

The Current Status of the Security Council's Role in International Peace and Security

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ABSTRACT

The maintenance of international peace and security is the UN's fundamental goal, as stated in Article 1 of its charter. To that end, the organization must "take effective collective measures for the prevention and removal of threats to the peace, the suppression of acts of aggression or other breaches of the peace, and the peaceful adjustment or settlement of international disputes or situations that may lead to a breach of the peace." Over the years, the UN has taken on this massive role with different degrees of effectiveness. In the nuclear age, however, international security without an organization like the United Nations is unthinkable. Since 1945, 2,247 UN peacekeepers have died in the service of international peace and security, as of 31 March 2006. In 1988, the Nobel Peace Prize was awarded to the United Nations peacekeeping forces in appreciation of their important contribution to world peace.

Keywords-- Security Council, International Peace and Security, Sovereign Equality, UN Peacekeepers, Veto

I. INTRODUCTION

The United Nations Security Council was created in 1946 under the United Nations Charter and is in charge of maintaining international peace and security. It is one of the United Nations' six primary organs. It is the only UN body whose decisions are binding on all of the UN's members. The United Nations Security Council is a decision-making body that imposes legally enforceable responsibilities on its members and has a number of tools for conflict prevention and management. The UN system's governance is heavily reliant on the council. Its functions include approving new countries' admission to the UN, choosing the Secretary-General and top UN officials, and conducting UN-sponsored elections for justices of the International Court of Justice (ICJ). The Security Council has the power to establish peacekeeping and special political missions, as well as authorize military action and send cases to the International Criminal Court (ICC). It is one of the United Nations' primary organs, with specific responsibilities and decision-making authority.

Chapter VI of the UN Charter empowers the council to offer proposals for peaceful conflict resolution, while Chapter VII empowers the council to take enforcement actions such as imposing sanctions and use of

armed force. It has refined the use of non-military tactics and may dispatch a peacekeeping force to assist the parties in keeping opposing forces at bay.

The end of the Cold War in 1989 is widely seen as a watershed moment in history and the start of a new world order. The fast increasing rate of productivity and a newfound spirit of cooperation in the SC are apparent indicators of this. The Council adopted 185 resolutions between 1991 and 1993, compared to 685 in the previous 46 years of the UN's existence. It also started 15 new peacekeeping missions, compared to 17 in the previous 46 years. However, as the Security Council regained strength, the nature of warfare changed: 85 percent of all wars were now intrastate conflicts, many of which were ethnic and religious civil wars. In 1992, the number of intrastate wars in the world reached a high of roughly 55.

II. PROVISIONS OF THE CHARTER

The essential sections of the charter establishing the functions of the Security Council and the General Assembly are outlined here.

2.1 The Security Council's and General Assembly's Relative Powers

According to Article 24 of the United Nations Charter, the Security Council has "primary responsibility" in matters of peace and security. It has special powers, including the authority to decide on behalf of the entire UN membership to take collective action when peace is threatened (Articles 39–42), and to negotiate agreements with individual UN members for the provision of armed forces necessary to maintain international peace and security, as well as to determine how many members will participate in any collective action (Articles 43–48).

The General Assembly, on the other hand, is only authorized to study and make recommendations on topics concerning peace and security, either to the Security Council or to specific governments. Furthermore, under Articles 11 and 12, it has the authority to discuss, but not to make real recommendations, on any exceptional dispute between nations currently being considered by the Security Council. Despite the fact that the assembly is not legally empowered to act, it is also not officially forbidden. The actual wording of the only charter provision touching on the subject, paragraph 2 of Article 11—which has been the subject of conflicting interpretation in the long-running

controversy over the financing of certain General Assembly-sponsored peacekeeping operations—is as follows: "Any such question [of international peace and security] on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion by the General Assembly."

