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“The UN Security Council and the quest for reform”

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ABSTRACT

When the UN was established in 1945, it took into consideration the power equation of the time, and the UN Security Council, therefore, was a child of his time. With the passage of time the world has changed significantly and the power equation today no longer corresponds to that of post-world war 2 world. Nevertheless, the Security Council has remained the same with little or no substantive change. Criticism has followed on this turn of event, and a demand for change has been heard from nations around the globe. Different groups have been established to lobby for change on different points ranging from the increase in membership, curtailment of the veto right, an overhaul of the working methods, etc. In this paper, I take a deep and critical look at several proposals being pushed forward. Furthermore, I examine the position of each of the permanent members of the Security Council on the issue of Reform and, in particular, their support of individual nations. The topic of concern is also the right of veto and its need of reform. Reforming a deeply political organ is not an easy feat due to the diverging views and interests between nations. Nevertheless, the Security Council must become a "living organism" capable and willing to reform itself when need be and not become a tool or instrument of a state or a group of states for their policy goals.

Keywords: UN; Security Council; veto; reform; G-4; S-5; UfC; AU; EU; G-20; US; China France; UK; Russia; Italy; ATC; Pakistan; Turkey; Germany

АПСТРАКТ

Кога ОН беа основани во 1945 година, тие ја разгледаа равенката на моќта во тоа време, а Советот за безбедност на ОН, според тоа, беше дете на своето време. Со текот на времето, светот значително се промени и равенката на моќ денес повеќе не одговара на онаа од Втората светска војна. Сепак, Советот за безбедност остана ист со мали или никакви суштински промени. Критиките го следеа ваквиот пресврт на настаните и повикот за промени се слушна од нациите ширум светот. Формирани се неколку групи кои лобираат за промени во различни точки, почнувајќи од зголемување на членството, намалување на правата на вето, ревизија на методите на работа итн. Во овој документ длабински ги анализирам и критички различните предлози. Понатаму, ја испитувам позицијата на секоја од постојаните членки на Советот за безбедност по прашањето на реформацијата и, особено, нивната поддршка за одделни нации. Загрижувачко прашање е и правото на вето и неговата потреба од реформи. Реформирањето на длабоко политичко тело не е лесен подвиг поради различните ставови и интереси меѓу нациите. Меѓутоа, Советот за безбедност мора да стане „жив организам“ способен и подготвен да се реформира кога е потребно и да не стане инструмент или инструмент на држава или група држави за свои политички цели.

Клучни зборови: ОН; Совет за безбедност; вето; реформи; Г-4; S-5; UfC; AU; ЕУ; Г-20; САД; Кина
Франција; ОК; Русија; Италија; АТС; Пакистан; Турција; Германија

ABSTRAKT

Kur OKB-ja u themelua në vitin 1945, ajo mori në konsideratë ekuacionin e fuqisë së kohës, dhe Këshilli i Sigurimit i OKB-së, pra, ishte një fëmijë i kohës së tij. Me kalimin e kohës, bota ka ndryshuar ndjeshëm dhe ekuacioni i fuqisë sot nuk korrespondon më me atë të Luftës së Dytë Botërore. Megjithatë, Këshilli i Sigurimit ka mbetur i njëjtë me pak ose aspak ndryshime thelbësore. Kritika pasoi këtë kthesë të ngjarjeve dhe një thirrje për ndryshim u dëgjua nga kombet në mbarë botën. Janë krijuar disa grupe për të lobuar për ndryshime në pika të ndryshme duke filluar nga rritja e anëtarësimit, kufizimi i të drejtës së vetos, rishikimi i metodave të punës, etj. Në këtë teze, unë analizoj në thellësi dhe në mënyrë kritike propozime të ndryshme të parashtruara. Për më tepër, unë shqyrtoj qëndrimin e secilit prej anëtarëve të përhershëm të Këshillit të Sigurimit për çështjen e reformës dhe, në veçanti, mbështetjen e tyre për kombet individuale. Çështja shqetësuese është edhe e drejta e vetos dhe nevoja e saj për reform. Reformimi i një organi thellësisht politik nuk është i lehtë për shkak të pikëpamjeve dhe interesave të ndryshme midis kombeve. Megjithatë, Këshilli i Sigurimit duhet të bëhet një “organizëm i gjallë” i aftë dhe i gatshëm për të reformuar veten kur është e nevojshme dhe jo të bëhet instrument i një shteti apo grupi shtetesh për qëllimet e veta politike.

Fjalë kyçe: OKB; Këshilli i Sigurimit; vetoja; reforma; G-4; S-5; UfC; AU; BE; G-20; SHBA; Kinë Francë; MB; Rusia; Italia; АТС; Pakistani; Turqia; Gjermania

Introduction

When the UN was created in 1945 it took into consideration the power equation of the time, and the UN Security Council, therefore, was a child of his time. With the passage of time the world has changed significantly and the power equation today no longer corresponds to that of post-world war 2 world. Nevertheless, the Security Council has remained the same with little or no substantive change. Criticism has followed on this turn of event, and a demand for change has been heard from nations around the globe. Different groups have been established to lobby for change on different points ranging from the increase in membership, curtailment of the veto right, an overhaul of the working methods, etc.

The rationale behind these calls for change is that UN SC must take into account the realities of today and a reform is necessitated by its innumerable failures to perform the duties it was established to carry, mainly to preserve international peace and security by managing crisis around the world. And serious failures to do so can bring the world to the precipice of another violent confrontation.

Since 1945 the membership of the United Nations has increased dramatically from 51 member-states to around 193. This was brought to as a result of decolonization and liberation movements around the world fighting for self-determination. Most of these states are African and Asian. When we look at 1/4 and 1/5 of the nation's composing the UN is either African or Asian. Nevertheless, when it comes to their representation on the Council we see a lack of proper representation.

States overall agree on the point that reform must take place in order for the Security Council to retain its authority and legitimacy but the stumbling block in front of them seems to be on how to carry this reform. The ongoing debate has generated a wealth of literature on the subject and points generally to a lack of consensus and political will by the actors involved. States differ in their goals when it comes to the reform; with some trying to land a permanent

seat of their own and gain the veto power for their own self-centered interest while others advocate for genuine reform.

In this paper, we intend to look at several proposals being pushed forward, namely the G-4 proposal, the United for Consensus, the African common position, and the S-5 proposal as well as some others. These proposals have gained the most attention of member-states. Also, we intend to look at the position of each of the permanent members of the Security Council on the issue of Reform and, in particular, their support of individual nations to become permanent members of the UN Security Council.

The other topic of concern will also be the right of veto, which is enjoyed by a few privileged nations in the Security Council in conjunction with a permanent seat. The issue of the veto has caused great controversy since its inception; small and medium powers vehemently opposed it on the ground that it will lead to abuses and a form of domination of the P-5, but the victors of the war who would then become the P-5 argued that its inclusion is a condition for their approval of the Charter. Because of this, the smaller nations gave up on this requirement, but nowadays the issue of the veto is again resurfacing due to the abuses, especially by Russia and the United States. Several proposals have been put forward ranging from the abolition or elimination of it altogether, curtailment to specific circumstances to the qualification. We intend to discuss this issue and give at the end our own opinion of the matter.

Chapter I

1. A general overview of the United Nations

1.1. History of the UN

The United Nations is an assemblage of sovereign-nations united together for their common benefit, to enjoy peaceful relations, promote international cooperation and maintain international peace and security. In terms of its importance it is the forerunner with a global reach whereby almost all of the nations of the world are members of. In the history of mankind it is the only truly global organization, in the sense that its functions and actions cover wide variety of matters of international concern. It has played and continues to do so, massive influence in global affairs, and in one way or another has managed to preserve peace and avoid a global war. It was established primarily as cooperative enterprise, and just like any other intergovernmental organization, its founding instrument stipulates the objectives, functions and its internal organization. Having defined what the United Nations is, I will now move on to discuss how this organization came to be and I will also touch briefly upon the influence which the league had and why it overall failed.

It seems like a rule of nature that after every major conflict a new development is made in the international arena. It is a grim outlook but nevertheless somewhat accurate. This is certainly true in the case of World War I which marked the establishment of the project League of Nations and then was followed by World War II and the birth United Nations. The devastation of the war imposed on statesmen and politicians the need of great powers to come together and form some kind of machinery to establish enduring international peace. The League of Nations was the embodiment of the principle of collective security, which entailed that collective rather than individual action, should be taken against a transgressor. It presented an ambitious scheme to prevent recurrence of war. Unfortunately this attempt to establish order amidst all the chaos and enhance international cooperation with the League of Nations ended in failure. But it did advance the discussion and produced lessons from which we can learn and implement changes. In this respect the belief and the practical need to create a new system did not vanish. If peace and security was to be truly established a system to deal with international confrontation was a must. During the Second World War with these thoughts in mind the leaders of Britain and the

US met on August the 14th, 1941, where they issued a joint declaration whereby they set out their post-war vision of the world. This joint declaration of principles must not be seen as a treaty or a final statement of purposes. In this declaration the two leaders affirmed some common principles of international justice like: no aggrandizement; no territorial changes without the freely-expressed wishes of the peoples concerned; the right of every people to choose their own form of government; and equal access to raw materials for all nations. In this declaration, among other things mentioned, it made explicit reference in its eighth paragraph to the “*establishment of a wider and permanent system of general security.*”¹ This served as a hint; a message of hope and foreshadowed for what was later to come. Churchill wanted a stronger reference to an “*effective international organization*” but the American side conscious of the prevalent isolationist sentiment were against any wording overly specific.

In 1942 the countries at war with the axis came together under one umbrella and embraced the principles laid out in Atlantic Charter in a document which became known as the “Declaration by United Nations”. The term United Nations which we have become so familiarized to use today to refer to this international organization, originated from this document. The term itself was coined by the US President Roosevelt and it referred to the war alliance. When the San Francisco conference was convened only the states that subscribed to the principles of the declaration, and who had declared war on the Axis were invited.

A later conference 1943 in Moscow was held between the Big Four. The conference produced a Joint Four-Nation Declaration in which the parties “*recognized the necessity of establishing at the earliest practicable date a general international organization, based on the principle of the sovereign equality of all peace-loving States, and open to membership by all such States, large and small, for the maintenance of international peace and security.*”² This conference was significant since it made an explicit and specific public pledge and reference in an official document the consensus between the great powers for establishing an international organization to keep the peace after the war. Steps then were taken to establish national commissions of experts which would work to produce draft articles for the Charter.

¹Atlantic Charter, August 14, 1941

²The Moscow Conference; JOINT FOUR-NATION DECLARATION October, 1943

To effect the commitments taken in the Moscow Declaration the big four set up committees to draft proposals and articles for the charter of the new system of general security to be established in order to take the place of the League of Nations. This was done with a conference convened in Dumbarton Oaks where were laid down the blueprint of the structure that the new organization was to have and its roles, powers and responsibilities. The issue of voting produced much controversy and was shelved for a later conference. This was then discussed in Yalta where the Great Powers reached a consensus and paved the way for the San Francisco conference to convene. The untimely death of the US president caused panic that the next conference might be postponed or shelved but his successor President Truman assured everyone that it would go as planned.

