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UNITED NATIONS SECURITY COUNCIL REFORM - IS THIS POSSIBLE?

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Exercise Solo Flight

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EXERCISE *SOLO FLIGHT* – EXERCICE *SOLO FLIGHT*

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United Nations Security Council Reform – Is This Possible?

The United Nations Security Council (UNSC) was established in 1945 for the maintenance of worldwide peace and security in the aftermath of the failure of the League of Nations. What differentiates the SC from the other five organizations that make-up the United Nations (UN) is that UNSC decisions are binding to all members of the General Assembly. However, despite the power the UNSC yields, the world has been plagued with insecurity, war and conflict. The horrors of Rwanda, Somalia and Bosnia and the inability of the UN to act are not too far in our distant past. Today, Syria, Yemen, Mali, the Palestinian Territories are just a few of the regions where peace has not yet been established and human suffering is part of daily life. The politics of the UNSC prevent the UN from getting involved in certain conflicts, while other missions linger on for decades. State interests, particularly amongst the Permanent Five (P5), dictate the involvement of the Council in conflicts. As an example, China refused to extend the UN mission in Macedonia when that small state recognized Taiwan as an independent nation.¹ The United States has consistently applied the veto to condemn Israeli acts of aggression in Gaza against the Palestinians.² Thus, this ideology of collective security, envisioned by the founders, has yet to be achieved.

Reform of the Security Council has been discussed for decades. In 2004, Secretary-General Kofi Annan's High Level Panel concluded that "The Security Council needs better credibility, legitimacy and representation to do all that we demand of it."³

¹ Ruth Wedgewood, "War and Law," in *Leashing the Dogs of War*. (Washington: Institute of Peace Press, 2013), 591.

² Peter Nadin, *UN Security Council Reform*. (New York: Routledge, 2016), 137.

³ United Nations, *A More Secure World: Our Shared Responsibility*, Report of the Secretary-General's High-level Panel on Threats, Challenges and Change (New York: United Nations, 2004), 14.

The nature of conflict and the geopolitical realities within the global sphere have changed since the United Nations was created. Unfortunately, the composition of the SC has not kept pace with these changes. This essay will argue that reform of the SC is essential in addressing the credibility of the Council today. Specifically, compositional reform and enlargement of the Security Council is necessitated by the realities of power of the 21st century as are modifications to the permanent members' veto power. This paper will explore options to do both. Without such reforms, the legitimacy of the UNSC as a global institution is at risk.

History of Reform

Calls for Security Council reform have been debated for years. However, the push for reform became more apparent at the end of the Cold War. For a brief period, the animosities that existed between the East and West disappeared and the Council began to function more as it was intended to. The Soviet Union, under General Secretary Mikhail Gorbachev, chose to work more closely with the other permanent members, including the United States.⁴ The P5 cooperated and were united in response to the Iran-Iraq war, as well as in managing conflicts in Nicaragua, El Salvador, Cambodia and Namibia.⁵ The revolution in the global political environment as well as the rediscovered cooperation amongst the P5 created the momentum for Council reform. Critics began to argue openly that the composition and distribution of power in the Council reflected the reality of the world in 1945. Others complained that the Council's decisions too often reflected the will of the few who dominated the organization's proceedings.⁶ Furthermore, Japan and

⁴ Demitris Bourantonis, *The History and Politics of UN Security Council Reform*, (London and New York: Routledge, 2005), 33.

⁵ Ibid., 34.

⁶ Ibid.

Germany asserted themselves more forcefully as global economic powers, while Great Britain and France appeared to some to be in decline. UN membership also continued to increase. A significant number of developing states started demanding reform of the Council in order to address the diversity and the geographical distribution of UN members.⁷ The overriding theme was that the Council was only representative of a small fraction of the UN membership and that states would lose confidence in the Council unless it achieved a more global representation.⁸ Thus it is imperative that the UN reform in order to remain legitimate as the global body for the maintenance of international peace and security.