2.2 Reporting a Conflict or Serious Situation to the UN

Despite the fact that the Security Council has primacy over the General Assembly in matters of peace and security, the charter does not require that disagreements or dangerous circumstances be handled in the Security Council before being debated in the General Assembly. A disagreement can be brought before the UN in a number of ways, all of which are spelled out in the charter and are not in any particular order. Any UN member, whether or not it is involved in the dispute, may propose the matter for discussion by the General Assembly; or a non-UN member that is a party to the dispute may—under certain conditions—bring it to the attention of the General Assembly; or any UN member, whether or not it is involved in the dispute, may propose the matter for discussion by the General Assembly.

Despite these permissive provisions, the charter does not require the UN to hear all political disputes between states. For example, UN members are obligated to "first and foremost" seek a settlement to their conflicts on their own initiative under Article 33. (Though if they fail to take this initiative, the Security Council is empowered to call upon them to do so). The disputing parties are only obligated by the charter to report the subject to the Security Council after their efforts to reach a peaceful settlement have proven futile. Again, the UN's founders never intended for it to be the sole international body responsible for resolving political conflicts. "Nothing in the charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action," and that members participating in such regional arrangements or agencies "shall make every effort to achieve a peaceful settlement of local disputes through such regional arrangements or by such regional agencies before referring a dispute to such regional arrangements."

III. THE SECURITY COUNCIL'S ROLES OF INTERNATIONAL PEACE AND SECURITY

The Security Council's principal role is to safeguard international peace and security, and it meets whenever peace is threatened.

- In instances where peace and security are threatened, the United Nations Security Council

(UNSC) was established to assist peace processes, resolve disputes, respond to unlawful uses of force, and implement sanctions.

- Resolutions of the United Nations Security Council have been crucial in resolving conflict situations and demonstrating broad collaborative action in response to emergencies.
- The council's role is to examine the UN peacekeeping mission, consult on individual countries' issues, and monitor sanctions implementation through its committee.
- The council, with or without consent from the national government, can take action to safeguard civilians from the war by giving humanitarian organizations cross-border access.
- When a problem arises, the council recommends that the parties find a peaceful solution and appoint a special representative to assist and guide attempts to resolve the conflict.
- The United Nations Security Council's mandates range from protecting civilians to assisting in state-building efforts; the list has grown longer in order to better the strategy for long-term peace.
- The council has the authority to order the government to reduce the stockpile of particular weapons or to disarm through nuclear non-proliferation and chemical weapons annihilation.
- The UNSC has the authority to evaluate whether a threat to peace or an act of aggression exists and to recommend appropriate responses.
- The UNSC can break diplomatic ties, impose financial restrictions and sanctions, and take collective military action if necessary.
- It has the authority to draw up plans for the formation of a system to regulate weapons as well as to suggest methods for resolving such conflicts or negotiate settlement conditions.
- It has the authority to call on members to impose economic sanctions and other non-violent measures to prevent or cease hostilities.
- The UNSC has the authority to suggest new members for membership, as well as appoint the Security General to the assembly and elect the judges of the International Court of Justice. The General Assembly receives these recommendations.
- Also, look into any conflict or scenario that could cause worldwide strife.

IV. THE UN'S PEACEKEEPING ACTION'S POLITICAL BACKGROUND

Because of the inherently political nature of its role and the fact that both the Security Council and the General Assembly are essentially political bodies, not courts of law that apportion blame and impartially hand down judgments drawn from a set of established legal codes, the UN's efforts to maintain international peace and security are the most contentious aspect of its entire work. In conflicts before them, their job is to find a solution that is acceptable to all parties, based on the political realities of the international situation and in accordance with the charter's values. As a result, any local problem brought before the UN becomes a conflict involving the entire membership, as nations express divergent views on the proper action to be taken by consensus of the membership. The UN's founders intended for the full membership to be involved in all disputes as a way of assuring collective international accountability for political solutions that are both just and achievable. They established the idea of unanimity among the great nations by providing the right of veto to the permanent members of the Security Council as a counterweight to the unavoidable taking of sides. In order for this theory to work in practice, there had to be some level of cooperation among the big nations. However, as events unfolded, agreement among the great powers proved to be a mirage. The globe was in the throes of the cold war a year after the charter was signed, and the USSR and the US were locked in a power struggle. This unanticipated political event had immediate and disastrous consequences for the UN's efforts to maintain international peace and security. Every dispute between smaller nations that arose prior to the UN was absorbed into the escalating power struggle between the superpowers. As a result, the Security Council was repeatedly paralyzed by 279 vetoes between 1945 and 1990. Furthermore, the charter's prerequisites for agreement on the UN's armed forces clause were not reached.