In San Francisco the delegates of 50 nations convened on April 25, 1945 to work on the Dumbarton Oaks proposals and the amendment made in the Yalta Conference. The process of drafting the Charter resembled that of a constituent body drafting a constitution, and the rules provided for freedom to discuss freely while decisions were taken by a two-thirds majority. At the conference middle and small power theoretically had the power to undue the work done by the great powers but the danger of their non-participation acted as a deterrent, and was far too great to risk it. Ultimately the great powers positions prevailed on matters of primary importance and were not affected, while on secondary issue concessions were granted to middle and small powers. The completed Charter was signed on June 26th, 1945 by the delegates representing their states.

In principle the UN is a different organization from the League but it is undoubtedly influenced by it. The founders were very careful to avoid any association or resemblance fearing that it would undermine its legitimacy. The League was seen as a complete failure by some and the implication that the new organization would have been seen as a continuation of that was dangerous. The League of Nations, the predecessor of the United Nations, provided a blueprint to the allies for establishing a new system of collective security. Regardless of the many failures the League had also moments where it did perform some of the tasks assigned, but unfortunately this was selective and had much to do with the states involved. Failures provided lessons were things could improve and retain what worked in the new endeavor. One of the major reasons on why the League failed was that it was never truly universal. President Wilson managed to

convince European powers on the need to establish an organization to limit the use of force but failed to secure Congressional approval for the US to join and take an active role in it. This was a major blow to the credibility of the new found organization. Other nation's withdrawal also contributed to the diminished status. This weaknesses the sponsors of the San Francisco conference confronted head on by inviting representatives of nations from different continents with the outcome that 80% of the world's population was represented. The League of Nations influenced the basic structure of the UN by providing a blueprint to follow. It provided a simple foundation: an Assembly, a Council, Secretariat and an International Court, but with one caveat a greater concentration of security responsibilities to the Council were the Great Powers would dominate.

In conclusion, I agree with the statement that *“United Nations does not represent a break with the past, but rather the continued application of old ideas and methods with some changes deemed necessary in the light of past experience.”*³

³Goodrich, Leland M. “From League of Nations to United Nations.” *International Organization*, vol. 1, no. 1, 1947, pp. 3–21. JSTOR, <http://www.jstor.org/stable/2703515>. Accessed 11 Oct. 2022.

1.2. Principal organs of the UN

Article 7 par.1 of the UN Charter establishes the main bodies of this new organization, while in paragraph 2 leaves open the possibility to further establish “*subsidiary organs*” to assist and aid when it “*may be found necessary*” the main organs to achieve their charter objectives. Referring further to the Charter the authority to establish such organs is granted upon the General Assembly, the Security Council and the Economic and Social Council. The subsidiary organs must not be confused with specialized agencies which are created by international treaties and are brought into relationship with the UN through an agreement. Given the fact that the purpose of this work is to act as an introductory note for the later discussion to follow and not act as an exhaustive and complete study of the UN structure. Only the main organs will be dealt briefly and dwelling about the many subsidiary organs would be beyond this thesis. The principal organs established by the Charter are as follows: the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat. Among these, the Security Council and the General Assembly are of fundamental importance given the nature of this organization.

The General Assembly is the main deliberative, policy-making, and representative body of the United Nations. In terms of its composition, it encompasses all of the members of the organization, which total today 193. Each of the 193 Member-States sends five representatives and enjoys a vote of equal value.⁴ By giving each member one votes only it recognizes and maintains the sovereign equality of states. The right to vote can be taken away in some circumstances such as if enforcement actions are taken against a member and it has been suspended from membership or if it fails to meet the monetary requirements. Since its inception the membership has increased as a result of decolonization, and majority of the members now comes from Asia and Africa. Every year the Assembly convenes in New York in the month of September and subsequently whenever circumstances arise which makes a session required to discuss and debate issues of international concern, where heads of states and delegations usually come and deliver addresses to the Assembly; it provides a platform to the world. It offers a unique space, enhancing multilateral diplomacy and discussion on any global issue that falls

⁴ Art. 8

within the ambit of the United Nations Charter. The main role of the Assembly is to “discuss any questions or any matters within the scope of the Charter” Given the fact that the resolutions are not legally binding on member-states it is of great importance to secure as wide of a consensus as possible in such a way to ensure legitimacy and steer international public opinion in favor of a particular action or rule and as a corollary, a wider implementation. Ian Hurd rightfully argues that “*the extent that GA resolutions have a significant effect in world politics it is due to their political influence rather than to the legal obligations that they carry.*”⁵ No states want to be seen as a pariah and if a great number of states conform it would force them in a way to conform. Decisions of the Assembly are categorized in two main groups or categories first being “*important matters*” which require majority of two-thirds of the Members present and voting to be adopted, and second “*other matters*” which can be adopted by a simple majority⁶. Article 18 provides a listing of these important questions which are, inter alia “*recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.*” As we can see the requirement of unanimity which was provided in art. 5 of the League has been dropped in favor of a more democratic way. The Assembly, as we said previously, can discuss any matter falling within the scope of the United Nations and issue recommendations to states, members and non-members of the Organization, as well as to other UN bodies. But its functions are not only limited to discussing and deliberating it can also decide among other things: on the adoption the Organization's budget and distribute the expenses among the Member States (Art. 17), on the admission of new members (Art. 4), on the suspension and expulsion of existing members (Art.5 and 6), on who gets to seat as an elected member of the Security Council (Art. 33), on the election of the members of the economic and social council of the United Nations (61), it can initiate studies and make recommendations on a variety of issues (international co-operation on political,

⁵Hurd Ian. International Organizations : Politics Law Practice. Cambridge University Press 2011.page105.

⁶ Art. 18 UN Charter

economic and social issue; codification of the law, promote human rights etc.); election of some of the members of the trusteeship Committee (Art. 86).

The Economic and Social Council of the United Nations is one of the main bodies of the United Nations, governed by chapter X of the UN Charter (Articles 61-72). It is made up of 54 member-states, which are elected every 3 years by the General Assembly of the United Nations; it acts as a center of coordination and consultation of the UN activity in the field of economic and social cooperation and the promotion and protection of human rights. In these fields, it partly shares its functions with the General Assembly. It lacks any executive or legislative powers. Its existence is due to the fact that it doesn't suffice to only set up institutions and norms to deal with war and peace, but it is also imperative to address the underlying economic and social causes. Its purpose in a sense it's to give life to article 55 and 56 of the Charter where it imposes on members as a duty to take joint and separate action in co-operation with the Organization for the achievement of its economic and social objectives.

Through specialized commissions in different geographical areas, ECOSOC promotes economic development and assistance to less developed countries and initiates studies and issues reports on the economic, social and health issues that emerge from time to time in different parts of the world. It plays an important role in coordinating relations between the UN and the specialized institutions of the United Nations.

The International Court of Justice is an integral part of the United Nations as "*its principal judicial organ*" (Art. 92). The Statute of the Court is annexed to the Charter of the United Nations and it is based upon the Statute of the Permanent Court of International Justice. In essence is a continuation. The rationale behind the establishment of such a body must be looked in the objectives set out in the Charter, mainly to resolve disputes peacefully and to avoid the use of force to international settle differences. It is situated at the Peace Palace in The Hague (Netherlands). All members of the United Nations are ipso facto parties to the

Statute of the International Court of Justice⁷. The Court is composed of a body of fifteen independent judges, elected by the General Assembly and the Security Council acting “*independently of one another*”(Art.8). To be elected a candidate needs to secure an absolute majority in both the Security Council and the General Assembly. The judges serve for a period of nine years, 1/3 of them are elected every 3 years, to make sure that a majority who is well acquainted with the pending cases and procedures is always present. For a candidate to stand for election he must meet certain qualifications: 1) he must be a person of high moral character and 2) must meet the qualification required to the highest judicial office of his home country or to be an eminent authority on International law.⁸ The composition of the International Court of Justice must also ensure the representation of the major forms of civilization and the main legal systems⁹.

As a general principle States are not under any obligation to submit their disputes to adjudication by the ICJ. They can't force other states to appear before the court. The jurisdiction of the Court is based on the consent of states. This consent can be given either generally and in advance or on an ad hoc basis after a dispute emerges. The Court can resolve disputes between states (contentious competence) or formulate advisory opinions at the request of the authorized bodies (consultative competence). The contentious function constitutes the most important prerogative among those exercised by the International Court of Justice. Decisions of the Court have no precedential value and apply only to the states parties to it.

The Secretariat is one of the main organs of the United Nations. It is mainly tasked with administrative and political functions. The official UN website contains a list of these functions which entail of the following:

- *“To gather and prepare background information on various issues so that government delegates can study the facts and make recommendations;*
- *To help carry out the decisions made by the different organs of the United Nations;*

⁷Article 93 of the UN

⁸ Art. 101

⁹ Art. 9

- *To organize international conferences;*
- *To translate speeches and distribute documents into the UN's official languages;*
- *To keep the public informed about the work of the United Nations.*"¹⁰

The Secretary-General seats as its head. The UN website uses flowery words and describes him as an "*Equal parts diplomat and advocate, civil servant and CEO, the Secretary-General is a symbol of United Nations ideals and a spokesman for the interests of the world's peoples, in particular, the poor and vulnerable among them.*"¹¹ He submits yearly reports to the General Assembly on the work of the UN. He is appointed by the General Assembly on the recommendation of the Security Council for a period of five years. The candidate for Secretary-General must receive the blessing of the Security Council to be elected; therefore most come from neutral and small nations. The Secretariat is composed of international public servants from all over the world. The staff of the United is selected on a merit based system, with due regard to geographical representation. They give support to the other organs of the UN, executing their programs and policies. Individuals who have been selected must take an oath of loyalty to the UN and are under an obligation to discharge their functions properly not follow instructions from their state of origin. The main headquarter is situated in New York, but it also maintains a presence in many other cities such as Addis Ababa, Bangkok, Beirut, Geneva, Nairobi, Santiago, and Vienna. Secretariat is divided into departments each having a particular role to play. The Secretary-General is appointed by the General Assembly upon the recommendation of the Security Council (Article 97). He is entitled to bring to the attention of the Security Council any matter that in his opinion may threaten the maintenance of international peace and security (Article 99). The Secretary-General and his staff are under an obligation to be independent and not to act at the direction of any Government or outside authority (Article 100).¹² A likewise obligation is placed on members-states to respect and not try to influence the Secretariat in the discharge of its duties.

¹⁰"Secretariat." United Nations, United Nations, <https://www.un.org/en/model-united-nations/secretariat#:~:text=The%20Secretariat%20carries%20out%20the,who%20provides%20overall%20administrative%20guidance>.