Throughout the early 1990's to today, the reform debate continues. The Secretary-General's High-level Panel on Threats, Challenges and Change suggested two methodologies that would see an increase in membership. Other reform models also came to light. The G4, made up of Germany, Brazil, India and Japan each sought a permanent seat and enlargement of the Council to twenty-five seats.⁹ Uniting for Consensus (UfC), made up of middle and smaller powers including Italy, Pakistan, Turkey, South Korea, Mexico, Colombia, Argentina, Malta, San Marino, Costa Rica and Canada proposed that the Council should consist of twenty non-permanent members in addition to the P5.¹⁰ The Committee of Ten Heads of State on United Nations Security Reform (C-10) that coordinates the African position on behalf of the African Union¹¹ proposed that Africa be

⁷ Demitris Bourantonis, *The History and Politics of UN Security Council Reform*, (London and New York: Routledge, 2005), 34.

⁸ *Ibid.*, 35.

⁹ Peter Nadin, "Reform" in *UN Security Council Reform* (London and New York: Routledge, 2016), 53.

¹⁰ *Ibid.*, 60.

¹¹ United Nations, General Assembly, Plenary, 69th Session, Speakers, Voicing Frustration at Lack of Progress, Call for Security Council Reforms to Reflect Current Political Realities, 2014. Accessed on 21 April 2017. <https://www.un.org/press/en/2014/ga11583.doc.htm>.

“given two permanent seats and five non-permanent seats, with all their prerogatives and privileges.”¹² As of today, the debate on Security Council reform continues with no imminent consensus.

Legitimacy and Reform

Legitimacy is important since the Council relies on both legitimacy and voluntary compliance to support and enforce its decisions.¹³ The Open Ended Working Group on Council reform stated “that the effectiveness, credibility and legitimacy of the work of the Security Council depend on its representative character.”¹⁴ Kishore Mahbubani, Singapore’s former Permanent Representative to the United Nations, echoes these same views in that “the Council’s legitimacy is most endangered by the fact that its composition is no longer perceived to be representative of the world today.”¹⁵ Dr Jerzy Ciecchanski, an expert in international relations and in particular the UN, in discussing Security Council reform, states that “to be legitimate, it has to be ‘democratic’, that is, representative of the totality of its mostly powerless membership.”¹⁶ Consequently, any reform that addresses the political realities of today and increases the representation in the Security Council will also serve to improve the legitimacy of the Council.

In addition to increasing the representativeness of the Council, there is a need to remedy the inconsistency that the Council often displays in its actions (and inaction).

¹² United Nations, General Assembly, Plenary, 69th Session, Speakers, Voicing Frustration at Lack of Progress, Call for Security Council Reforms to Reflect Current Political Realities, 2014. Accessed on 21 April 2017. <https://www.un.org/press/en/2014/ga11583.doc.htm>.

¹³ Ian Hurd, “Legitimacy, Power and the Symbolic Life of the UN Security Council.” *Global Governance* 8,1 (Jan-Mar 2002): 35.

¹⁴ United Nations, “Report of the GA Working Group on the Security Council for 1997,” accessed 28 April 2017, www.globalpolicy.org/security/reform/wk97-3.htm.

¹⁵ Sebastian Von Einseidel, David M. Malone, Bruno Stagno Ugarte, Eds. *The UN Security Council in the 21st Century*. (Boulder CO and London: Lynne Reiner Publishers, 2016), 869.

¹⁶ Jerzy Ciecchanski, “Restructuring of the UN Security Council,” *International Peacekeeping* 1, 4 (Winter 1994): 416.

This double standard of acting with resolve in some cases and failing to act in other cases adversely affects the Council's legitimacy.¹⁷ However, historically, the P5 have insisted on extensive veto power as the price of their willingness to support the UN as a whole.¹⁸ The P5 veto has drawn criticism from the general membership throughout the UN's history. The Council's historical impotence on Middle East files (thanks to a regular US veto) and more recent failure to intervene in Syria (thanks to Russian and Chinese vetoes) are prime examples. The use of the veto threatens the legitimacy of the Council as there is the perception that the Council is simply acting in national interests.¹⁹ In fact, the US Special Representative to the UN, Samantha Power stated in 2015 after Russia used its veto to block resolutions in Syria, that "and if that happened for more than Syria or Ukraine, and you started to see across the board paralysis, it would jeopardize the security council's status and credibility."²⁰ The inability of the Council to address mass atrocities is particularly detrimental to the Council's legitimacy. Thus any reform of the Security Council must take into consideration the right of veto in order to improve the overall legitimacy of the Council.

Reform of the P5

The great powers (i.e. United States, United Kingdom, USSR) that were victorious at the end of WWII insisted that they would occupy permanent seats on the SC when the Council was established back in 1945. France and China were also included for

¹⁷ Peter Nadin, *UN Security Council Reform* (London and New York: Routledge, 2016), 23.