Unlike the USSR, which relied on the Security Council and the veto to wield authority at the UN, the US relied on the backing of a majority vote in the General Assembly. To circumvent the Soviet veto in the Security Council, and because it was confident of majority support for the majority of its substantive policy goals at the time, the United States spearheaded a campaign to transform the General Assembly into a crisis-resolution body. This campaign resulted in the passage of the Uniting for Peace Resolution in 1950, which gave the General Assembly the authority to take collective action to maintain or restore peace when the Security Council was unable to act in an emergency (for the terms of the resolution, see the chapter on the General Assembly). The resolution was proposed by the United States, which was represented by Secretary of State Dean Acheson. Despite some reservations about some sections, the majority of the minor nations were anxious to participate more completely in the UN's peace

and security obligations. Only India and Argentina voted no, and only the Soviet bloc voted no, calling the resolution unlawful and in violation of the UN Charter.

In three significant crises, the Uniting for Peace Resolution has been invoked: the Korean War, the Suez Crisis, and the Congo Crisis (discussed under Case Histories below). The Security Council was deadlocked in all three cases, and action by the General Assembly was deemed necessary by the majority of members. Despite its proven effectiveness as a tool for restoring peace in these situations, the settlement appears unlikely to be used in future conflicts. Certain countries questioned the resolution's legality, as well as the General Assembly's actions taken in response to it, and felt justified in refusing to contribute to the costs of the Suez and Congo peacekeeping missions on these grounds.

The fall of the Soviet Union and the end of the Cold War profoundly altered this situation at the end of the 1980s. The whole Soviet bloc was dismantled in a matter of years, and a new era of cooperation between the US and the Russian Federation fueled hopes that the Security Council would begin to fulfill the role envisioned by the organization's founders. The political vacuum left by the collapse of the East-West stalemate, however, was quickly filled by intransigent, deadly regional conflicts and civil wars, especially in Africa and Eastern Europe. Between 1948 and 1988, 13 new operations were approved, however since 1988, more than 40 additional operations have been authorized. In 1995, the overall number of UN military and civilian personnel deployed from 77 nations reached about 70,000. By the end of 1996, sixteen peacekeeping operations had put a strain on member states' capabilities and political will to respond with people and financial commitments. In 2006, the number of active peacekeeping missions remained same at 15.

V. THE VIEW OF THE SECURITY COUNCIL ON THE ROHINGYAS

The Rohingyas are a Muslim minority in Myanmar. Myanmar's government has a history of discrimination and repression towards Muslims. They were refused citizenship under the 1982 Citizenship Law, and they are the world's largest group of stateless people. Rohingya Muslims are fleeing genocide and other crimes against humanity in Bangladesh's overcrowded camps. At least 500,000 residents have been forced to flee their homes and have arrived in Bangladesh. There have also been tales of villages being set on fire, intimidation, and looting. Women, children, and the elderly were among those who were subjected to human rights violations, including sexual violence. These shocking revelations sparked some ground-breaking worldwide initiatives. As

protests against the military continue across Myanmar, the UN Security Council has strongly denounced violence against peaceful protesters and expressed grave concern about limitations on medical facilities, civil society, labour organisations, and journalists. A group of Rohingyas in Myanmar has filed a criminal complaint against Myanmar's military and civilian officials. Despite taking a huge stride forward on the international stage, little has changed in the last three years.

