states have to put decisions to a vote, with each member having one vote. As stipulated in Article 27 of the Charter of the UN, *“decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including concurring votes of*

³⁶ Charter of the United Nations, Article 17

³⁷ *General Assembly of the United Nations A/RES/55/235*

³⁸ *General Assembly of the United Nations A/RES/20/222*

the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting”³⁹ The focus for this subsection will be on the concurrent votes of the permanent members of the Council, and how these votes affect the roles of the Security Council.

The member states of the United Nations Security Council take turns at assuming the Presidency of the Council, each state holds the presidency for a month, and the Presidency rotates monthly in English alphabetical order. The president meets with each of the UNSC members individually to set an agenda for the month. He or she then approves the agenda and presides over meetings.⁴⁰ Generally, member states seize the opportunity to push agendas that are important to their governments in the time when they preside over the Security Council, and as such, the votes of the members of the Security Council are very important. The power of veto wielded by the permanent members have been criticized by many, as it gives the five permanent members of the council, (i.e. Russia, The United States of America, France, United Kingdom, and China) the power to stop any non-procedural issue with a negative vote, no matter how much international support the matter might have garnered. Permanent members of the Security Council often use their veto power in line with their national interests, and as such, the Security Council has sometimes failed to strongly condemn certain issues by resolutions, examples of such situations are the Iraqi War in 2003, the Georgian conflict in 2008, the 2009 massacre of Sri Lankan Tamils and more.

With permanent members serving their own interests by using the power of veto, the number of resolutions that the Council has passed has reduced in number over time. In some cases, the power of veto has been used by some permanent members in ways that go contrary to some principles of the UN Charter, especially the principle of non-interference. An example of this is in the Libyan Situation of 2012 when Russia and China refrained from exercising veto and putting humanitarianism above respecting the principle of non-interference. Another example is the time China vetoed a resolution passed by the Security Council that would have sent the United Nations forces to verify Guatemala’s peace accords. This incident was quite peculiar

³⁹ Charter of the United Nations, June 26, 1945, Article 27.3

⁴⁰ James Raymond Vreeland and Axel Dreher, *The Political Economy of the United Nations Security Council*. (Cambridge University Press: 2014) p.6

because China's actions owed to the fact that it disliked Guatemala's close ties to Taiwan.⁴¹ The power of veto is sometimes used by permanent members to achieve political aims on occasions when votes are needed on issues relating to other states. In the Iraqi case, the US formed a "Coalition of the Willing" in a bid to drum up support for the planned invasion of Iraq, an arrangement that some referred to as more like a "Coalition of the Coerced", as there had been previous incidences when the US had used coercion to garner support for its military actions overseas. For instance, in 1990 the US had bribed China with post-Tiananmen Square diplomatic rehabilitation and renewal of long-term development aid to prevent a veto of the UN resolution authorizing the Gulf War. The votes of several poor countries were allegedly bought with Saudi Oil, new military aid and economic aid, and when Yemen, which was the only Arab country in the Council, voted against the resolution authorizing war, a U.S Diplomat told the Yemeni Ambassador, "that will be the most expensive "no" vote you ever cast". Three days later, the US cut its aid budget to Yemen.⁴²

Generally, the usage of the power of veto in the Security Council wielded by the permanent members has spurred opinions on the politics of veto. Vreeland and Dreher noted that whenever a small country is elected to serve in the Council for instance, its level of importance rises, and if an important issue should come up within its tenure, "it behoves powerful countries to have the member government in their good graces- or even in their debt."⁴³ Providing bilateral foreign aid as well as loans from the IMF, World Bank and other International organizations represents a low-cost means of achieving this goal.

IV. THE SECURITY COUNCIL AND INTERNATIONAL LAW

In discussing the roles of the Security Council, it is important to consider the legality of its decisions and how binding they really are, as the resolutions from the Council form an integral part of the decisions of the United Nations as a whole. Usually the nature of a resolution passed by the Security Council determines if it is considered binding on member states, and in general, resolutions adopted by the Council while acting under the provisions of Chapter VII of the UN Charter are considered considered binding, and in accordance with Article 25 of the Charter.

