Power Versus the Sovereign Equality of States: The Veto, the P-5 and United Nations Security Council Reforms

Fakiha MAHMOOD*

Abstract

The United Nations Security Council is at the centre of the international security system. However, even after several decades the Council has had only minimal changes in its basic structure and composition, despite the fact that the international environment has changed considerably. The opportunity provided by the end of the Cold War to revitalise the Council was coupled by increasing number of voices calling for reform of this extraordinary organisation. But reform has proved to be a very difficult thing to accomplish in the case of the Security Council. This paper looks at the issue of Security Council reform from the prism of the right of veto and the perspectives of the permanent members. It argues that although the attitude of the P-5 is not favourable for reform, it is not the only stumbling block in its way. The lack of consensus among the rest of the world has also a role in prolonging this issue over decades.

Key Words

International security, P-5, reform, Security Council, veto, United Nations.

Introduction

The United Nations Security Council rests at the heart of the international security architecture. The binding nature of its decisions for all UN members further enhances its importance. However, its limited membership and the principle of the veto have concentrated the power in few states. While the international environment has significantly changed since its inception in 1945, the Council has been amended only once, in 1965, when the number of non-permanent members was increased from six to 10. The end of the Cold War ushered in a new chapter in the history of the United Nations Security Council, resulting in the revitalisation of an international organ which had heavily suffered from the superpower rivalry throughout the Cold War. The reinvigoration of the Council in the

* Lecturer, Department of Development Studies, COMSATS Institute of Information Technology, Abbottabad, Pakistan. This paper has been extracted from an MPhil thesis entitled *The Question of United Nations Security Council Reform*, accepted in the Department of Defense and Strategic Studies, Quaid-i-Azam University, Islamabad.

PERCEPTIONS, Winter 2013, Volume XVIII, Number 4, pp. 117-138.

117

aftermath of the Cold War was coupled with increasing demands to reform the Council in line with the changing geostrategic environment in order to make the Council more representative, democratic and effective. There is a near consensus that the Council should be expanded; however, disagreement exists over the scope of the increase and who is to be added. Consequently, decades have passed with rounds of negotiations following one after another recommending a number of proposals, but there seems no chance of reforms being implemented at least in the near future.

> The opportunity provided by the end of the Cold War to revitalise the Council was coupled by increasing number of voices calling for reform of this extraordinary organisation.

Within the Security Council, it is the right of veto which is most controversial and sensitive, and, conversely, it is this right which makes the Security Council the most controversial organ of the United Nations. The United Nations Charter gives some extra privileges to the permanent members of the Security Council, including the United States, the United Kingdom, France, China and Russia (the P-5), which has given rise to the tussle between the principles of sovereign equality of states and power. It is this power principle which is the focus of this paper, as well as the role of the veto and the P-5 in the whole reform debate.

Part one of the paper examines the issue of the United Nations Security Council. This section highlights the historical background of the reform process as well as some of the major agenda items for reform by different states. Part two deals exclusively with the institution of the veto, including its nature, pattern of use, and its character in the reform process of the Security Council. The third part discusses the perspectives of the P-5 individual states. Any reform effort which fails to garner the support of these five states would not be able to get into the United Nations Charter as amendments require ratification from the legislatures of all of the permanent members of the Security Council. Hence, it's necessary to give weight to the individual perspective of these states. The perspective of individual countries is discussed, examining that country's contribution to the establishment of the United Nations as well as its role and conduct in the Security Council since its inception. However, at the outset it would be instrumental to give a brief intellectual context for the paper.

Between Collective Security and Balance of Power

Since its inception, the United Nations has been seen through two opposing perspectives. On the one side are the liberals who see the United Nations as an embodiment of the idea of collective security. According to the proponents of this idea "international security is indivisible; a breach of the peace anywhere threatens the peace everywhere".[1] Hence they expect the Security Council to play a role in suppressing any threat to international peace, and they see the history of the Security Council as a mix of success and failure. On the other side of the spectrum there are the realists who do not expect much from the Security Council beyond providing a forum for the great powers to settle their differences. In this they make the point that in accordance with the founders' aspirations the Security Council has remained successful in preventing the occurrence of a third world war. However, this correlation is in itself questionable and difficult to establish, for there may be other reasons which would have prevented the outbreak of another world war, for example the fear of a nuclear holocaust.

While the United Nations was an embodiment of the collective security system, it was the balance of power logic that was at the back of the theory and was seen in the practice of the Security Council. And it is this same logic which today convinces the proponents of the veto power to extend this to those who aspire to permanent seats on the Security Council. However, the two opposing concepts are not without criticism. Whereas the critics of collective security point towards the differing perceptions of interests which create hurdles for collective action, the idea of a balance of power finds difficulty in implementation over the question of how to measure the variable of "power".[2] For example, if states today decide to add present day powers into the Security Council it would be difficult to establish an agreed upon formula for measuring the power of a state.