¹⁸ Thomas G. Weiss, "The Illusion of UN Security Council Reform," *The Washington Quarterly* 26, 4 (Autumn 2003): 150.

¹⁹ Ian Hurd, "Legitimacy, Power, and the Symbolic Life of the UN Security Council," *Global Governance* 8, 1 (January 2002): 48.

²⁰ The Guardian. Russian Vetoes are Putting UN Security Council's Legitimacy at Risk, says US. Accessed on 22 April 2017. <https://www.theguardian.com/world/2015/sep/23/russian-vetoes-putting-un-security-council-legitimacy-at-risk-says-us>.

political reasons. The majority of the P5 at the time were capable of providing the UN with the resources (i.e. military force) needed to maintain international peace and security and thus claimed the privilege of deciding where and how those forces should be employed. As indicated by Kofi Annan in 2004, “They were expected to shoulder an extra burden in promoting global security.”²¹ However, over the last seventy years, the geopolitical situation has changed. Despite the emergence of new powers, the composition of the P5 has remained unchanged. As Kofi Annan stated, “If we don’t change the Council, we risk a situation where the primacy is challenged by some of the emerging powers.”²² It is not just the number of Council members that is a problem today, the composition of the P5 merits reform.

Such challenges have in fact occurred. In 1992, the Council imposed sanctions on Libya in response to the Muammar Gaddafi regime’s support of terrorist groups and the 1989 bombing of UTA Flight 772. Despite the legal obligation to comply, the former Organization of African Unity (OAU), which is presently the African Union, passed a resolution stating that it would not enforce certain sanctions since its members perceived them as unfair.²³ Libya used the OAU’s position in its diplomatic efforts to delegitimize the sanctions and the Council’s legitimacy more broadly.²⁴ Gaddafi implied that his country was being punished in the absence of meaningful judicial review. As the political scientist Ian Hurd has argued, this strategy of resisting authority by undermining an

²¹ United Nations, *A More Secure World: Our Shared Responsibility*, Report of the Secretary-General’s High-level Panel on Threats, Challenges and Change (New York: United Nations, 2004), 79.

²² The Guardian, “UN Security Must be Revamped or Risks Irrelevance: Kofi Annan Warns,” accessed 12 April 2017. <https://www.theguardian.com/world/2015/sep/23/un-security-council-must-be-revamped-or-risk-irrelevance-kofi-annan-warns>

²³ Sebastian Von Einsiedel, David M Malone and Brune Ugarte, Eds. *UN Security Council in the 21st Century*. (Boulder, CO: Lynne Rienner Publishers, 2016), 160.

²⁴ Ian Hurd, “Legitimacy, Power, and the Symbolic Life of the UN Security Council,” *Global Governance* 8,1 (January 2002); 46.

organization's legitimacy can be profitable "when the point is not to challenge the existing authority head on but to argue that the existing authority is not being true to its own professed values."²⁵ Even though there has been a relatively high degree of compliance with the SC's decisions, the above example highlights the concerns that could arise should the P5 continue to be increasingly less representative. As Kishore Mahbubani, Singapore's former representative at the UN has indicated: "It is inevitable that the emerging powers will become more and more critical of the P5 and its composition."²⁶

The P5's Position to Reform

In response, the P5 have declared that they support Council reform, including the additional of emerging powers.²⁷ In 2010, both France and the United Kingdom issued a joint statement supporting the G4 position on reform.²⁸ However, by 2015, the two countries were no longer united. France indicated that it was open to granting the veto to new permanent member while the U.K.'s position remained against any extension of the veto.²⁹ China continues to be ambiguous towards any statements it makes regarding Security Council reform. However, there are two very clear positions that China asserts. First, China will not support any reform that removes the veto power. Furthermore, China will not support any Japanese bid for permanent membership.³⁰ China has also stated that any enlargement of the permanent membership should include increasing the

²⁵ Ian Hurd, "Legitimacy, Power, and the Symbolic Life of the UN Security Council," *Global Governance* 8,1 (January 2002); 47.

²⁶ Sebastian Von Einsiedel, David M Malone ad Brune Ugarte, Eds *UN Security Council in the 21st Century*. (Boulder, CO: Lynne Rienner Publishers, 2016), 160.