⁴¹ Francisco Villagran De Leon, *Stop Abuse of U.N. Security Council Veto Power*, Opinion Pages, NY Times Online, January 18, 1997. <<https://www.nytimes.com/1997/01/18/opinion/l-stop-abuse-of-un-security-council-veto-power-220205.html>>

⁴² John Cavanaugh, Phyllis Bennis and Sarah Anderson, *Coalition of the Willing or Coalition of the Coerced?* Institute for Policy Studies Online, February 26, 2003. <https://www.ips-dc.org/coalition_of_the_willing>

⁴³ Supra note 40, p.17

In practice, the power of the Security Council is constituted at its legal structure, its political legitimacy and in the interests of powerful member states. The element of compulsion that characterizes some resolutions, coupled with the permanent members veto power points to the idea that the protection of “international peace and security” as stated in the UN Charter is an act of discretion by the Security Council, and since there is no precedence set by resolutions of the council, what constitutes a threat or a breach to the peace is ultimately determined by the willingness of the individual permanent members to take a specific action or inaction on a case by case basis. Arbitrary organs like the International Court of Justice and the International Criminal Court have jurisdiction to advise on and hear cases brought to them by members of the United Nations, while cases can also be referred to such organs like the ICC by the Security Council, in cases where the dispute falls under Chapter VII of the UN Charter.

To a great extent, the power of the Security Council is enhanced to the extent that member states accept it as legitimate, and the Council can indeed be expedient in responding to threats to the peace at moments when the political conditions surrounding an issue at hand aligns with its legal framework as enshrined in the UN Charter. This is typically seen in the way in which the Council has handled certain issues brought before it in the past, as in the case of Libya, and in more recent times, on the issue of Syria since 2011. It is essential to understand the powers of the Security Council at the intersection of its legal authority and political composition; in some cases, the question of the legality of the actions of the Council can be questioned when taking a cursory look at the provisions of the UN Charter. At what point does the Security Council differentiate between the illegality of an action, and the determination of same as a threat to international peace and security? In Article 2(7), states that “nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state”. This limits the activities United Nations as an organization, including actions of the Security Council, and it protects nations from external intrusion in their domestic matters. Consequently, the Council cannot, under the law, take action with respect to the internal jurisdiction of member states. However, considering the powers of the Council with regards to its primary responsibility of maintaining international peace and security, and also considering that the Council can determine what actions pose a threat to the peace, a “domestic issue” that has been determined to be a potential threat to international peace and security will fall under the jurisdiction of the Council, and thus require the member state involved to comply with the directives of the Council by obligation. Council decisions are binding on all member states and there are no channels for appeal or dissent, as

all states commit themselves to the binding decisions of the Council by joining the United Nations.

In analysing the roles of the Security Council in the United Nations, it is important to consider the legality of the Council's decisions and this affects member states of the United Nations. The power of the Security Council is to a large extent determined by the acceptance of its decisions by the member states; it is this acceptance of Council decisions that gives the Council its legitimacy. As "none is required to command, and none is required to obey"⁴⁴, the member states of the Security Council are regarded as equal, and as such will only follow Council resolutions when it aligns with their political interests. The Security Council makes use of several instruments to induce or coerce compliance to its resolutions amongst member states, and these include resolutions and sanctions, and in extreme cases, the threat of military force, however in most cases, member states are obliged to comply with Security Council decisions voluntarily. While the Security Council can be said to be at the top of the international legal hierarchy, sometimes it avoids passing judgement on the legality of the actions of certain member states, choosing to defer such opinions to the International Court of Justice or the International Criminal Court, ICC, as seen in Article 13(b) of the Rome Statute of the ICC.⁴⁵ Despite the legal powers of the Security Council, and its ability to pass resolutions and sanctions on dissenting member states, the Council can be limited in a number of ways, and these limitations sometimes affect the expediency of the UN's response to certain issues that sometimes threaten international peace and security. At this point it is important to understand the intersection of the Security Council's legal authority and its political composition: the Security Council as an organ of the UN is particularly political, as its member states are usually more concerned about furthering their political interests, which sometimes translates to going against the maintenance of peace and security. The Iraqi invasion of 2003 by the armed forces of the US-led coalition is a typical example of a situation where member states are driven by political interests. The US government led by President Bush had announced that "democracy had failed", and that it would proceed with a "coalition of the willing" to rid Iraq, under Saddam Hussein of weapons of mass destruction that the US insisted it possessed. In practice, the US was in violation of the principles of the UN Charter, and went against the resolutions of the

⁴⁴ See Kenneth N. Waltz, *Theory of International Politics*. (Addison-Wesley, 1979) p.88

⁴⁵ *Rome Statute of the International Criminal Court*, 1 July 2006.