VI. LIMITS ON THE COUNCIL'S LEGISLATIVE POWERS

Despite the fact that the Council's legislative action has serious legal and legitimacy issues, the production of general binding UN norms for member states is an undeniable reality; as Lvarez points out, "the risks that Hegemonic International Law poses to international law and its formal principles, such as sovereign equality, are grave, but they are obvious."

Nonetheless, the existence of a Rule of Law within the International System is proven by the way that this apparatus has evolved into a coordinated conglomerate of rules, procedures, and institutions, inspired by values that, while not perfectly uniform, represent basic postulates that capsule historical and social pacts of coexistence (possibly cooperation) between diverse subjects.

Although it may be exploited as a tool of dominance by the hegemon, the law contains both the remedy and the seed for its metamorphosis, according to the dynamics of global order, within its structure and inspirational design.

6.1 Legislative functions' limitations

Establishing a political declaration on the international legal system, in which the United Nations Charter acquires a constitutional position, is the most comprehensive and accurate way to outline the limitations of the Council's legislative power. There are two ways to look at such a perspective. On the one hand, in a substantive sense, the Charter is a "set of legal principles of paramount importance for every one of the subjects belonging to the social community ruled by it," and on the other hand, in an institutional sense, the Charter refers to the "designation of public organs, the separation of powers, and the various institutions endowed with their own competences."

Thus, special attention must be paid to how the Charter is interpreted in order to reflect the will of the international community "by including the opinion of states not represented on the Council and members of international civil society," provided that there is still a risk that "when acting with [in] the Council, the hegemon can do almost anything, while still appearing to be acting in

accordance with the Charter's vague principles and purposes."

As a result, in order to legitimize not only the production of norms through resolutions, but also the very formal declaration that gives rise to them, previous consultations must be carried out (that a situation constitutes a threat to international peace and security).

Furthermore, democratic values such as accountability, predictability, and due process should be reflected in the content of legislative resolutions given that the concept of "community interest" can be abused to produce excessive results, such as in the case of international peace and security, which is a shared concern that warrants collective action.

The second restriction proposed is to tie the Council's actions to the principle of proportionality, which goes hand in hand with this constitutional approach. When applied to the legal function, this means that "the usual ways to create abstract and general obligations must be adequate to achieve the goal for which they were implemented," in this case, the maintenance of international peace and security. Resolutions containing general binding obligations to United Nations members should be treated as emergency legislation, requiring the highest levels of preparation and monitoring, given the undemocratic manner in which they were drafted.

Third, and assuming the international system as a whole, due consideration must be given to the preservation of the integrity of international law-making, given that the current legal system cannot be overridden, especially because there are pre-established mechanisms and procedures in place to fill in the gaps or generate an evolution of international law in any case.

Finally, because the existence of peremptory norms (*ius cogens*) implies a hierarchical limitation to the obligations created by the Council, special attention should be paid to the structure of international obligations.

6.2 A Few Suggestions for Modernizing the UN System

Finally, those perspectives aimed at limiting the Council's action should be implemented without neglecting a more comprehensive process of UN System reform and/or clarification (beginning with the Charter) to achieve higher standards of equality, transparency, and inclusion:

Clarify the Charter's constitutional nature, as previously explained, as a means of developing a methodology for interpreting the actions of the UN's organs, particularly the Security Council's use of Chapter VII as a legal basis for imposing collective measures with legislative content.

Review the Council's structure and composition to create a space for deliberation on whether a decision would affect a specific group or all UN members, as in the case of a legislative resolution. This serves as a

manifestation of the Charter's Principles and Objectives, particularly the sovereign equality of States.

Define precise parameters for the Council's activity to have predictable outcomes of measures taken to comply with the maintenance of international peace and security, despite a natural margin of appreciation for executive actions requiring prompt and effective decisions.

As a manifestation of the checks-and-balances principle, as well as reconciliation with the traditional sources system, the International Court of Justice's Judicial Review was dedicated to certain acts produced by the Council.