Reform of the United Nations Security Council: An Overview

The Council that emerged from the San Francisco summit was composed of 11 members, five permanent and six non-permanent members. The permanent members were Britain, France, China, the USSR and the US. And for the selection of non-permanent members, the United Nations Charter set out two criteria: one, the contribution of the

member state towards the maintenance of international peace and security, and "equitable geographical distribution".[3] In practice, however the first criteria was discarded and the second criteria was implemented more according to a "gentlemen's agreement" whose actual nature is contentious. During the first two decades, that is the time period before the first amendment to the United Nations Charter which resulted in the increase in the number of non-permanent seats from six to 10, the geographical distribution was as follows: two seats for Latin American states, two for Western European and British Commonwealth states, one for the African and Asian states and one for Eastern European states, which were seen as the group of states with Communist affiliations.[4]

However, with the gradual passage of time, United Nations members became increasingly dissatisfied with the setup. The sudden increase in the membership mainly from Asia and Africa, due to the independence of a large number of countries with decolonisation, made the member states feel underrepresented in the Security Council. Consequently, the member states started to apply pressure for the enlargement of the Security Council.

The issue of Security Council expansion was first raised in the 11th General Assembly in the aftermath of the admission of 16 new member states to the United Nations in 1955. Sixteen Latin American states plus Spain submitted a draft resolution in the 11th General Assembly calling for an expansion in Security Council membership, and demanded an increase in the non-permanent category of the Security Council membership from six to eight. However, the issue of Security Council expansion proved to be closely associated with international politics and became hostage to the question of China in the Security Council and remained so for the next seven years.[5]

Eventually, the issue was brought to the 18th session of the General Assembly. In 1963, two groups of states, one from Latin America and the other from Asia and Africa, tabled two separate draft resolutions in the Special Political Committee of the General Assembly calling for a Charter amendment aimed at increasing the membership of the Security Council. Twenty-one Latin American states submitted their draft resolution on 10 December 1963 and called for an increase in the non-permanent category of the Security Council from six to eight; in fact it was the reiteration of the Latin American proposal submitted in 1955. Two days later, on 13 December 1963, 37 African and Asian states submitted a draft resolution, demanding an increase in the membership of the Security

Council from 11 to 15 through adding four more seats to the non-permanent category of membership. After a series of consultation, both groups of states agreed to jointly put forward their demands in the General Assembly, mainly to put more pressure on the United Nations to enlarge the Security Council.[6]

Members had huge differences of opinion on the resolution, particularly among the permanent members of the Security Council, and at the end of the session only China among the P-5 voted in favour of the resolution. Resolution 1991 (XVIII) was passed on 17 December 1963 by the General Assembly, Part A of which increased the membership of the Security Council from 11 to 15. The resolution was adopted with a vote of 97 to 11, with four abstentions. France and the Soviet Union were significant among those opposed to the resolution and the USA and the UK abstained. While a majority of the permanent members did not favour the resolution in the General Assembly, all of them ratified the resolution within 19 months. This dichotomy in the attitude of the permanent members towards the resolution has been explained by Edward C. Luck in terms of Cold War politics, lack of coordination among the permanent members and financial problems facing the United Nations.[7]

After the successful adoption of the resolution increasing the non-permanent members of the Council, the issue of expansion remained dead until 1979. This time the initiative was taken by India and 12 non-aligned states. Co-sponsored by Japan, the resolution recommended an increase in the non-permanent seats from 10 to 14. The geographical distribution was to be as follows: one for Eastern European states, two for Western European states, three for Latin American states, three for Asian states and five for African states.[8] However, the resolution failed to gain enough support. In a similar view, Latin American states submitted a draft resolution demanding an increase in the Security Council membership from 15 to 21 through increasing the number of non-permanent members to 16. However, this resolution too met with failure. All the permanent members except China denounced the resolution, resulting in no substantive deliberations following the resolutions and the issue remained deferred till early 1990s.[9]

In the backdrop of the changes brought about by the end of the Cold War, India and 35 other non-aligned states tabled a resolution in the General Assembly calling for reform of the Security Council. Co-sponsored by Japan, the resolution demanded the inclusion of Security Council reform in

the provisional agenda of the 48th session of the General Assembly. The unanimous adoption of Resolution A/Res/47/62, on 11 December 1992 officially put the issue of Council reform on the General Assembly agenda. (The resolution asked the member states to submit proposals as to how to reform the Security Council to the secretariat by the summer of 1993. UN publication A/48/264 Add. 1-10 is a collection of received proposals).[10]

Group of Four

The Group of Four (G-4) plan was basically the reflection of the aspirations of Brazil, India, Germany, and Japan, all states who have been vying for a permanent seat on the Security Council. The aspirations of Japan and Germany are based on their contributions, particularly in financial terms, towards the United Nations in the area of peace and security. Both have been, respectively, the second and third largest contributors to the United Nations budgets for years despite the fact that the United Nations Charter still uses the term "enemy states"[11] (due to such role they had in the Second World War) to describe them even after the passage of more than half a century.[12] Brazil's and India's bid was based on their claim of them representing a large chunk of humanity in the developing world as well as having

rapidly emerging economies; moreover, they view their contribution to United Nations peacekeeping missions as vital.