Security Council, placing its interests before the maintenance of peace and security. In considering the role of the Security Council in International Law, certain questions come to mind; is the Security Council above the law? And does the Council abide by international laws and treaties that bind its member states? This question arises particularly in instances where member states move to challenge the decisions and sanctions of the council on a legal basis; and the UN Charter does not really do much to define the relationship between the Council and international law more generally. This came into play when Libya was sanctioned by the Council for its refusal to extradite two Libyan nationals who had been accused of being the masterminds behind the downing of Pan Am Flight 103 over the Scottish town of Lockerbie.⁴⁶ Libya had argued that the sanctions of the Security Council were unlawful, as the matter was under the jurisdiction of the provisions of the Montreal Convention, however, Libya still ended up complying with the sanctions and producing the accused for trial in the Netherlands.

V. CRITICISM AND EVALUATION OF THE SECURITY COUNCIL

Over time, the Security Council has faced a lot of criticism from scholars and observers alike, and the subjects of this criticism range from the seemingly unchecked power that the Council wields, to the non-inclusive nature of the council, and the lack of proper representation to reflect the growing membership of the United Nations and more. This section of this paper will evaluate the roles of the Security Council, weighing the criticisms with a view to understanding how much needs to change in the Council.

As mentioned earlier in this paper, the primary function of the Security Council is to ensure the maintenance of international peace and security. The Council derives its power from the UN Charter, and its decisions are binding on member states of the United Nations. In carrying out its mandate, the Security Council has the power to determine which actions constitute a potential breach to the peace, and as such, the Council makes use of instruments like resolutions and sanctions to ensure that member states remain compliant and committed to the objective of maintaining the peace. The composition of the Security Council is a factor that has attracted a lot of criticism over time; the Council is comprised of 15 members, 10 of which are non-permanent members, and 5 of which are permanent members. The 5 permanent members have the power to veto any decisions, and are ultimately their votes are quite crucial to the decision making process of the Security Council. There have been calls for the restructuring of the

⁴⁶ SC Res 748 of 31 March 1992

membership of the Council to reflect the changes in the membership of the United Nations; member states like Japan, Germany, India and Brazil have in the past agitated to be made permanent members of the Security Council, with India even willing to forego the power of veto if elected. However this agitation was met with resistance by other member states who also felt that they deserved to be permanent members as well.⁴⁷ Other countries from other regions have also argue for inclusion as permanent members of the Security Council, with African countries like Nigeria making a claim for a seat, and getting backing from China, which is one of the 5 permanent members of the Council.⁴⁸ Most observers have argued that the deeper reason for the alleged discriminatory impact of the membership of the Security Council is the incontestable fact that the Security Council is a political organ⁴⁹, and as such will only be open to reform when there is an alignment of political interests of member states.

The power of veto is another subject of criticism of the Security Council; for many, the veto privilege wielded by the 5 permanent members of the Council are a limitation of the powers of the Council. Most times governments of the P5 tend to hold the Council to ransom on issues where they have a particular political interest, an example is the matter on Chechnya, an issue that Russia will not even permit to be discussed by the Council, since it has veto power. A recent example is the Syrian issue, where the UN has been unable to make any effective and sustainable decisions regarding the situation since 2011, and even though the Council sanctioned the deployment of a UN Supervision Mission in Syria (UNSMIS) comprising 300 observers, the timing was wrong since the situation had already escalated.⁵⁰ There have been calls for the Security Council to review the power to veto to accommodate either more states wielding it, or consider a total removal of the power to veto by selected members of the Council. While this sounds like a great idea, granting more states the power to veto could result in the crippling of the Council in its decision making, as more states would want to advance their interests by using the power to veto. The Security Council will fare better if it looks into measures that will compel member states to vote on issues that really do affect the balance of peace in the world; however, this might also be a tall order as changes in any form would require a two-thirds vote from the General Assembly, including all the permanent members;

⁴⁷ Michael Teng addresses this issue in *United Nations Security Council Reform*, Edge Autumn, 2003

⁴⁸ *Supra* note 15.