To legitimize the system as a coordinated set of entities, specialized according to their mandate, encourages real interaction between the Council and the UN's other institutional bodies.

VII. SECURITY COUNCIL TO INTERVENE IN MYANMAR

Despite having the capacity to respond to the issue and pass binding decisions, the UN Security Council remains inactive. In February 2019, the council held a formal session to examine the Myanmar situation, with only nine votes required and no veto power over procedural items such as the council's agenda. The UN Commission study noted that the choice to resolve challenges in a way consistent with its value and principles is restricted to the United Nations due to the absence of support from the Security Council, which is frequently restrained due to its composition and system of governance. Polarization among the Security Council's five permanent members constitutes a roadblock to the Security Council's activity, posing a threat to international peace and security. The Security Council's public debate keeps an eye on Myanmar and allows members to emphasise the importance of pursuing justice for horrific crimes. The United Nations General Assembly wrote to the Security Council, urging it to review the human rights situation and take appropriate steps to guarantee accountability. Furthermore, the General Assembly stated that the Secretary-General of the United Nations should invoke Article 99 of the UN Charter, which allows him to bring to the attention of the Security Council any matter that, in his opinion, threatens international peace and security and which is linked to Myanmar's human rights violations. There is an urgent need to improve Myanmar's position since human rights violations are threatening the country's democracy and decent governance. In addition, the council must safeguard those who are in grave danger.

7.1 Recognizing the UN's Normative Power beyond Peacekeeping

The United Nations' active presence in the world through its many missions has aided in the resolution of

conflicts, the prevention of conflict, and the promotion of peace in some situations, but the underlying issues that have been recognised continue to be criticised. The UN's involvement in spreading important standards has been more successful, ranging from widening the security agenda to upholding the nuclear taboo. The Nuclear Non-Proliferation Treaty is an example (NPT). The NPT regime aided in the development of a common concept of what it meant to be respectable or legitimate to choose disarmament over being labeled as rogue states by the international community.

Even when the standard has been called into question, such as when the US recognized India as a nuclear weapons state, the nuclear non-proliferation norm's fundamental assumptions have never been substantially questioned. While critics may point to the UN's failures in the areas of nuclear disarmament and collective security, the UN's efforts have obviously restricted armament and possible escalation, indicating a huge success in maintaining global peace and security.

VIII. CONCLUSION

Following the resolution of the first issue, the research concentrated on two aspects of legislative action: first, whether the Council is legally supported by the legal system, and second, the reason for such activity. Given the dynamics of world order (defined by egalitarian horizontal relations between sovereign states) and the lack of a preliminary deliberative process associated with democracy and social inclusion, the conclusion is that this Organ is neither acting legally vis-à-vis a comprehensive interpretation of the Charter, nor is it legitimized to take such a position.

Since its inception, the Security Council has functioned as a vital platform for discussing security issues. It is a crucial organ of the United Nations Organization that is responsible for safeguarding the country's peace and security. The UNSC has a number of capabilities that allow it to oversee the implementation of sanctions through committees and to amicably resolve disputes. In the event of a war, the council may issue ceasefire orders to aid peacekeeping forces or take enforcement action, such as penalties. The veto-wielding permanent members hinder the council from adequately exercising its responsibility in ensuring the country's peace and security. Because of internal strife among UNSC members, the general assembly has contacted the council and proposed various steps to preserve citizens' rights. In addition, the Security Council should keep an eye on women, children, and the elderly, as they are the ones who suffer the most from violations of human rights.

Following these arguments, one might wonder if the Council is monopolizing authority to serve the interests

of its members or if it is generating hegemonic international law. The fact that it is legislating without legal authority is only one illustration of how humanity's history has been characterized by a constant process of power accommodation, in which international legal terminology is utilized and/or abused. The proof is in the pudding: the Council's irony in looking for "new ways to implement the international rule of law" based on "political grounds."

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