²⁷ *Ibid.*, 162.

²⁸ Peter Nadin, *UN Security Council Reform*. (New York: Routledge, 2016), 64.

²⁹ *Ibid.*

³⁰ *Ibid.*

representation of developing countries, specifically African countries.³¹ Russia, similar to China, does not support any veto reform including extending the veto to new members.³² Russia has indicated that it would support Japan, Germany, India, Brazil, South Africa and Egypt for permanent membership.³³ This seems to suggest that Russia may support the BRIC position. Russia has also positioned that enlargement of the Security Council should not exceed the low 20s, preferably 20 and that overall consensus in the General Assembly (and not just the two-thirds majority) would be necessary to pass any Charter amendments required for reform.³⁴ The United States is open to expansion of permanent members but would not support expansion exceeding the low-20s.³⁵ The United States is conscious that a larger Council would be less effective and would be difficult to dominate.³⁶ However, the U.S. would not support any change to the structure of the veto since enlargement would need to preserve the Council effectiveness.³⁷ Additionally, the United States' position on new permanent members is that rather than being regionally or geographically based, new permanent members should contribute and be committed to the maintaining international peace and security.³⁸ Thus there appears to be at least one commonality between the positions of the current P5 and that is enlargement, provided it does not result in an ineffective Council. However, the expansion of veto powers to additional permanent members remains contentious amongst the current P5.

³¹ Peter Nadin, *UN Security Council Reform*. (New York: Routledge, 2016), 64.

³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ United Nations, General Assembly, Plenary, 69th Session, Speakers, Voicing Frustration at Lack of Progress, Call for Security Council Reforms to Reflect Current Political Realities, 2014. Accessed on 21 April 2017. <https://www.un.org/press/en/2014/ga11583.doc.htm>.

³⁶ Sashi Tharoor, "Security Council Reform: Past, Present, and Future," *Ethics & International Affairs* 25, no. 4. (2011): 402.

³⁷ Peter Nadin, *UN Security Council Reform*. (New York: Routledge, 2016), 66.

³⁸ *Ibid.*

Redistribution of Existing Seats

Redistributing the Council's existing permanent seats to better reflect the legitimacy is one consideration for reform. Redistribution would result in removing a permanent member and replacing them with a new candidate, preferably from a region that is currently not represented (i.e. Africa, Middle East). Britain or France could be considerations since both are representative of Europe and neither state can profess to be a global economic power today.³⁹ Their vacant seats could then be re-allocated to a new global or emerging power. Another methodology of redistribution of seats would be the allocation of permanent seats to regional associations (i.e. the European Union, the Organization of American States, the African Union, etc.).⁴⁰ This initiative would increase the representativeness of the Council. However, both of these recommendations are not without its problems. First, Britain and France would veto any change for obvious reasons. Both countries, along with the United States, are key penholders on the Council's agenda and are prominently involved in drafting key resolutions.⁴¹ Furthermore, both countries are significant contributors to peacekeeping operations. Finally, neither France nor Britain has utilized their veto since 1989, contrary to the other P5 members and traditionally, both countries are disinclined to being the sole member casting a veto.⁴² If any of the three remaining permanent five members, China, Russia or the United States were considered for replacement and reallocation of seats this would be extremely detrimental to the UN as an institution. First, the US is the largest contributor

³⁹ Helen, Leigh-Phippard, "Remaking the Security Council: The Options." *World Today* 50, 8/9 (August/September 1994): 170.

⁴⁰ Nico Schrijver, "Reforming the UN Security Council in Pursuance of Collective Security," *Journal of Conflict & Security Law*, 12/1 (2007): 134.

⁴¹ Sebastian Von Einsiedel, David M Malone ad Brune Ugarte, Eds. *UN Security Council in the 21st Century*. (Boulder, CO: Lynne Rienner Publishers, 2016), 128.

⁴² *Ibid.*

to the UN's budget, thus the removal of the US from the SC is a show-stopper. Second, both China and Russia are economic or military powers and thus it would not make sense to target their seats for reallocation. The P5 are not in favour any reform that would lead to a loss of power or abolishment of their veto. Thus the replacement option is not ideal and may prove impossible to implement.