¹¹ Ibid

¹²United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, available at: <https://www.refworld.org/docid/3ae6b3930.html> [accessed 11 October 2022]

The Trusteeship Council is a defunct organ of the United Nations. Its purpose consisted in supervising the administration of trust territories in their process of gaining independence and self-government. It made sure that the administering state took into consideration the interest of the people. It was intended to facilitate the transition from a dependent territory into independence. The territories placed under this system consisted of the colonies held by the Axis powers during the Second World War and those which had been under the supervision of the League of Nations. These territories lacked a functioning government. In total only eleven territories were placed under this system. In 1994, when Palau became a sovereign nation-state, the Council having fulfilled its purposes, suspended its activity. Palau was the last of the eleven territories under trust. With an amendment effected to its Rules of Procedure it is no longer required to meet annually. On paper it still exists as one of the main bodies of the United Nations, but its role in the future is uncertain. There are divergent views on whether to reform or eliminate it. Any attempt to eliminate it would require an amendment to the Charter, and currently there is not political will to do so because of the danger that it might open other question for debate. In 1997 the former Secretary-General of the UN Kofi Annan made proposal to reform and repurpose it “*as the forum through which Member States exercise their collective trusteeship for the integrity of the global environment and common areas such as the oceans, atmosphere and outer space.*”¹³

1.3. Functions and powers

The United Nations is primarily concerned with five main global problems, those being:

- *Maintain International Peace and Security*
- *Protect Human Rights*
- *Deliver Humanitarian Aid*
- *Support Sustainable Development and Climate Action*
- *Uphold International Law*

First and foremost, the United Nations is primarily concerned with the maintenance of peace and security. It achieves this function by taking action to prevent conflict (preventive

¹³U.N. Secretary-General, *Renewing the United Nations: A Programme for Reform*, ¶ 85, U.N. Doc. A/51/950

diplomacy), helping states which are involved in a dispute to find a compromise and understanding (mediation), sending peacekeepers and helping to build conditions for peace to thrive (peace-building). The main organ which is tasked with security issues is the Security Council. The General Assembly plays a complementary role. The Security Council can identify and determine if there is a security issue which might threaten peace and take action. It has at its disposal a variety of tools to settle disputes peacefully. Under Chapter 7 of the United Nations Charter the Security Council is empowered and given the prerogatives to take enforcement measures, if the other tools fail to maintain or restore international peace and security. Depending on the goal it wants to achieve sanctions can take a variety of forms such as embargo, travel ban, military action, economic sanctions etc.

The promotion and protection of human rights is another function of the United Nations. The Charter makes specific mention to human rights at least seven times. The direct reference to human rights in the Charter symbolizes an inherent understanding of the value of human beings, internationalized the matter and created a new field of law. This activity is realized in two ways: first, by enacting legal instruments and second, by taking direct action on the ground. In 1948 the General Assembly, the deliberative body of the UN, enacted a resolution titled “the Universal Declaration of Human Rights”, a document first of its kind enunciating basic civil, political, social and economic rights with the purpose of serving “*as a common standard of achievement for all peoples and all nations*”¹⁴, and which later on acted as a model and paved the way for other instruments to come to life. The UN since then has sponsored several conventions which deal with specific sets of rights. It has established bodies to monitor the implementation of those conventions. Democracy as a system of government is also encouraged, regardless of the fact that International law does not oblige states to take a particular form of government.

The United Nations provides humanitarian relief in cases of emergencies when the nation-states are incapable of doing so, such as a pandemic. It serves as center for nations to

¹⁴United Nations General Assembly. The Universal Declaration of Human Rights (UDHR). New York: United Nations General Assembly, 1948.

coordinate appropriate responses to natural or man-made crisis. A number of entities exist to for this purpose such as:

- United Nations Development Programme (UNDP)
- UN Refugee Agency (UNHCR)
- The United Nations Children's Fund (UNICEF)
- World Food Programme (WFP)
- World Health Organization (WHO)

The UN is also involved in environmental policies and advocates for a sustainable development. In 2015 it laid out its development agenda which is intended to promote a model which is sustainable for this generation and for the others to come. Climate change has had an effect on every nation; it is becoming a global emergency from which no nation can escape form. For reason such as these UN is encouraging goals and measure to meet to soften the adverse effects resulting from it.

Since its founding the UN has had a tremendous impact in the development and implementation of International law. The Charter itself codifies the core principles of international relations which states must take into consideration. The ICJ, the judicial arm of the organization, has been instrumental in clarifying points of law, settling disputes peacefully, and in developing and establishing new principles of law. Examples, such as the recognition of the legal personality of international organizations in the Reparation for injuries case come to mind. The UN has established various tribunals throughout the years to deal with persons charged with heinous crimes such as genocide, crimes against humanity and war crimes. In 1947 the Assembly established the International Law Commission with the task to “*initiate studies and make recommendations for the purpose of ... encouraging the progressive development of international law and its codification.*”¹⁵ The Commission has drafted a number of conventions in various areas of the law and has contributed in codifying rules of customary law.

¹⁵Article 13, paragraph 1(a), of the Charter of the United Nations

Chapter II

2. The Security Council

2.1. Background of the Security Council

It is the pre-eminent political organ of the United Nations concerned with security issues¹⁶ and has the authority to issue binding resolutions on the membership. This obligation is placed on the membership by the Charter to implement the decisions of the Council unlike that of the other organs who can only issue non-legally binding recommendations. The Security Council has a smaller membership in contrast with the Assembly. It is composed of two categories: permanent and non-permanent members. A special position has been carved out for the great powers on the Security Council, endowed with permanent seats and the right to veto most decisions. The permanent members are named in the Charter, being the Republic of China, France, the USSR, Great Britain, and the United States. Their privileged status is the result of the outcome of World War II. They essentially are the victors of World War II and the driving force behind the establishment of the UN. Non-permanent members get elected by the General Assembly for a term of 2 years, half of them retiring every year. When considering candidates for membership the Assembly must take into consideration, in accordance with the Charter, the contribution of the members *“to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.”*¹⁷ Each member sends only one representative. The Security Council is designed to work continuously, and for that reason each member must be represented at all times at the seat of the organization. In some circumstances states which are not members of the Council can participate in the discussion without a vote, if the Council believes that the interest of the said state are affected or when it is part of a dispute which is being dealt by it.¹⁸ In 1965, with an amendment to the Charter, the membership of the Council was increased from eleven to fifteen, with the addition of new non-permanent seats. The presidency of the Council is held on a rotatory basis for a period of one month by each member. Most of the meetings of the Council are held in private, informal and off-the-record.

¹⁶The Charter puts this burden on this small Council where decision can be taken in a more effective way.

¹⁷ Art. 23

¹⁸ Articles 28, 31, 32.

In many instances the Council either selects the Secretary-general or appoints a special representative to negotiate on their behalf under a framework that the Council establishes settlements between parties in conflict areas. Any state, regardless if it is a member of the UN or not, can bring a matter to the attention of the Security Council if it is a threat to peace and Security.

During most of the period of the Cold War the Council was paralyzed. The US and Soviet animosity made it impossible for decisions to be taken. The only exception was in the Korean War when the Soviet boycotted the work of the UN to show its discontent of the lack of representation of China the US used this moment to pass a series of resolutions to establish and operate a UN force to come at the aid of South Korea and repel a North Korean invasion. Since the 80 the work of the UN has picked up steam, and it has been successful in approving dozens of operations through in many crisis areas. The fall of the Iron Curtain breathed new life, ending its previous deadlock.

Since the 1990s, a series of failures have called into question the effectiveness of the UN and the credibility of the Security Council as a decision-making body. Bosnia and Rwanda are two such examples of failure with catastrophic consequences. In the 21st century, the work of the Council has left much to be desired. With new blocks forming and decision vetoed in favor of client states the call for a reform is inevitable.

The composition of the Council has caused significant controversy, with critics arguing an overhaul of it. Their main argument is that it doesn't take into account the realities of today's world. First they argue that the composition reflected the power structure which emerged after Second World War, and second much of the world at that time was under colonial rule. No due regard was given to fair representation. Since then the world has changed dramatically with new actors appearing in the world stage which did not exist at the time. Former enemies have amended their ways, and some existing powers can no longer justify their presence there. Reform efforts have focused mainly on the working methods and a possible increase in membership, either by adding additional members (permanent and non-permanent) or creating a new category of members.

Permanent members diverging views and interest in recent times have prevented the Council to deal effectively with major conflicts and crisis, such as Syria, Libya, Myanmar, Ukraine etc. *“Instead of great power unanimity, on which the United Nations was predicated, the postwar years have brought major rifts and disagreements among the most powerful states of the world.”*¹⁹

2.2. Functions and Powers, Procedure

As we said earlier, the greatest burden for safeguarding peace and security rests within the Council, resulting in the unique responsibilities and decision-making powers conferred on it. The way that the Council deals with security questions is on a case by case basis. It has an assortment of tools at its disposal, with great leeway on which to deploy on a particular case. Whether or not conflict has broken out will be a decisive factor contributing on which instruments will be put to use. The Security Council has conciliatory powers, that is, those that concern disputes and situations that are submitted to it or coercive powers. Chapter IV is dedicated to the peaceful settlement of disputes; in principle this chapter defines a function of the Security Council of a conciliatory nature. Chapter VII, on the other hand, concerns action to protect peace, assuming that this is threatened or violated, enables the Council to undertake a series of measures - involving or not the use of force - aimed at restoring peace.

If a situation is brought to the attention of the Council where conflict is probable but has not yet occurred, the Council will demand of the parties involved to try to negotiate a settlement in a peaceful way. And in this regard, it might further support them by formulate some principles to guide the negotiations, investigate and try to mediate, might appoint an ad hoc special envoy to deal with the matter, or might ask the Secretary-General to act as a bridge to assist peace efforts. The Council itself has the right to determine if such an act has occurred, and if the peaceful effort to settle a dispute have succeeded or failed. In essence, the

¹⁹ Perkins Howard page 358

conciliatory functions concerns situations that could only potentially disturb peace, situations whose continuation is likely to endanger international peace and security.

In cases where the conflict is already underway, the Council's main objective in this case is to cease hostilities and, in this regard, it could order an immediate ceasefire to prevent further escalation, send military observers and peacekeepers to monitor the ceasefire, ease tensions and try to act as a buffer between the warring parties. In cases where these measures fail the Council might take more radical actions such as: economic sanctions, embargos, travel bans, severance of diplomatic relations, blockade or collective military action. Unlike chapter VI, chapter VII concerns ongoing international crises → existence of a threat / violation to the peace or an act of aggression (Art. 39). The Security Council has the power to act in order to maintain international peace and security and, according to Art. 24, it also has the power to define a situation as illegal with respect to the Charter. So what does this mean is that it enjoys wide discretion in deciding whether an issue actually presents any danger to peace and security and therefore deserves to be dealt with; it is the Council that determines whether its seriousness is sufficient to justify its activation under chapter VI or VII. There is a legal duty to abide by the decision of the Council, and this is laid down explicitly in Article 25 where it says that “*The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.*” The legal acts enacted by the Security Council are known as resolutions. These can also be recommendations and therefore have no legal binding effect or mandatory decisions. So what this means is that the actions of the Council in this chapter are not only recommendations but also real decisions pursuant to article 41, i.e. acts that bind the states to which they are addressed, and also resolutions of an operational nature pursuant to article 42, i.e. resolutions in which the Council does not address itself to states but decides to take certain actions itself.

Under article 29 of the UN Charter the Security Council has the right to set up subsidiary bodies when it deems necessary to attain certain goals in regard to its objective of peace and security. Under this power the Council has established to name a few: the International Criminal Tribunal for the former Yugoslavia, International Criminal Court for Rwanda and various committees on a multitude of topics (terrorism, non-proliferation, sanctions etc.).

Every member of the Council enjoys one vote only. But the weight of that vote is not the same. Decisions are divided into 2 categories: procedural matters and substantive. In procedural matters in order for a decision to pass at least 9 members of the Council need to vote in favor, regardless if permanent members vote in favor or against. Which issues are procedural sometimes is a matter of controversy in itself. In the case of substantive matters the decisions are taken by a vote of 9 members in favor including the affirmative vote of the five permanent members. Permanent members enjoy the veto power, which means that they have the authority to block a decision from being passed. In cases where there is disagreement on whether an issue is procedural or substantive the matter itself is substantive. In case a permanent member decides to abstain in voting, the decision will pass and be considered valid. The Security Council functions on a continuous basis, therefore all members are required to appoint permanent representatives at the UN Headquarters.