⁴⁹ Wolfgang WeiB discussed this in *Security Council Powers and the Exigencies of Justice after War*, Max Planck Year Book of United Nations Law, Volume 12, 2008.

⁵⁰ O. A. Olatunji discusses the Syrian Issue and the responsibility to protect in *International Politics and the Duty To Protect: An Analysis of The Syrian Situation*, The Journal of International Law and Diplomacy, Vol 2.1, (Jurisprudence and International Law Department, Faculty of Law , University of Lagos, 2004)

the only notable change came in 1965 when the number of non-permanent members of the Council was expanded from 6 to 10.⁵¹

There has also been criticism concerning the possession of nuclear weapons by member states of the Security Council, especially considering the fact that the possession of such weapons has been prohibited for some countries⁵², but is allowed for a select few. This also brings to the fore the issue of the true extent of the Security Council's ability to enforce its decisions, in some cases, member states choose to ignore the decisions of the council, especially when it does not align with interests of the member state. In the Iraqi issue, the US bypassed the Security Council by going ahead to invade Iraq even when its actions were clearly illegal and in violation of the principles of the UN Charter. Despite the illegal nature of the actions of the US, the Security Council did little or nothing to stop the invasion, and did not impose any sanctions on the US for its actions. Whereas, Iraq was slammed with economic sanctions for its refusal to comply with previous sanctions ordering the country to surrender to inspections of its weapons program, and at the end of it all, no weapons of mass destruction were found in Iraq, and not much was done to repair the damages caused by the invasion and its aftermath besides the establishment of a transitional government by the UN. The Security Council has also been criticized for failure in resolving many conflicts, including Cyprus, Sri Lanka, Syria, Kosovo and the Israeli-Palestinian conflict, reflecting the wider short-comings of the UN. For example; at the 68th Session of the UN General Assembly, New Zealand Prime Minister John Key heavily criticized the UN's inaction on Syria, more than two years after the Syrian civil war began.

VI. REFORMING THE SECURITY COUNCIL

Proposals to reform the Security Council began with the conference that wrote the UN Charter and have continued to the present day. As British historian Paul Kennedy writes, "Everyone agrees that the present structure is flawed. But consensus on how to fix it remains out of reach."

There has been discussion of increasing the number of permanent members. The countries who have made the strongest demands for permanent seats are Brazil, Germany, India, and Japan. Japan and Germany, the main defeated powers in WWII and are now the UN's second and third

⁵¹ *Supra* note 47.

⁵² *Supra* note 33.

largest funders respectively, while Brazil and India are two of the largest contributors of troops to UN-mandated peace-keeping missions.

Italy, the third main defeated power in WWII and now the UN's sixth-largest funder, leads a movement known as the Uniting for Consensus in opposition to the possible expansion of permanent seats. Core members of the group include Canada, South Korea, Spain, Indonesia, Mexico, Pakistan, Turkey, Argentina and Colombia. Their proposal is to create a new category of seats, still non-permanent, but elected for an extended duration (semi-permanent seats). As far as traditional categories of seats are concerned, the UFC proposal does not imply any change, but only the introduction of small and medium size states among groups eligible for regular seats. This proposal includes even the question of veto, giving a range of options that goes from abolition to limitation of the application of the veto only to Chapter VII matters.

Former UN Secretary-General Kofi Annan asked a team of advisers to come up with recommendations for reforming the United Nations by the end of 2004. One proposed measure is to increase the number of permanent members by five, which, in most proposals, would include Brazil, Germany, India, Japan (known as the G4 nations), one seat from Africa (most likely between Egypt, Nigeria or South Africa) and/or one seat from the Arab League. On 21 September 2004, the G4 nations issued a joint statement mutually backing each other's claim to permanent status, together with two African countries. Currently the proposal has to be accepted by two-thirds of the General Assembly (128 votes).