Enlargement of Permanent Membership

One consideration of addressing P5 reform is the concept of power. Franklin D. Roosevelt once stated “that great power involves great responsibility.”⁴³ Thus increasing permanent membership should consider “power and the ability and willingness to deploy it in the service of global responsibility.”⁴⁴ This is particular relevant in today's security environment where the threats of pandemics, cyber espionage, terrorism, intra-state conflict and climate change are all issues that require more than just military might. To address the evolving security threats today requires not just military power but also diplomatic, economic, and technological capabilities from a range of actors.⁴⁵ Thus in order to fulfill its international peace and security mandate in the 21st century, the UNSC requires the capabilities and support of numerous states.⁴⁶ The Security Council should be enlarged to reflect the current geopolitical realities and the rising powers of today. However, determining which member should be granted permanent status presents a major challenge. Reasonable criteria for permanent membership were identified by Kara McDonald and Stewart Patrick who authored *UN Security Council Enlargement and*

⁴³ Franklin Delano Roosevelt, quoted in “F.D.R. and the Stuff of His War,” New York Times, 3 February 2006, accessed on 25 April 2017. <http://www.nytimes.com/2006/02/03/arts/design/03fdr.html>.

⁴⁴ Kara C. McDonald and Stewart M. Patrick, “UN Security Council Enlargement and U.S. Interests,” *Council on Foreign Relations Council Special Report 59* (December 2010), 9.

⁴⁵ *Ibid.*, 9

⁴⁶ *Ibid.*

U.S. Interests. These criteria included states with a “history of political stability”, a commitment to democracy and states that were able to use diplomatic and economic power (sanctions).⁴⁷ Additional criteria for inclusion were states that had the military force that could be deployed globally to enforce security and who were contributors to the UN’s regular and peacekeeping budget.⁴⁸ Finally, in terms of diplomacy, McDonald and Patrick stated that contenders for permanent seats should have the diplomatic capability to work within the UNSC and be recognized as a global good citizen.⁴⁹

In the 2004 Report of the Secretary-General’s High-Level Panel on Threats, Challenges and Change, Kofi Annan indicated that greater involvement in Security Council decision making should be granted to those nations who contribute most.⁵⁰ Considering financial contributions, the top five 2016 contributors to the UN were: United States (28.57%), China (10.28%), Japan (9.68%), Germany (6.39%) and France (6.31%).⁵¹ Japan was the second largest financial contributor to peacekeeping operations in 2014⁵² and 2015.⁵³ Germany was also the fourth largest financial contributor in 2014/2015.⁵⁴ Both Germany and Japan have expressed interest in permanent seats. Nevertheless, determination by financial contribution alone is problematic since the

⁴⁷ Kara C. McDonald and Stewart M . Patrick, “UN Security Council Enlargement and U.S. Interests,” *Council on Foreign Relations Council Special Report 59* (December 2010), 21. .

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ United Nations, *A More Secure World: Our Shared Responsibility*, Report of the Secretary-General’s High-level Panel on Threats, Challenges and Change (New York: United Nations, 2004), 80.

⁵¹ United Nations, Financing Peacekeeping. Accessed on 4 April 2017. <http://www.un.org/en/peacekeeping/operations/financing.shtml>

⁵² Ministry of Foreign Affairs of Japan. Japan’s Contribution to Peacekeeping, accessed 21 April 2017, <http://www.mofa.go.jp/policy/un/pko/pdfs/contribution.pdf>.

⁵³ Yuki Tatsumi and Hana Rudolph, “Japan’s Evolving Role in the UN,” *The Diplomat*. March 15, 2016. accessed 21 April 2017, <http://thediplomat.com/2016/03/japans-evolving-role-in-the-un/>

⁵⁴ Providing for Peacekeeping. Peacekeeping Contributor Profile: Germany. Accessed on 4 April 2017. <http://www.providingforpeacekeeping.org/2014/04/03/contributor-profile-germany/>

allocation of permanent seats to either Germany or Japan would frustrate Africa and Latin America, neither of which currently has permanent representation on the Council.⁵⁵

When considering top troop contributing nations to peacekeeping missions as criteria for permanent membership as per Kofi Annan's recommendation in the Secretary-General's High-Level Panel on Threats, Challenges and Change, the picture is quite different from financial contributors. Since 2010, the primary troop contributing nations are all non-Western (Bangladesh, Pakistan, India, Ethiopia and Rwanda) and all developing.⁵⁶ However, India is also an emerging power and coupled with its troop contributing abilities would seem to have a valid argument for a permanent seat. Despite having the strongest base of support in the General Assembly there are numerous roadblocks that would hamper India's chances of success.⁵⁷ First, China has historically had a difficult relationship with India.⁵⁸ Furthermore, the long conflict between India and Pakistan that dates back to the foundation of both states and involves an established military observer group to monitor the ceasefire agreement exists today. If India became a permanent member, the ability of the Council to negotiate future Chapter VI missions would be compromised.⁵⁹ While enlargement of the Council to include new permanent members is seen as necessary, the mechanism to make it happen is not as clear.