Chapter III

3. Reform of the Security Council

3.1. Criticism and the Main Problems Causing the Need to Reform

The Security Council was designed to act in the name of the United Nations, but instead what we have is a Council who dominates the affairs of the organization as a whole. The Council can take up any global issue under its authority and prevent other organs from stepping in. It has exclusive authority over the matter. The General Assembly with a defacto amendment of the Charter by has appropriated the right to issue a resolution which is not legally binding. The Council can itself decide if a matter is worthy of its consideration regardless of the factual situation. The self-interest of the permanent members dictates the policy and politics of the Council. Unlike the other organs the council enjoys considerable power which might be abused. This has led to criticism on its work such as the statement by the South African Republic which questions its impartiality *“In some parts of the world, especially in Africa, the Council was seen as a disinterested and immovable body that was only roused to action when conflicts around the world became so brutal and bloody that they could not escape the attention of the selective world media.”*²⁰

The lack of participation of member states of the United Nations in the meeting of the Council is a serious problem. According to the Charter and the Rules of Procedure when the interest of a member state are involved they are entitled to take part in the meeting and discussion, even when there is an interest involved. But most of the meetings of the Council are held in the absence of the parties involved and sometimes in complete disregard of their interest.

The right of veto is one most problematic issue concerning the Council, and it has been as such from the beginning. The controversy revolved around whether or not to add it. Other members of the UN argued against it but the Soviets and the Americans wouldn't budge. The

²⁰Assembly Adopts Text on Bosnia and Herzegovina; Takes Up Security Council Reform U.N. Doc. GA/9688 (1999) (Statement by Representative of South Africa).

Soviets were worried that they will be outvoted in the Council by the west while the US argued that a potential approval of the Charter by the Senate was conditional on the acceptance of the right of veto.

Permanent members usually abuse the veto and block decisions that threaten their interest or the interest of client states. Since the end of the cold war, there has been a reduction in the use of the veto at least in the beginning, but now it is picking up momentum. Russia and the United States are the main perpetrators who rely substantially on veto power. The US on a constant basis blocks any resolution which criticizes or denounces Israel's behaviors, while Russia has been shielding the Syrian regime and its allies. In Libya, the US abused the Council to remove forcefully the regime of the time which it didn't approve of. The Russian on the other hand in concert with France have provided political as well as military backing to a faction that is loyal to them in the same conflict.

The issue of the reverse veto provided a dangerous precedent during the Gulf War when the United States and Britain cited previous resolution of the Council to take further military action regardless of the peace effort of a group of states to put an end to the conflict. By relying on loopholes and dubious interpretations they argued that in order for a previous decision to be cease its power an new one must be adopted. At the same time they made clear their intention to veto and block any decision to do so, in essence using the Council to achieve their personal goals.

Most of the discussions and debates of the Council take place behind closed door, without any record available of the meetings or the voting. Many decisions are also taken in informal meetings where they prepare everything beforehand and the public discussions are just a show. An interesting fact is the existence of a new smaller Chamber which is a imitation of the Council where these informal meeting are usually held. In many cases the Council when it decides an issue it rarely even takes into account the views and input of the states concerned. It usually is just political bargaining between the powerful members of the Council. The resolutions are prepared beforehand with due diligence given on the text and informal

consensus is already before an actual meeting of the Council takes place. This has the result of watering down the content to please the permanent members in order to avoid them vetoing it.

A lack of “checks and balances” on the work Council is another argument in favor of reform. The decisions of the Council do not undergo any review by other organs of the United Nations, therefore are not revisable. Other organs such the Assembly can issue a simultaneous resolution on the same matter but it is not legally binding, nevertheless it does produce political and moral weight still insufficient to act as a reliable balance. The same applies to the Advisory decisions of the World Court which are also not binding. The only thing which might have the semblance of a “check” is the refusal of members of the organization to enforce sanctions or military action or even provide troops, but even this is not satisfactory since the Members themselves have under their control the most powerful militaries that exist can take actions on their own. There needs to be some “system of checks and balances” in place to prevent the Council from taking actions which might be at the detriment of the international community.

3.2. Reform History

In the beginning, the Security Council had eleven members, five permanent and six elected. In the sixties this changed to include new non-permanent members to reflect an increase in membership. In 1965, after obtaining a two-thirds majority of all then members of the United Nations, and the blessing of the permanent members of the Security Council, resolution 1990²¹ was adopted. This resolution had two consequences: first, the composition of the Council was increased from eleven to fifteen, with new additions in the category of non-permanent members second, the majority required to pass a resolution in the Council increased

²¹ The Resolution provides that:

“Further decides that the ten non-permanent members of the Security Council shall be elected according to the following pattern:

Five from African and Asian States;

One from Eastern European States;

Two from Latin American States;

Two from Western European and other States.”

from 7 to 9. As for the power of veto, it remained unchanged under the reserved exclusivity of permanent members. This resolution also increased the ECOSOC membership. The reason behind this reform was the increased membership of the United Nations which had doubled since 1945. Originally the United Nations had fifty states but in 1965 that number had increased to 115. During this period new nations had gained independence from their former colonizers mainly from Africa and Asia. Since then, 57 years later, there have been no further changes in either the composition or the veto power. And the main argument that critics point out is that it no longer reflects geopolitical realities by disregarding the rise in membership to nearly 200 states.

In 1979, at the request of a group of nations led by India, the question of “*equitable representation on and increase in the membership of the Security Council*” became a topic on the agenda of the General Assembly. At the same time, some new proposals were tabled to remedy the under-representation of non-aligned and developing countries in the Council. It provided for an increase in non-permanent membership from 10 to 14 and a new formula for geographic representation. At the same time, another proposal from the Latin American countries recommended an increase to twenty-one. None of the proposals received any significant support. The issue was then shelved until 1991, when a group of nations re-emerged it.

In 1992 some nations took the opportunity of the first ever meeting of heads of state to raise the issue of reform, criticizing above all the structure and the working method. The impetus of this was the end of the cold war and emergence of new challenges in the field of human rights, development and the environment. During this time a global consensus was emerging on the need for reform.

In 1993 the General Assembly enacted resolution A/RES/48/26, establishing an “Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters related to the Security Council” with the purpose “*to consider all aspects of the question of increase in the members of the Security*

Council, and other matters related to the Security Council.”²² Since then, the Assembly has held numerous meetings in both formal and informal settings to discuss the issue. It worked on a consensus based decision-making rule.

In 2005 the Secretary General of the United Nations, before a meeting, publishes “*In Larger Freedom: towards development, security and human rights for all*” (A / 59/2005) which provided two models of reform of the Council. Both models envisioned an increase in membership from fifteen seats to twenty-one. Model A provided an increase in permanent membership with the addition of six new seats without the right of veto and three non-permanent seats with a two-year mandate. In contrast to Model A, Model B supported no increase in permanent membership and instead establishes a new category of eight seats for a renewable four-year period. In addition to this, it also provides an additional non-permanent seat for atwo-year period (non-renewable). At the same time, before the summit, three groups of nations as well proposed alternative models of reform. The Group of Four (G-4 made up of the following nations: Germany, India, Brazil and Japan) supported an increase in both categories of membership. In the category of permanent members, they proposed an increase of six new permanent seats, essentially four reserved for them and two from the African continent. In the category of non-permanent seats, on the other hand, an increase of four new seats was expected.²³ As for the right of veto, they were willing to give it up for a period of time. Another group, founded in the 1990s as a counterweight to the G-4 known as United for Consensus, has come up with its own proposal. According to this proposal, there should be no increase in permanent members but instead a doubling of non-permanent seats, six from African States; five from Asian States; four from Latin American and Caribbean States; three from Western European and other States; two from Eastern European States.²⁴ As for the African states, they also formed a group of their own and advocated for the same prerogatives and privileges as the current permanent members. Their proposal envisioned an increase from fifteen to twenty six new members, with addition to both categories. According to this formula, Africa should be allocated two permanent seats and two non-permanent seats. This

²²Resolution A/RES/48/26

²³ Resolution A/59/L.64

²⁴ Resolution A/59/L.68

position is in accordance with the "Ezulwini Consensus" adopted by the African Union.²⁵ No consensus was reached on any of these proposals but instead a document emerged where it stated that member states “*support early reform of the Security Council...in order to make it more broadly representative, efficient and transparent and thus to further enhance its effectiveness and the legitimacy and implementation of its decisions.*”²⁶

After fifteen years of negotiations within OEWG, in 2008, the General Assembly adopted resolution 62/557 “to commence intergovernmental negotiations (IGN) in informal plenary of the General Assembly.” This document instituted a new consultation mechanism based on intergovernmental negotiations. It narrowed down the differences and identified five core pillars of the negotiating process: “*categories of membership to the Council, the question of the veto, regional representation, the size of an enlarged Council and working methods, and the relationship between the Council and the General Assembly.*”²⁷ The IGN was set up to try to bring together different points of view and produce a text on which to base the ongoing debate. The first meeting was held in 2009 and since then the GA has renewed its mandate every year. Most of the discussions to date take place there. In spite of the fact that the IGN has been meeting annually a common text has been elusive. Nevertheless, this marks a shift from just an oral exchange of views towards a text-based negotiation agreement. The debate there has been described slow and repetitive and has overall has caused a sense of reform fatigue. This has been a cause for states to turn to other forums to address their grievances. The most controversial issues remain the categories of new Security Council members and the power of veto.

In 2015, in an effort to address the nonexistence of a common text, the president of the intergovernmental negotiations introduced a framework document delineating the key areas of the reform. This document contained views and positions of groupings and individual states on the issue of reform, with the intention of bringing states together towards a text-based negotiation. Unfortunately, this did not have the desired effect and new documents have been introduced since then without significantly dealing with positions contained in the

²⁵ Resolution A/59/L.67

²⁶ 60/1. 2005 World Summit Outcome - UNGA resolution A/RES/60/1 2005

²⁷ resolution 62/557

aforementioned document. In 2016, another document, Elements of Convergence, was published with a similar intent to move the reform process forward. A revised edition of that document materialized in 2019.

3.3. Obstacles to reform

The Charter of the United Nations is a rigid document that requires a difficult and complex procedure to modify it. Any change to the Charter essentially means a change in the fundamental law of the world community. The drafters were aware that the need for reform may arise in the future, so they added provisions on how that reform will look like and how it can take place, but they made it very difficult to do so. On this point, the permanent members have a say in any reform. According to article 108 of the Charter, amendments must be adopted by two thirds of the members of the General Assembly and ratified by two thirds of the members of the United Nations, including all the permanent members of the Security Council.²⁸ Article 108 provides them with a weapon that they can wield to prevent any reform process by “nullifying” the voice of the majority. The veto remains a significant obstacle on the way to reform. No permanent member is willing to give up his or her privileged status in the organization and there is no provision in the Charter to restrict this right so that it is not abused.