The permanent members, each holding the right of veto, announced their positions on Security Council reform reluctantly. The United States has unequivocally supported the permanent membership of Japan and lent its support to India and a small number of additional non-permanent members. The United Kingdom and France essentially supported the G4 position, with the expansion of permanent and non-permanent members and the accession of Germany, Brazil, India and Japan to permanent member status, as well as an increase in the presence by African countries on the Council. China has supported the stronger representation of developing countries and firmly opposed Japan's membership.

In 2017, it was reported that the G4 nations were willing to temporarily forgo veto power if granted permanent UNSC seat.

Since 2000 we have also seen some intriguing signs of the UNSC learning to work in new ways to tackle those new security challenges that don't just arise at state level but involve the actions

of individuals, companies, or social and religious groups in a fluid globalized environment. In its resolutions numbers 1373 and 1540 the UNSC has created something very like universally applicable laws against the financing of terrorism and the unauthorized ownership and trade in WMD, respectively, which can grip on dangerous actions taken right down to the individual level – that is, if states play ball in enforcing them. In terms of broadening out to the new security agenda, it is also notable that the UK succeeded in the UN's last session in getting the dangers of climate change brought on to the UNSC's agenda as a security issue. It seems that issues of energy security and related conflict management will also call for more attention at global level, with developments like the recent race to stake national claims under the ice of the North Pole; and it would be very surprising if any future world health epidemic did not involve the UN's central organs as well as the WHO. If the UNSC could pursue such openings for adaptation and exploration, as well as doing its more basic job of intervening in more traditional dangers to peace, it would certainly deserve its place as a continuing central actor in 21st-century security.

The obstacles to it doing that in a convincing way are also the reasons why it is very important for different types of nations, including smaller ones like Iceland, to get onto the Security Council and have a chance to influence its work from time to time. First, the dominance by large nuclear states doesn't just mean that they all too frequently block action through their right of veto. It means that there is a kind of conspiracy among them not to raise at all those issues that they see as their private business, whether it be Northern Ireland or Chechnya or the way the US thinks itself free to violate international law or the breaches of human rights by China. They are also generally less interested in the non-military and more mundane issues of human security, including financial and economic stability and freedom of communications that matter so much to a small but highly globalized nation like Iceland. And last but not least, they have been pretty hopeless in their task of controlling armaments of any kind, especially in the last ten years or so – although there are some hints in British and even in US policy that this issue might be ripe for revival in 2009-10.

In his inaugural speech at the 16th Summit of the Non-Aligned Movement in August 2012, Ayatollah Ali Khomeini criticized the United Nations Security Council as having an "illogical, unjust and completely undemocratic structure and mechanism" and called for a complete reform of the body.

VII. CONCLUSION

The Security Council of the United Nations is definitely an important organ of the United Nations as seen in the most part of this paper; without the efforts of the Council, the United Nations as we know it today will not be effective in its humanitarian and peacekeeping efforts across the world. The resolutions passed by the Security Council on important international issues like Terrorism, Disarmament, Sex Trafficking, Illicit Drug Dealing and more have played important roles in the journey towards maintaining international peace and security. However, the Security Council as an international organization is failing in key areas of its mandate, with most of its actions seemingly being more in favour of political interests than the maintenance of international peace. The powers of the permanent members of the Security Council have in most situations crippled the Council, preventing its members from coming to a lasting solution for pertinent issues over time. In recent years, the Security Council has failed to provide a lasting solution to the Syrian War, with permanent members like Russia and the United States slowing down Council actions by playing politics with veto power. There have been calls for reforms within the Security Council, reforms that would hopefully change the way decisions are made in the Council, with a view to introducing a more balanced representation of the membership of the United Nations on the Council. The Security Council should embrace reforms, as this would go a long way in ensuring that the Council stays true to its mandate. Proper world representation within the Council on a permanent basis would ensure that the Council remains as democratic as it is meant to be, especially when making certain decisions affecting various regions.

In the continued absence of reforms within the Security Council, it is glaring that the organ is concerned with making more political decisions, and consequently failing in its role of maintaining international peace and security; with crisis like the Syrian War and the Yemeni War, the Council will need to come up with measures to allow it take decisive actions regardless of the actions of the permanent members.

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