One argument against enlargement is that an increase in permanent seats would result in an increase in the number of vetoes that could be used in the Council. This would undermine the Council's effectiveness. Two possible solutions to address this

⁵⁵ Helen Leigh-Phippard, "Remaking the Security Council: The Options," *World Today* 50, 8/9 (August/September 1994), 169.

⁵⁶ UN Website. Troop and Police Contributors 1999-2006 Archive. Accessed on 4 April 2017. http://www.un.org/en/peacekeeping/resources/statistics/contributors_archive.shtml

⁵⁷ Peter Nadin, *UN Security Council Reform*. (London and New York: Routledge, 2016), 58.

⁵⁸ Sebastian Von Einsiedel, David M Malone and Brune Ugarte, Eds *UN Security Council in the 21st Century*. (Boulder, CO: Lynne Rienner Publishers, 2016), 367.

⁵⁹ Peter Nadin, *UN Security Council Reform*. (London and New York: Routledge, 2016), 58

issue are the implementation of a combined veto or the creation of a tiered structure. The amendment of the voting procedures so that a combined-veto must be utilized will be discussed later in the paper. The second option, the creation of a tiered structure of membership, would result in new permanent members not having the right to veto. Even though such a solution would perpetuate, if not increase, inequality within the Council, several contenders for permanent seats have indicated that it would be acceptable.⁶⁰ Despite these limitations, enlargement appears to be the best option for permanent seat reform that will balance the geopolitical realities of today. However, any enlargement reform also needs to consider regional representation since any reform that included France, the United Kingdom and Germany would be viewed negatively by regional groups who currently have no permanent representation on the Council.⁶¹ Viewed practically, limited enlargement of the permanent membership could address full regional representation enhancing the legitimacy of the Council.

Enlargement Considerations: Budgetary Reform

Further to the issue of power, when the P5 were provided with the veto there was an expectation that they would also take on greater responsibilities to match the greater privilege bestowed upon them.⁶² One consideration of addressing permanent membership reform is to increase the budgetary contribution from each of the permanent members. While each permanent member is expected to contribute to the UN budget, each permanent member should also be expected to pay an additional premium for their

⁶⁰ Helen Leigh-Phippard, "Remaking the Security Council: The Options," *World Today* 50, 8/9 (August/September 1994): 169.

⁶¹ *Ibid.*

⁶² Sebastian Von Einsiedel, David M Malone ad Brune Ugarte, Eds. *The UN Security Council in the Twenty-first Century*. (Boulder, CO: Lynne Rienner Publishers, 2016), 167.

special powers and privilege.⁶³ An additional percent (i.e. 5%) of the total budget could be considered. If any permanent member is unable to make such a payment, they would automatically be disqualified from permanent member status. While this budgetary initiative of increased contribution would be opposed by the U.S. (since it already is the primary financial contributor to the UN and could be excluded from this policy change), this initiative deserves further investigation, particularly for the remaining and new permanent members. Additionally, permanent members would also be responsible for providing the initial security forces should a new conflict break-out. Thus the permanent members would shoulder a far greater burden and responsibility for the ability to have this great power.

History of the Right to Veto

In accordance with the UN Charter, Article 57, Security Council resolutions require nine out of fifteen votes on procedural matters and nine out of fifteen votes plus the agreement of the five permanent members for any other issue. This rule is represented as the right to veto. The right to veto has been a contentious issue and dates back to the creation of the UN at Dumbarton Oaks. Some delegates objected to the veto as it was seen to be inequitable and because it could prevent Council action when required. On the other hand the viability of the UN depended on the collaboration of the great powers and the veto was a necessary proponent of the SC. The great powers back in 1945 would not have found the UN so desirable if there had not been an established mechanism built-in