Another factor hindering reform is a kind of political paralysis due to serious disagreements among members over who gets a seat and what kind of seat. Some even argue

²⁸ Article 108 UN Charter

“Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council.”

against an increase entirely on the grounds that it will not improve its efficiency. In essence, it may become too big to deliberate effectively and at the same time too small to actually reflect membership. As for new members for a permanent seat under what criteria should they receive a permanent seat? Should they have a veto? What about the gap between developed and undeveloped nations? Another point to consider is that the legal and political elements cannot be disentangled. Nevertheless, states are usually more affected by political consideration than by legal. And these political considerations overall will guide and control the ultimate result of any amendment process. Internal politics and public opinion, likewise international politics are a hard web to navigate through. And extremist factions in domestic politics in powerful states have been known to advocate for a minimization of international legal obligations and a retreat from the Charter obligations entirely.

As their international influence diminishes, nations like Britain, France and even Russia increasingly rely on any institution at their disposal such as the Security Council to amplify their diminishing voice. This gives them a say on issues that would normally fall outside their spheres of influence. This results in many cases where action has to be taken in one conflict zone and is used as a bargaining chip to obtain concessions on another point. As we can see, permanent members guard their privileged position with a kind of jealousy and are unwilling to give up their position easily.

In conclusion reform per se is not unattainable, but rather a very difficult and strenuous process which might not produce the satisfactory results intended. And the likelihood of it failing is quite high. The legal and political obstacles are hard to overcome. Regardless, the institutional structure should not be seen as a mistake or oversight but a deliberate reflection of the political power of the time. As such reform should reflect the realities and power structures of today.

Chapter IV

4. Reform Proposals

Here we will discuss some of the reform proposals which have garnered the most attraction from the membership.

4.1. The G-4 Model

The G-4 is a lobby group, or a grouping of states, whose main purpose is to advance forward their aspirations of acquiring a permanent seat at the UN SC. This lobby group is composed of 4 nations namely, Germany, India, Japan, and Brazil. The common thread uniting them is their bid to permanent membership. Their proposal encompasses a reform in the composition, veto and working methods of the Council. It advocates a reform of the composition in order to embrace new permanent-members as well non-permanent members. Their proposal envisions the addition of permanent seats assigned to themselves and two (at minimum) to African countries²⁹. As regards the category of non-permanent seats, the proposal provides for the addition of four new slots, increasing the overall composition of the Council from fifteen to twenty-five. On the issue of the veto, the G-4 is willing to abandon it for a period of 15 years until a conference is held which would review and clarify the question, but argues that in principle permanent members should have the same obligations, rights and responsibilities. Therefore, we can assume that they see veto power as an essential attribute of permanent membership. And lastly, as for the working methods they argue for more transparency. The G-4 proposal is the most precise out of the others since it outlines permanent seats not only to regional groups, but also to specific countries.

They G-4 members each support each other's bid for a permanent seat in the UN. They argue that the Council needs to take into consideration the new realities of the 21st century. They see it as not adequately equipped to deal with new questions of international peace and security. And a reform would prevent it from becoming obsolete. They lay claim to a

²⁹ Resolution A/59/L.64

permanent seat on a number of bases ranging from the geographical size, wealth (GDP), financial contribution to the UN Budget, contribution to the UN Peacekeeping Missions, population, regional influence, military prowess, etc. India and Brazil are the most populous countries in Asia and the Americas, while Japan and Germany are some largest donors of the UN. For the year 2020-2021³⁰ Japan contributed 8.56% to the United Nations budget, while Germany 6.09%, both together amounting to 14.65%, which is greater than the contribution of the three permanent members currently in the Council: France, Russia and the United Kingdom which amounts to 14.44%. India is the fourth biggest contributor of troops.³¹

Some of the members of this group have been successful in obtaining the support of current permanent members of the Council as well as a considerable number of other nations as well, through diplomacy, economic aid, political maneuvering, etc. In spite of that, they have fallen short of securing the two-thirds majority in conjunction with the support of all the P-5. In an unexpected turn of events China and US agreed to work together to defeat the proposal by lobbying their allies against it.³² They have also been under intense scrutiny by their regional rivals, who also have established a group of their own, Uniting for Consensus, and advocate for a different reform of the Council which is in direct opposition to theirs.

The case of Germany and Japan and their exclusion from the Council is tied to the outcome of World War II, where they were considered enemy nations and thus prevented from joining. Since then both countries have reformed themselves significantly and are leading actors in global affairs contributing to conflict management, development, environmental protection, economic aid, and many more. Both nations also contribute heavily to the budget of the UN. Both are liberal democracies that respect human rights and maintain the rule of law.

³⁰ Resolution A/C.5/74/18; A/73/350/Add.1

³¹ Police, UN Military Experts on Mission, Staff Officers and Troop 28/02/2018

³² Voa. "US, China to Work Together to Defeat Security Council G-4 Proposal." VOA, Voice of America (VOA News), 28 Oct. 2009, <https://www.voanews.com/a/a-13-2005-08-04-voa59-66935277/264429.html>.

4.2. Uniting for Consensus

Uniting for Consensus is a negotiating group which was established during the nineties as a response to the G-4's attempt to obtain permanent membership. It was first known as the Coffee Club. This group is larger compared to G-4, and it mainly consists of smaller and middle powers. Among its membership it accounts of countries such as: Argentina, Canada, Colombia, Costa Rica, Italy, Mexico, Pakistan, South Korea, Spain, and Turkey. Some of these countries are regional rivals of the G-4 and are seeking to prevent their regional competitors such as Brazil, Germany, India and Japan from becoming permanent members. In principle they're in favor of reform but with the caveat that any reform needs to acquire widest possible support, hence the name uniting for consensus. They have voiced several criticisms towards the Security Council describing it as "*inequitable and unbalanced*" and claim that any reform "*should make it more democratic, more equitably representative, more transparent, more effective and more accountable.*"³³ But they are very vocal in their opposition to an increase in number of permanent seats. Their argument is that any addition to the category of permanent members would only increase the number of countries enjoying privileges and won't necessarily increase the efficiency and accountability, but instead it would only add complications and make the Council even more paralyzed by impairing its ability to deal with current and future problems. They are in favor of a more rule based system which takes into account democracy and pluralism. Because of their opposition to permanent membership they have come to be known in some circles as "spoilers". They have shown support for Inter-Governmental Negotiations (IGN) describing it as "*the most appropriate and effective forum on Security Council reform providing all UN Member States the opportunity to work together in an inclusive and practical manner.*"³⁴ And have called upon states to work out their differences there, and arrive to a common text which would enjoy the widest consensus.

³³Uniting for Consensus Draft Res., U.N. Doc. A/59/L.68

³⁴Press Release - Uniting for Consensus Group (UfC)

The group also envisaged an alternative reform that deviates from the G-4. According to the proposal they presented in 2005, the non-permanent members of the Council would increase from ten to twenty. The non-permanent members would be elected by the General Assembly for the duration of two years and would be qualified for immediate re-election, subject to the decision of their respective geographical groups.³⁵ In 2009 the group presented a new modified document which envisioned the establishment of a new category of seats, still non-permanent, but elected for an extended time without the option of immediate re-elections. This proposal addresses part of the problem which is representation by increasing the number of seats to include more countries from different continents. It is also more acceptable in the eyes of permanent members given the fact that it would not encroach on their rights and privileges. But the drawback is that it wouldn't necessarily improve its efficiency and effectiveness. It could also have a negative effect on the Council's ability to reach consensus on issues.

4.3. African Union Proposal

The African Union has been engaged in this debate on the reform of the Security Council and is in favor of a possible reform of the Council. But it has laid a claim of its own for permanent seats for its members. Africa is one of the few continents that does not enjoy a permanent seat on the UN Security Council, despite its population and the vastness of the continent. According to a study³⁶ conducted over a 10-year period, more than half of the resolutions issued by the Security Council concerned Africa, despite this fact, that the group of 54 African nations is not adequately represented on the Security Council. More than half of the overall membership of the UN is composed of African and Asian states.

https://italyun.esteri.it/rappresentanza_onu/en/comunicazione/archivio-news/2021/09/comunicato-stampa-uniting-for-consensus_0.html

³⁵Document A/59/L.68

<https://press.un.org/en/2005/ga10371.doc.htm>

³⁶"United Nations Security Council Reform." ACCORD, 3 Mar. 2016, <https://www.accord.org.za/conflict-trends/united-nations-security-council-reform/>.

The African Union has rallied around a common position on the Security Council Reform. This common position is based on Ezulwini Consensus and Sirte Declaration. According to this position, Africa would get two permanent seats and five non-permanent seats that would rotate among African countries. The African group considers the veto an anachronism. However, it is adamant in its position that until it exists new permanent members should obtain all existing privileges, including veto powers. As for the veto power it insists that immediately upon revising the UN Charter it be given to new permanent members. The issue of selecting which members would join the Security Council has been left to the African Union to be decided for a later on conference of leaders of African nations. The African Group has criticized the IGN discussions for a lack of common text which would have facilitated the process.

4.4. A Single European Seat

Article 34 of the Treaty on the European Union states that *“Member States shall coordinate their action in international organizations and at international conferences. They shall uphold the Union's positions in such forums. The High Representative of the Union for Foreign Affairs and Security Policy shall organize this coordination.”* A close reading of this article would undoubtedly lead to the logical consequence that a shared seat would be a true testimony of a common foreign and security policy. At the same time it provides with legal rationale to pursue such an outcome. But is it possible or even desirable?

Germans have been a strong advocate of European Unity and for a stronger EU role at the UN. They have flirted with the idea of a single European shared seat at the Council. Merkel in press conference in 2019 described it as *“a very good concept for the future and a*

means to gather together European voices.”³⁷ The same views have been also reiterated by other German high ranking politicians. With Brexit completed the only EU nation with a permanent seat at the Council is France. The French, on the other hand, have been critical of the idea of a single seat for the European Union in the Council arguing that “*a single seat for the European Union would devalue the existing seats of EU member states on the Council... thereby limiting the power of the EU in the Council rather than expanding it.*”³⁸ The discourse over a shared EU seat at the Council is not new, traces of it we find since the nineties. But the views have remained consistent, with Britain and France as permanent members unlikely to give up their seats. On the other hand, Germany has been lobbying for a seat of its own.

There are several problems with this, political and legal, but the major one being legal that the EU is not a nation-state, and according to the UN Charter in article 4 “*Membership in the United Nations is open to all other peace-loving states...*” therefore barring the EU from a possible membership without a formal amendment to the Charter. In spite of this, the EU has a delegation accredited at the UN without a right to vote, a so-called “*expanded observed status*”, which helps coordinate policies and relations with the Security Council. On the political front, not all member states are in favor of a single European seat, with many saying it would strip them of the last semblance of their individuality. In a sense it would be seen as a step towards federalization and that is not acceptable to many EU member states. Many see this as unrealistic and premature. Another obstacle is the danger that it could undermine the existing Franco-German balance, which is essentially the core of European integration. French political and military relative advantage acts as a counterweight to German economic supremacy. And any attenuation of this relative advantage would tip the balance in Germany's favor. Another argument against is that the EU does not necessarily need a shared seat if all members spoke with the same voice, and having more than one seat would actually be beneficial. But unfortunately, the EU is not united foreign policy issues, and this has been

³⁷German Ruling Party's Proposals on EU Reform Target France's Permanent UNSC Seat at: <https://www.cnsnews.com/news/article/james-carstensen/german-ruling-partys-proposals-eu-reform-target-frances-permanent-unsc>

³⁸(www.dw.com), Deutsche Welle. “France Rejects German Wish for EU Seat at UN Security Council: DW: 29.11.2018.” DW.COM, <https://www.dw.com/en/france-rejects-german-wish-for-eu-seat-at-un-security-council/a-46513931> ;<https://ip-quarterly.com/en/op-ed-why-un-security-council-needs-reform>

shown over and over, be it Russia, Iran, Palestine etc. In conclusion the idea of a common seat seems premature and unrealistic, at least for now.

4.5 Merger with G-20

The G-20 is an international body of 19 nations plus the European Union, who convenes annually to discuss mainly economic and financial issues. As an informal gathering of the major economies, along with regional powers, it more appropriately takes into account the current configuration of global power. Unlike the United Nations, it is not a permanent organization, which means that it does not have a headquarters or the formal structure that is usually associated with international organizations. Over the years this forum, gradually has been overshadowing both G-8 and the Security Council as centers of power. Even the topics which are being discussed in these meeting are gradually moving beyond economical and financial realm, to include politics, security, the environment etc. Unlike the Security Council, this forum does not lack of representativeness. By analyzing the data available it shows that is more representative of the current world. According to an article published by Council on Foreign Relations these countries combined “*account for around 80 percent of global economic output, nearly 75 percent of global exports, and about 60 percent of the world’s population. These figures have remained relatively stable while the corresponding rates for Group of Seven (G7), a smaller group of advanced democracies, have shrunk, as emerging markets take up a relatively greater share of the world’s economy.*”³⁹ This raises the question on why not merge these two together.

4.6 The S-5 proposal

The small five (S-5) is an independent group of nations composed of Switzerland, Costa Rica, Jordan, Liechtenstein and Singapore, whom advocated for a revision of the Council’s working methods, to make it more transparent and accountable to the membership. They are in favor of treating the Council’s working methods as an independent argument and claim that there is no need for changes to the Charter or the need for a two-thirds majority.

³⁹“The Group of Twenty.”Council on Foreign Relations, Council on Foreign Relations, <https://www.cfr.org/backgrounders/group-twenty#chapter-title-0-6>.

Reform of the working methods is one of the five main topics currently discussed at the Intergovernmental Negotiations. In 2006 they introduced a document to the Assembly where it contained their views on the topic. The crux being this: 1) Security Council should work closer with member-states, by providing more information and improve access to its decision-making and 2) when using the veto the Council's P-5 must provide reasons or justifications, and must not use it in cases where the Council's action is directed at preventing or ending genocide, war crimes and crimes against humanity.⁴⁰ S-5 is not attempting to remove the veto altogether but what it is asking instead is transparency in its use. By doing this they believe that there could be an increase in cases where conflict could be stopped. According to the proponent they had managed to secure assent of more than 100 states, but in the end the proposal was defeated on procedural grounds. Another reason for its failure was the political pressure of the P-5.

The P-5 sees the reform of the working method as falling within the Council prerogative, and must be interpreted in accordance with the Charter. Any attempt by the General Assembly to encroach on this prerogative is seen as an imposition. The P-5 is adamant that Assembly cannot decide matter of the Council. In principle, they claim to be open to suggestions, but it seems a mere lip service since recommendations would achieve much. The Council is a political body where in truth no one wants to restrict its own privileges and abilities. And it usually is a struggle between those who enjoy them and those who don't and try to curtail them. A serious blow to any reform is also the lack of a uniform front with clear demands.

The G-4 and the UfC, in principle, they see S-5 proposal as positive, but they don't see it a priority. None of them are willing to engage even though some might possess the clout to make a difference. Some of them are weary to not antagonize the permanent members, and in fact, diminishing their chances to permanent status, while others see it as self-defeating objective when you take into consideration that when they become permanent members the veto power would be advantageous.

⁴⁰ Draft Resolution A/60/L.49

4.7 Reform of the Veto

The power of veto is a prerogative reserved only for permanent members of the Security Council. What this power entails is that permanent members can prevent the adoption of any substantive resolution. This means that, even if hypothetically all fourteen members vote in favor, a single vote cast against can put an end to it. Article 27 (3) of the Charter provides that all substantive decisions of the Council must be taken with the “*concurrent votes of permanent members*”. In this article the word veto is not directly mentioned but it is implied. If any of the members decides to abstain from voting, this does not prevent the adoption of the resolution. Veto power is a dividing line between permanent and non-permanent members. A “concurring vote” means an affirmative vote or an abstention. The Charter, essentially, enshrines a disparity between the voting powers of the two categories of membership. One thing which is usually overlooked is the fact that non-permanent members enjoy a sort of “collective veto”. If a resolution does not get at least nine votes, even if all permanent members vote in favor, it would still fail. The veto has been a recurring theme of the reform process, raised regularly when it comes to improving its working methods.

During the negotiations in San Francisco, many small and medium-sized powers opposed the power of veto being granted to selected few, considering it a hindrance to the functioning of the new organization, making it less equipped to be able to deal effectively with new problems. It was seen as a violation of the principle of sovereign equality. But at the same time, they were keenly aware of the need to have the great powers act in concert in imposing political and military measures to keep the peace. On the other hand, Great Powers were unwilling to give up their claim to a right of veto over substantial matters. They made it explicitly clear that they would not participate in the UN project without this. A member of the US delegation in a bit of theatrics gave a speech in which he said “*You may go home from San Francisco...and report that you have defeated the veto...but you can also say, ‘We tore up the*

Charter!.⁴¹ After this, he took a copy of the draft and tore it apart symbolizing what was to come. In the end the veto remained to appease the great powers, a price to pay to power politics. But this shouldn't be seen negatively for the time, and should be put into perspective. We mentioned in the first chapter that the UN is not the first attempt to an international organization. Before it there was the League of Nations. In it every state enjoyed the right of veto, given the fact that decisions were made by consensus. Compared to that, the UN has severely restricted that right to few countries. This restriction of the veto, in a way, is what makes the UN a more successful organization, but at the same time one of its biggest failures.

The controversy surrounding the veto mainly derives from the way it is employed by permanent members, in total disregard of peace, security and justice. Permanent members unfortunately see the veto as tool which they can use *“to defend their national interests, to uphold a tenet of their foreign policy or, in some cases, to promote a single issue of particular importance to a state.”*⁴² And this has been shown over and over, since February 1946 when it first was used.

4.7.1 Abuse of the Veto

The veto power has so far been used 307 times by permanent members. Russia and the United States are leading the pack in this regard. Russia has used it more significantly than any other, with 151 times. The United States, on the other hand, has used it 87 times. The UK 32 times, whiles China and France 19 and 18 times each.⁴³ The use itself is not the problem, but the purpose of why it was used is. If for example it is used to prevent a war between

⁴¹David L. Bosco, *Five to Rule Them All: The UN Security Council and the Making of the Modern World*, Oxford University Press, Oxford, p. 36

⁴²Research Report on the Veto; UN Security Council Working Methods
https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B6D274E9C8CD3CF6E4FF96FF9%7D/research_report_3_the_veto_2015.pdf

⁴³Peace and Security Data Hub available at: <https://psdata.un.org/>

permanent members then would achieve its purpose but that's not the case. And looking at the data and information in retrospect, we find a blatant abuse of this power by preventing countries from joining the UN, providing a shield to others for violating international law, allowing genocide and war crimes, and generally preventing the achievement of the goals of the United Nations altogether. Here we will look at some cases of such abuse.

At first, the veto was used as a tool to prevent countries from joining the United Nations. The UN Charter, in article 4 paragraph 2, gives the Security Council the right to recommend a state for admission into the membership of the United Nations, before a two thirds majority vote is needed in the Assembly. This right is subject to the veto; therefore any P-5 can prevent any aspiring state from joining the United Nations. The US and the USSR used this opportunity to bar countries which they considered "allies" or "friendly" to the other, disregarding the other conditions which needed to be met. Thus resulting in cases where nations genuinely meet all criteria needed but because of the whim and political maneuvering weren't able to gain membership. Italy and Japan were such countries to be denied membership for years. While today we see the same case with Kosovo, Taiwan and Palestine.⁴⁴

As single vote cast against can override the will of the majority and dismiss international public opinion. This is well documented in the case of Israel and Syria. The United States since 1970 has consistently used the veto to block any Council resolution that criticizes the State of Israel in any way. This was the case with the settlement expansion, which is a clear violation of international humanitarian law, and, more recently, the recognition of Jerusalem as the capital of the Jewish state. Such blatant abuses completely kill people's trust in international institutions and depict a picture where the weak are trampled on. This unspoken support has also led to encouraging the Israeli authorities to escalate each time and use even more forceful measures against the Palestinians, resulting in severe loss of life. Unconditional US support has also killed any attempt to find a peaceful negotiated solution to the Israeli-Palestinian conflict.⁴⁵

⁴⁴Each of these entities meets the entire requirements set out in the Montevideo Convention. The reasons they are prevented from joining the United Nations are politically motivated.

⁴⁵"The 43 Times US Has Used Veto Power against UN Resolutions on Israel." Middle East Eye, <https://www.middleeasteye.net/news/43-times-us-has-used-veto-power-against-un-resolutions-israel>.

Another example is the cover given by Russia to the Assad regime in the Syrian Conflict which has claimed the lives of hundreds of thousands of civilians. In this case the Russian through their political support have enabled the Syrian dictator to perpetrate serious crimes against its own civilian population. Millions of Syrians have become refugees and pawn to be used and abused by countries seeking influence. If Russia had not intervened in the conflict the regime would have likely fallen and been replaced. The Russian backing turn the tide of war in favor of the current regime. Vetoes in a way have emboldened the regime, and set a dangerous precedent.

In a similar fashion, the Chinese have also provided backing to Myanmar during its campaign of Genocide against its minorities. Although many international bodies independently verified ongoing war crimes and ethnic cleansing, the Chinese, with the support of the Russians, prevented UN action. Another interesting fact is that the current Secretary General Guterres had prior information of what was to come as UN High Commissioner. With the Military coup the situation has only become more precarious. At the same time the international community has been indifferent.

From a legal point of view, the veto is anathema to a rules-based international order. And this is well encapsulated by the words of Samuel Moyn in his article in the Washington Post where he points out that *“We might not tolerate a criminal law that openly provided the most powerful members of society a get-out-of-jail-free card. Yet through their veto on the Security Council, certain states have a stack of never-get indicted cards – and they can never run out.”*⁴⁶ This adverse effect can be clearly seen in the Ukrainian conflict where Russia is immune from legal consequences, in spite of the fact that it violates core legal norms.