⁶³ Sebastian Von Einsiedel, David M Malone ad Brune Ugarte, Eds. *The UN Security Council in the Twenty-first Century*. (Boulder, CO: Lynne Rienner Publishers, 2016), 167.

that would prevent any of the permanent five from being outvoted on issues directly impacting on their national interests.⁶⁴

Even though the veto undermines the principle of sovereign equality amongst states, removing it would not be easy. Such a change would require a UN Charter amendment, something that is impossible without the support of all five permanent members. This is clearly not going to occur since the veto protects the national interests of the permanent five and ensures that no decisions are taken that are contrary to their wishes. Despite this inequity the veto does have several benefits. First, the veto does provide some control over the number of operations that the UN participates in which is important given how extended the UN is in peacekeeping and peace support operations.⁶⁵ Secondly, any loss of veto could have political and financial consequences if one of the P5 distanced itself from the UN and withdrew support.⁶⁶ Therefore, the retention of the veto in principle is probably in the best interests of the P5 and the UN organization as a whole.

While abolishing the veto is not a good idea, reform on how the veto can be utilized should be considered. As stated previously, the veto can be particularly damaging to legitimacy when the vast majority of the Council expect action and the P5 fail to act.⁶⁷ Two proposals of voting reform should therefore be considered. First, the use of a combined-veto could be implemented; in other words, there would be a requirement for

⁶⁴ Demitris Bourantonis, *The History and Politics of UN Security Council Reform*, (London and New York: Routledge, 2005), 7.

⁶⁵ Helen Leigh-Phippard, "Remaking the Security Council: the Options." *World Today* 50, 8/9 (August/September 1994): 169.

⁶⁶ Ibid.

⁶⁷ Thomas G. Weiss, "The Illusion of UN Security Council Reform." *The Washington Quarterly* 26, 4 (Autumn 2003): 150.

more than one negative vote from the P5 to veto a SC resolution. Secondly, member states could place limits on how and when the veto could be utilized.

The practice of various P5 members using their position to further national rather than global interests has occurred quite frequently. This is accomplished by the use of the veto by any of the P5. Thus the power that the veto yields is extraordinary. However while necessary in the past, the veto today “is seen as a disproportionate power and impediment to credible international action to crises.”⁶⁸ A combined veto would limit the ability of any one permanent member (particularly should enlargement of the permanent membership occur) to use the veto to prevent the passage of a SC resolution. While this would address some concerns over the disproportionate power of individual P5 members, such a solution is not without its drawbacks. First, the P5 are unlikely to allow the power of their veto to be lessened through the use of a combined-veto. Second, the combined-veto may actually have a negative effect on cooperation amongst the permanent members and could potentially lead to serious divisions amongst the permanent members.⁶⁹ Since the combined-veto would require two or more permanent members, any resolution that was passed, contrary to one of the permanent members who could not garner support from another permanent member, could negatively impact on the working relationships within the permanent members of the Council. Furthermore, the casting of a veto has certain political consequences and the practice of using the veto has declined since the Cold War ended which may suggest that political costs of using the veto are rising.⁷⁰ While the use of the combined-veto would address the perceived inequity of the

⁶⁸ Peter Nadin, *UN Security Council Reform*. (London and New York: Routledge, 2016), 134.

⁶⁹ Helen Leigh-Phippard, “Remaking the Security Council: the options.” *World Today* 50, 8/9 (August/September 1994):170.

⁷⁰ *Ibid.*, 202.

permanent members, in principle the implementation of a combined-veto is problematic. The current P5 will not support this significant of a change to their power and national interests. Thus this method of veto reform is not achievable.

The second option of voting reform that should be considered is the suspension of the use of the veto for crimes relating to mass atrocities and crimes against humanity. The conflicts in Libya and, most recently, Syria, have stirred animosity in the council over the failure to act to respond to these atrocities.⁷¹ This change to voting procedures was first proposed in 2001 by the International Commission on Intervention and State Sovereignty (ICISS) which recommended that the P5 not veto any resolution that authorized military force to protect civilians.⁷² In September 2005, at the World Summit to commemorate the sixtieth anniversary of the UN, the recommendation from ICISS to protect civilians against mass human atrocities was approved by well over a hundred state leaders and governments in attendance.⁷³ This agreement resulted in the responsibility to “protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”⁷⁴ Additionally, the world leaders decided that through the UN, the “international community had the responsibility to use other means, including diplomatic and humanitarian tools, to help protect populations vulnerable to these atrocities.”⁷⁵

Unfortunately, the deaths of hundreds of thousands of civilians and the use of chemical weapons in Syria underscores that despite the agreement of one hundred and fifty nations,

⁷¹ Peter Nadin, *UN Security Council Reform*. (London and New York: Routledge, 2016), 111.