A number of resolutions don't even make it to a vote because of the threat of veto by one or more permanent members (the so-called silent veto). Members usually put a resolution to a vote when they feel confident they can get the necessary support in the Council. In some

⁴⁶Moyn, Samuel. “Perspective | the 'Rules-Based International Order' Doesn't Constrain Russia - or the United States.” The Washington Post, WP Company, 1 Mar. 2022, <https://www.washingtonpost.com/outlook/2022/03/01/ukraine-international-order-un/>.

cases even when they know that it's going to be vetoed, they still put it to a vote to show political and moral support to a particular cause or country, in a way leaving a record and showing to the world where countries stand. In other cases to prevent a resolution from being vetoed they water down its content. Meaning that they might revise it, removing language disapproved by any veto wielding powers. Such a case happened in 2004 when France amended its resolution on the protection of children in armed conflict. The resolution itself was based on a report by the Secretariat, and included Chechnya and Northern Ireland in its description as "armed conflicts". This meant according to the wording that these areas would fall under supervision. This was met with anger by Russia and Britain, and made it clear they would veto it. Thus forcing France to reword these areas as "*situations of concern*", yielding to pressure. After the revision the resolution was passed unanimously.⁴⁷ Another case worth mentioning is the Rwandan genocide in 1994. In this case the Council was prevented to act because of the "hidden veto" of France and the US. These two countries went so far as to block language that would qualify the situation as of international concern. Some argue that this led to the genocide.⁴⁸ Furthermore, the Council could not even pass a resolution qualifying what was happening there as genocide. A peace keeping mission was deployed post factum.⁴⁹

To sum up, the veto power makes it difficult and even impossible for the United Nations to take action on important questions. It effectively dilutes the role that the Council is supposed to play in upholding international peace and security. Thus damaging its credibility and legitimacy and as a corollary, reinforcing the belief that reform is very necessary

4.7.2 *Proposals*

The veto issue is one of the most controversial points of the reform process. It goes against the organization's democratic values and principles as it confers a privileged position on a select few. This is why many have asked for it to be removed altogether. Nevertheless,

⁴⁷Administrator. "The Hidden Veto." The Hidden Veto, <https://archive.globalpolicy.org/security-council/42656-the-hidden-veto.html#5>.

⁴⁸Independent UN Inquiry into the Actions of the UN during the 1994 Genocide, commissioned by Secretary General Kofi Annan. Released December 15, 1999, S/1999/1257

⁴⁹Administrator. "The Hidden Veto." The Hidden Veto, <https://archive.globalpolicy.org/security-council/42656-the-hidden-veto.html#8>.

not all agree on this point. Thus several positions have been considered to address this issue so far, and three have garnered the greatest attention overall. The first position calls for its abolition, the second for its limitation and the third for its justification.

The first position maintains that the veto should be abolished. The main argument for this view is the frequent abuse of this right by permanent members. This would entail the collaboration of the permanent members given the fact that they can block any resolution to this effect; No amendment to the Charter can be made without the explicit backing of the permanent members. Many believe this to be the least likely scenario, because firstly, permanent members would not support it and secondly, potential members want the veto for themselves. Thus some to this effect have proposed an alternative to have two vetoes cast to block a resolution from being approved.⁵⁰

The second position has advocated for limitation on the use of the veto. One way would be to institute a strict interpretation of article 27 (3) which calls up permanent members who are party to a dispute under Chapter 6 to abstain from voting. Permanent members have consistently ignored this rule and vetoed decisions in cases where they took part. On the other hand, other permanent members did not use Article 27 against them, instead using it as a precedent to rely in the future in their favor. Another way would be for permanent members, of their own free will, to refrain from vetoing resolutions in the event of mass atrocities. This proposal has gained traction the most. France has push hard for this, as well as the ACT group proposed a code of conduct. ACT proposal gives the right to qualify a situation as such to the Secretary General. But this runs the risk of eroding the impartiality and authority of the Secretary General.

The last proposal would require the permanent member to justify their use of the veto. This would shed light to the positions of permanent members on a particular issue and provide reason for their disapproval. But there are dangerous to this as well since some members can abuse it and press for controversial resolutions to force their political opponent to declare

⁵⁰Johnston, Stanley. Submission No. 59, p. 491.

publicly. This position was adopted by the General Assembly as a result of the war in Ukraine, but it's too early to know how states will react to this.

Another problem is whether or not the veto should be extended to new permanent members. And in this regard countries are divided on the matter, with some in favor and many against it. This view in favor is mostly advocated by countries who aspire to become permanent members in the future. They believe that “*new permanent members should have the same responsibilities and obligations as the current permanent members.*”⁵¹ The problem with this is that it would just increase the number of the holders of this right, and effectively not address any of the concerns of the majority of the members. In addition to this, an overwhelming majority of countries is against this arguing that it would only paralyze the work of the Council.

⁵¹ ‘Draft Resolution on Security Council reform’, 13 May 2005, and ‘Draft Resolution on Security Council reform

Chapter V

5. The positions of the P-5 and some regional actors on the issue of reform

5.1 The position of the United States

The United States is aware of the changes that have taken place over the years on the international stage since the organization was created and agrees on the need for structural reforms to address new challenges. But it stresses that any reform must maintain the efficiency and effectiveness of the Council. Furthermore, it argues that a reform must be comprehensive and target all areas of the debate, and not be partial.

First, the United States supports the expansion of the Security Council. But it makes it clear that it must be supported by the overwhelming majority of members. To this end they emphasize the broader consensus needed to make changes possible. Additionally, they are also in favor of certain criteria to be met by the new permanent members to show their readiness and qualifications to serve on the Council. Former US ambassador to the UN, John R. Bolton stated this in his speech *“We must also ensure that new permanent members are supremely qualified to undertake the tremendous duties and responsibilities they will assume. In our view, qualified nations should meet criteria in the following areas: size of economy and population; military capacity; contributions to peacekeeping operations; commitment to democracy and human rights; financial contributions to the United Nations; non-proliferation and counterterrorism records; and equitable geographic balance.”*⁵² The US is against a Council which would become too large, arguing that the membership should not exceed twenty. As for non-permanent members the US has argued for allowing them to serve more than one consecutive term.

Officially, the United States has not espoused any of the current reform proposals, nor has it presented its own. But it has displayed support for particular countries, but without showing consistency. It has underlined the need to incorporate African, Asian and Latin

⁵² Ambassador John R. Bolton, U.S. Representative to the United Nations Remarks to the General Assembly, New York City November 10, 2005 available at: <https://2001-2009.state.gov/p/io/rls/rm/57420.htm>

American countries in the process. The United States has shown support to Germany and Japan for their bid to acquire permanent membership. And in this regard it argues that both countries have reformed their political systems to accommodate democracy and have seen a significant economic rise, making them part of the world's leading economic powers. The United States sees Japan as a counterweight to China's growing influence in Asia and has a security treaty. Meanwhile, Germany is a strong European ally in countering Russian influence. But it has also shown support for India and Brazil. On a visit to India former president Barack Obama gave a speech to parliament where it praised India's role in peacekeeping missions and alluded to its readiness to be part of the Security Council.⁵³ Subsequent presidents have not taken any action in this regard. Therefore many commentators see it as merely lip-service.

The United States is against any reform which would encroach on the powers of the current permanent members of the Council. In this regard they are wary of attempts to abolish the veto. The veto power is a right enjoyed only by one category of members, and it is meant to avoid confrontation between permanent members and make it possible for them to act in unison. In its statement the US delegate gives a powerful argument in favor of the veto and enumerates two reasons for its necessity *"First, the veto excludes the possibility of disagreement among the permanent members or between some of them and the Council. Either of these circumstances could disable the Council's capacity to act and could even provoke major conflict. Second, it assures that when the Council does act it acts with the support of its most powerful members. Its measures are thus more credible and efficacious."*⁵⁴ As for the matter of whether the veto should be extended to new permanent-members the US has not taken a stand, remaining ambivalent. Overall they see the veto as a non-negotiable topic, regardless of the mixed signals.

⁵³"Remarks by the President to the Joint Session of the Indian Parliament in New Delhi, India." National Archives and Records Administration, National Archives and Records Administration, <https://obamawhitehouse.archives.gov/the-press-office/2010/11/08/remarks-president-joint-session-indian-parliament-new-delhi-india>.

⁵⁴ Statement by Cameron R. Hume (May 23, 1996) US Minister Counselor for Political Affairs

5.2 The position of France

France, in line with the UK, is in favor of increasing both categories of members: permanent and non-permanent. It has shown support for the G-4 countries in their membership aspirations. Furthermore, it also seeks fairer and more equal representation of African nations in the Council, in both categories. In the course of the debate, France has also shown support for a permanent Arab seat at the Council. The purpose of the reform, according to France, is to increase the inclusiveness and efficiency of the Council as a whole. In the meantime, until an enlargement is effected, France has supported the idea of adding a third category of seats with longer duration. At the end of this phase a conference should be scheduled to evaluate the impact of the reform. As for the overall size of the Council, France advises against a Council which is too large, arguing for a reasonable size without being specific.⁵⁵

In 2013, France was at the forefront of an initiative to regulate the use of the veto. The initiative called upon permanent members of the Council to voluntarily give up the right of veto in the event of mass atrocities.⁵⁶ Believing that addressing this issue will be the key to its legitimacy and authority. In 2020, a statement supporting this initiative was presented in unison with Mexico where it received approval from 105 countries.

France is aware that the issue of the veto is very delicate, but it is opposed to making the reform based only on this issue, advising instead to make progress where possible. As to whether new permanent members should enjoy the right of veto, France is of the opinion that this should be left for a review conference later.

⁵⁵ Statement at the General Assembly by Mr. Hubert Renié, Counsellor at the French Permanent Mission to the United Nations - Security Council Reform: Size of the Council and working methods, 7 April 2009, <http://www.franceonu.org/spip.php?article3764>

⁵⁶ France 24. "Un to Debate Move to Limit Veto Power of Security Council Permanent Members" France 24, France 24, 19 Apr. 2022, <https://www.france24.com/en/live-news/20220419-un-to-debate-move-to-limit-veto-power-of-security-council-permanent-members>.

5.3 The position of Russia

The Russians have shown a willingness to the question of enlargement of the Council to address the imbalance in representation in order to embrace the new emerging powers, but reasons that any change must not inhibit its efficiency. Russia argues that the main goal of any reform must be to increase the efficiency and effectiveness of the Council to more adequately deal with questions of peace and security. In this regard in order to maintain the efficiency and avoid transforming the Council in an unruly forum, it argues for a reasonable increase with a limit of around 20 states. In order for a reform to be successful, according to the Russians it must enjoy the widest support possible. Any effort which does not enjoy a significant support will not advance the debate forward and it will neither allow for any accord to be reached.

The Russians are vehemently against any restriction, curtailment or abolition of the veto power. They argue that *“Broad experience gained through the Council's activity convincingly attests to the fact that the Charter provisions governing the scope and application of the veto are crucial to its ability to function effectively and to arrive at balanced and sustainable decisions.”*⁵⁷ The existence of the veto forces the Council to arrive at a consensus. This view is in line with most permanent members. The veto is seen as vital to the working of the Council. Regarding the question of whether new permanent members should receive the right of veto, it argues that this should be resolved after an expansion takes effect. Meaning that is against an immediate granting without a proper review of the matter. This position has been consistent throughout the years.

⁵⁷Statement by a Representative of the Russian Federation in the Open-Ended Working Group on Security Council Reform on Veto Issue

5.4 The position of China

The Chinese reform model revolves around three main themes: strengthening the efficiency of the Council, achieving the broadest possible consensus among its members, and involving under-represented countries in the Council's decision-making process.⁵⁸

China, in line with other permanent members, believes that improving the efficiency of the Security Council, as the primary body of the United Nations, is of the utmost importance in enabling it to face modern challenges. Consequently, any reform limiting efficiency would not be supported. The Chinese model safeguards the current framework and is opposed to any radical reform, arguing instead that it must serve as a basis for further and continuing reforms. Strengthening authority and efficiency must be a guiding principle in the reform process.⁵⁹

As for its call to achieve the broadest consensus possible, China is in alignment with the United for Consensus group. It believes that no reform will be successful without a wide support of the membership, especially middle and small powers. Furthermore, it argues that without an all-inclusive dialogue the reform process will not enjoy universal trust and support. Thus it has signaled that it would vote against any proposal on which there still exist significant differences.

China maintains that any reform effort must remedy the under-representation of developing countries. It should be noted that even though a large majority of the current membership is made up of such countries, their voice is rather limited in the Council. China argues that priority should be given to improving the representation of developing countries with a particular focus on Africa. In addition, China firmly believes that *“Any formula that does not address the concerns of Africa on the Security Council reform can hardly win*

⁵⁸ Statement by Ambassador Wang Guangya at the 61th session of the GA on the Security Council Report and Security Council Reform, 11 December 2006

⁵⁹ Position Paper of the People's Republic of China on the United Nations Reforms

*endorsement of the whole UN membership and will not have the backing of China.”*⁶⁰ Thus, maintaining that the reform should be comprehensive and allow all countries, especially the less influential ones, to participate in the decision-making process. In addition to this, China has been against Japan gaining permanent membership. As for the case of India its position has been more ambivalent.

5.5 The position of the United Kingdoms

The UK's stance over the years has been consistent; it advocates for a modest increase of the Security Council's membership in both categories, permanent and non-permanent. It believes that such changes would address the current imbalance in representation and that it would enhance its efficiency by drawing on the perspectives and the expertise of a wider range of members.⁶¹ It has shown support for the Group of Four in their bid for permanent membership, as well as advocating for African representation. Their model envisages a Council whose membership would not exceed twenty-five members. Maintain that such a reform would preserve the Council's efficiency in addressing global threats. To great of an increase could be burdensome and slow decision-making process. To break the impasse, the

⁶⁰Statement by H.E. Ambassador Wang Guangya at the 62nd Session of the General Assembly on Report of the Security Council and Security Council Reform available at: <https://archive.globalpolicy.org/security-council/security-council-reform/50015-statement-by-he-ambassador-wang-guangya-at-the-62nd-session-of-the-general-assembly-on-report-of-the-security-council-and-security-council-reform.html%3Fitemid=915.html>

⁶¹Statement by Ambassador James Roscoe at the Security Council reform General Assembly debate; UK/French Position on Reform of the United Nations Security Council (March 1, 2010)

UK, in unison with France, has supported the establishment of a new category of longer-term seats with a review process in mind after some years with the ultimate goal of converting them into permanent seats.⁶²

As for the issue of the veto, the UK believes that it is no reason to postpone the whole process; instead that progress should be made in other areas where more agreement is likely.⁶³ On its part UK has not relied on its right to veto since the 1989. And it maintains that it would not vote against any draft resolution in violation of *ius cogens* rules. The UK is signatory of the ACT Code of Conduct.

⁶² Ibid

⁶³ Ibid

5.6 The positions of some regional players

5.6.1 Turkey's position

Turkey criticizes the lack of transparency and accountability within the Organization. Most decisions of the Council and other bodies are taken behind closed doors. The General Assembly, as the most representative body, cannot demand of the Council to give an account of its decision. Furthermore, it maintains that the Council is unable to solve major international controversies but instead it only produces stalemates. The Iraqi invasion is a good example of this; where the consequences were tragic with thousands dead, a fertile ground for terrorism, ethnic and religious conflict etc. but nobody was held accountable for generating it. The system is geared toward providing the permanent members a safety net; hence protecting them from any consequence.

Turkey firmly believes that the current system is designed to maintain Western hegemony at the expense of others. It paints a picture where the west is shown as superior. But this is not the case. The world has changed significantly and new powers have emerged and the United States cannot maintain the system on its own. It also does not reflect the balance of power; there are multiple centers of influence. Hence the slogan “The world is bigger than five.”

Another critical point raised by Turkey is the lack of adequate representation. It puts forward a very good argument by underlining the fact that only 9% of the world population is European, however, Europe is granted two permanent seats. Nearly 2 billion Muslims are completely excluded without their own representative. Asia, Africa and Latin America, among them, do not enjoy suitable representation.

Thus Turkey maintains that the existing structure is incapable of addressing the deep problems of international community, and argues for changes to truly fulfill its role as the guarantor of

peace. Turkey argues that a reform of the Council “should be in such a way that it represents the continents, beliefs, origins, and cultures in the most equitable and just way possible.”⁶⁴

Turkey argues reform model advocates for a great role for the General Assembly at the expense of the Council. It maintains that the General Assembly should be the organ to make binding decisions while the Council, instead perform the role of an executive agency. Furthermore, it proposes for the Council to answer directly to the Assembly, in a way similar to that of a gov’t to parliament. As for the question of enlargement, Turkey is against it believing to be a violation of the principle of sovereign equality. It instead favors a regional representation. As for the veto, Turkey is of the view that no reform will be effective without removing the veto altogether.⁶⁵

5.6.2 Pakistan’s position

Pakistan, for its part, is opposed to the enlargement of the Council in the category of permanent members. And this opposition has made it a fundamental aspect of its foreign policy. It is against transforming the Council into a tool and objective of power politics. Instead, it believes that the Council should reflect the interest of the whole members. While this appears to be the official position, Pakistan is covertly opposing New Delhi's attempt for permanent membership as its long-term rival.

Pakistan is a member of the United for Consensus group, and in line with their policy, it is against a reform that would not enjoy a wide consensus among the membership. Furthermore, it argues that the model provided by the group is the fairest, most equitable, and most democratic out of them all. It believes that through negotiations in good faith and compromise from all parties of the debate a reform could become a reality. It has shown support to increase the category of non-permanent members to 20.

⁶⁴ Recep Tayyip Erdoğan. Daha Adil Bir Dünya Mümkün. p. 146-149; Fahrettin Altun (Director, Directorate of Communications of the Turkish Presidency) “BM Güvenlik Konseyi’nin Adaletsiz Ve Şeffaf Olmayan Yapısı Değişmelidir.”

⁶⁵ Cumhurbaşkanı Recep Tayyip Erdoğan: “Dünya Değişiyor, BM Sistemi de Değişmeli”; Recep Tayyip Erdoğan. Daha Adil Bir Dünya Mümkün. p. 188-192.

As for the reform process, Pakistan in principle argues that it should address all five issues. But it favors overall reform of working methods, which would bring the greatest net benefit to its members.

5.6.3 Italy's position

Italy underlines the fact that the number of members has increased significantly since the establishment of the United Nations and consequently the distribution of seats has become “*geographically unbalanced and numerically insufficient to ensure adequate representativeness of the entire members.*”⁶⁶ Furthermore, it highlights that the international situation has also evolved bringing to light new problems and challenges previously unknown to the United Nations. In this regard, Italy has identified two main problems that need to be addressed: first, an enlargement of the Council to better represent all the Member-States, and second, to improve working methods. At the moment the most controversial issues in the process have to do with the veto and enlargement in the category of permanent members. The first question is therefore: should new members enjoy the right of veto? And if so, who will be admitted to permanent membership? If a compromise were reached on these two questions, the reform process would go on.

Italy is part of a negotiating group known as United for Consensus. The point of convergence in this group is their opposition to an increase in permanent seats. This group includes approximately more than 40 countries, and it accounts its midst countries such as Spain, Mexico, Argentina, South Korea, etc. United for Consensus, instead of the other models, has advocated for different reform, which according to them, will generate a more inclusive reform process based on democracy and representativeness. It has put forward an open document that defines and elaborates their views of the structure and working methods.

⁶⁶ La Riforma del Consiglio di Sicurezza delle Nazioni Unite e le priorità italiane available at: https://www.esteri.it/it/politica-estera-e-cooperazione-allo-sviluppo/organizzazioni_internazionali/onu/la_riforma/

Italy is vehemently opposed to an increase in permanent members. Its main argument is that current structure is the result of the outcome of the war and “*a reform that would give rise to further, unjustified privileged positions within the international community would not be appropriate today, and would be at the detriment of the general interests of the entire UN membership.*”⁶⁷ Thus, it has opposed the enlargement sought by the Group of Four and the AU. Italy is well aware that the Council does not have adequate representation, but believes that this can only be addressed by increasing the number of non-permanent seats. For this reason it has shown openness in increasing the number of non-permanent members. In 2014 together with the UfC has presented “*a new formula (intermediate approach) focused on the creation of new “long-term” seats, assigned to regional groups (not to individual countries) with the possibility of immediate re-election (currently excluded by the UN Statute).*”⁶⁸ Italy believes that this intermediate approach could better respond to the needs of all parties involved in the process by providing longer-term seats for those who aspire to serve longer and at the same time provide sufficient opportunities for others to join the Council.

On the question of the veto, the Italian stance goes so far as to suggest limiting its use of it, which it believes to be an antiquated and useless prerogative which seriously impedes the operation of the organization. Their model offers three possible solutions; the first would be to have the P-5 self-constraint in their use, and the second to push them to provide justifications for its application and the third would involve limitations to its use in some specific scenarios. Given the resistance of the existing permanent members, this Italian initiative to limit the right of veto appears bound to failure.

⁶⁷La Riforma del Consiglio di Sicurezza delle Nazioni Unite e le priorità italiane available at: https://www.esteri.it/it/politica-estera-e-cooperazione-allo-sviluppo/organizzazioni_internazionali/onu/la_riforma/

⁶⁸ Ibid

Conclusions and Recommendations

With the ongoing war in Ukraine, the United Nations has come under heavy criticism. Critics particularly point out the Security Council's inability to take action on this issue. Furthermore, in this case one of the states taking part in the conflict is a member of the Council with the right of veto over any action. Thus, having the ability to block any decision it deems detrimental to its interest. Nevertheless this case has put the Council into the limelight and underlines the need to reform. At the same time voices in favor of reform are growing.

Reform is not an easy task given the divergent views on the matter. Different groups involved in this question want to achieve different goals. Some want an enlargement in one category of members, while others refute this in favor of a different option. Furthermore, there is a general lack of political will to compromise on some issues that could move the process forward. The most cumbersome is the issue of veto and enlargement. Despite this, structural changes in the international system will eventually force the Council to reform or die out.

But despite this, reform is possible but to be effective it must address the defects and deep inequalities present. The Veto poses a significant problem since it paralyzes the work of the Organization, therefore a reform must find a balance by limiting its use. Enlargement must address the disparity in representation of particularly African and Asian countries. In addition, it must take into account the contribution of each candidate to the work of the organization as a whole as well as their individual contribution to peace and security.

From the proposals that we have analyzed the more balanced are the S-5 on the matter of the veto, and the United for consensus for enlargement. G-4 doesn't really address the legitimacy and effectiveness of the organization, but instead adds hurdles which later on would become detrimental to its future. A seat for European Union is premature, while a merger with the G-20 looks reasonable at a glance but on the other hand would contribute to further inequalities between rich and poor countries. The AU proposal, on the other hand, is too rigid and lacks clarity, thus making it hard for other countries to endorse.

As for individual state's position we can clearly see animosity toward one another's attempt to gain a permanent seat and as a consequence influence, and not on reform which all overall seem to agree. I believe that the divisions currently existing could be addressed with the right compromise by each of the parties involved in the process. The United States could play an important role on this matter by taking a more active role.

As for my point of view on the process, I believe that an enlargement should be based on some objective criteria such as territorial dimension, population, GDP, military power, contribution to the United Nations budget, contribution to peace and security, etc. Furthermore, I believe that the number of seats on the Council should not exceed 30, as it would be difficult to control and would undermine its effectiveness. On the issue of the veto, I believe some form of mechanism should establish to prevent abuse such as limiting it in cases of atrocities, and perhaps introduce some revision mechanisms such as the ICJ.

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