⁷² *Ibid.*

⁷³ Gareth Evans, “The Solution: From ‘The Right to Intervene’ to ‘The Responsibility to Protect’” in *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Washington, DC: Brookings Institution Press, 2008), 46.

⁷⁴ UN General Assembly “World Summit Outcome 2005,” Resolution A/RES/60/1 (October 2005) accessed 2 May 2017, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>.

⁷⁵ *Ibid.*

the responsibility to set aside the veto is not achievable. Thus formal amendment of the voting within the Charter to address the “responsibility to protect” and crimes against humanity or a more non-binding “gentlemen’s agreement” are required. In order to make a determination as to whether crimes against humanity have been committed a judgement would be required. The French propose that a proportion of member states would be required to call on the Secretary-General to make this determination on whether or not human atrocities were being committed.⁷⁶ If the Secretary-General determines that the “responsibility to protect” (R2P) is applicable, then any veto for a SC resolution for intervention would be prohibited. This transformation of the veto for R2P “would allow us to preserve the fundamental credibility of the Security Council, which should be a pillar of peace and stability. It would convey the will of the international community to make the protection of human life a true priority.”⁷⁷ Given the SC’s inability to act in these situations, reform of voting procedures to abolish the use of the veto and to prevent crimes against humanity is just too great to ignore.

Conclusion

The Security Council is largely seen as the most powerful and influential of organization of the international system. The Council’s legitimacy is therefore important since it requires the commitment of numerous nations to enact the decisions that it makes. If the Council is seen as illegitimate, support for its decisions may not be forthcoming. The largest push for Security Council reform is the transformation in international politics since 1945 and the advance of emerging powers. The Security Council is no

⁷⁶ Peter Nadin, *UN Security Council Reform*. (London and New York: Routledge, 2016), 112.

⁷⁷ Laurent Fabius, “A Call for Self-Restraint at the U.N.,” *New York Times*, 4 October 2013. Accessed 26 April 2017. <http://www.nytimes.com/2013/10/04/opinion/a-call-for-self-restraint-at-the-un.html>.

longer seen as representative of the global political realities today and reform is required to address this deficiency.

This paper examined two factors that are critical to the Security Council's legitimacy: permanent membership and voting procedures, in particular the use of the veto. This paper proposed two methods of addressing permanent membership. First, the redistribution of seats of current permanent members which would result in the removal of current permanent members was examined. While, this would address representativeness, this proposal would be difficult to implement since none of the current P5 would support such an initiative. Second, enlargement of the Council to consider additional permanent members to increase representatives amongst the permanent members was also discussed. While this proposal may be more achievable, the determination of who gets a seat at the table is not without controversy. Defining permanent membership criteria would be beneficial.

Voting procedures and the veto is the second key issue that affects the Security Council's legitimacy. Although the veto is currently viewed as creating inequality amongst sovereign states, the outright elimination of the veto currently held by the P5 could result in the departure of key stakeholders from the UN. Thus, two reform initiatives were proposed. First, the implementation of a combined-veto requiring two or more permanent members votes in order to reject a SC resolution. Secondly, the abolishment of the use of the veto for resolutions addressing humanitarian crises and crimes against humanity was examined. Both reform proposals have their advantages and disadvantages. However, amending the voting process for humanitarian reasons is one

area that requires further investigation given the mass atrocities that are being committed in a number of conflicts today.

Reforming the Security Council is a necessity but represents a major challenge for the United Nations. The status quo is no longer acceptable and impacts the legitimacy of the Council. “The strongest argument for reform is that any change which better reflects the political realities of 1990’s rather than of 1945 will enhance the legitimacy of Council decisions.”⁷⁸ While the UN, including the SC, is an organization created by its members, reinforcing legitimacy will only be achievable once member states commit to the reform process and start looking at the overall mandate of maintaining international peace and security vice their own national self-interest.

⁷⁸ Helen, Leigh-Phippard, “Remaking the Security Council: The Options.” *World Today* 50, 8/9 (August/September 1994), 168.

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