The resolution put forward by the G-4 nations proposed reform in the Security Council mainly in the areas of: i) size of the Council, ii) veto and iii) working methods. On the issue of the size of the Security Council, the resolution proposed to increase the membership of the Security Council from 15 to 25, with the addition of six permanent and four non-permanent members. The proposed geographical distribution would be as follows: in the permanent category, two for Asia and Africa each, and one each for Western Europe and Latin America and the Caribbean; in the non-permanent category, one each for Asia, Africa, Latin America and the Caribbean, and Eastern Europe. On the question of veto power, the resolution asks for the grant of the veto power to the new permanent members on the same pattern as exists.[13]

Uniting for Consensus

In response to the aspirations of some states for permanent seats on the Security Council, some United Nations members, including Italy, Spain, Argentina, Canada, Mexico, South Korea and Pakistan, formed an interest group described as the Coffee Club, later on renamed Uniting for

Consensus following the addition of few more states. This faction has advocated for an increase in the number of non-permanent members of the Security Council on a regional basis, and strongly denounced the addition of states in the permanent category of membership, claiming that it would give rise to "new centres of power" inside and outside the United Nations. Italy and Pakistan are playing leading roles in this interest group.[14]

> The Africans argue that there is a paradox as Africa is a theatre for a large number of United Nations activities, yet the countries on this continent are not meaningfully represented in the Security Council.

A few weeks after the submission of draft proposal by the G-4 countries, the Uniting for Consensus put forward their proposal in the General Assembly on 21 July 2005 under the same agenda item. The countries supporting the draft resolution included Argentina, Canada, Colombia, Costa Rica, Italy, Malta, Mexico, Pakistan, the Republic of Korea, San Marino, Spain and Turkey. Describing the existing membership of the Security Council as "inequitable" and "unbalanced", the resolution called for reform of the Security Council. It proposed to increase the membership of the Security Council from 15 to 25, with five existing permanent and 20 non-permanent states elected for two years terms. It set the geographical distribution in this manner: "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". In selecting the countries from the regional groups, the resolution placed the responsibility on the respective regional grouping and in this regard recommended equal distribution even among the sub-regions.[15]

The African Group

The African countries have formed their own group under the auspices of the African Union and have themselves been calling for reform of the Security Council. The Africans argue that there is a paradox as Africa is a theatre for a large number of United Nations activities, yet the countries on this continent are not meaningfully represented in the Security Council. If North and South Americas are taken together, it is only the African continent which lacks a permanent seat in the Security Council. The Africans demand two permanent seats for their continent, and the leading contenders for those seats are Egypt, South Africa

and Nigeria, although Ethiopia, Senegal, Algeria, and Tanzania are also on the list. The African group has presented its demands in the Ezulwini Consensus, which has superseded the Harare Declaration.[16]

> An insight into the background to the Security Council reform reveals that historically the permanent members of the Security Council have not been favourable to bringing change into the existing setup.

Pointing at the under-representation of the African continent in the Security Council since its inception, the Ezulwini Consensus has made its claim on the basis of unity among the African nations, a unity which has the potential to influence the reform process of the United Nations Security Council. Building on the Harare Declaration, the Ezulwini Consensus sets out to achieve "full representation" in the United Nations generally and the Security Council in particular. And for that purpose, they demand at least two permanent seats in the Security Council, with all the privileges as enjoyed by the existing permanent members including the veto power, plus five non-permanent seats for the African continent. With regard to the veto, however, the document

acknowledges the injustices associated with the veto, but insists on granting the right to new permanent members as long as it exists in the United Nation Charter. Furthermore, the Ezulwini Consensus wants to keep the right to select the representatives of African members for the Security Council as well as for determining the criteria for selection with the African Union.[17]

The C-10[18] is the current variant of the African group, and aims at gaining two permanent seats for the African continent in the Security Council, and includes giving them the veto power.[19] The committee represents the five African geographical regions: West Africa, East Africa, Central Africa, Southern Africa, and North Africa. Each region contributes two states and the membership includes Algeria, The Democratic Republic of Congo, Equatorial Guinea, Kenya, Libya, Namibia, Senegal, Sierra Leone, Uganda and Zambia.[20]

The background to the formation of the C-10 includes the efforts of the G-4 (Japan, Germany, India and Brazil) in 2005 to convince the African group to show some flexibility towards their demands in relation to Security Council reform. Some African states, including Nigeria and South Africa, even agreed on those terms, although some African

states, such as Algeria and Egypt, strongly opposed those moves. The C-10 bases its stance on Ezulwini Consensus as well as Sirte Declaration of July 2005. The significance of the Sirte Declaration lies in the fact that it mandated the C-10 to make alliances with other groups of states.[21]

L-69[22]

The L-69 faction emerged following the discussions which culminated in the shifting of the agenda of the Security Council reform from the Working Group[23] to the intergovernmental negotiations. In fact, it was the draft resolution that shifted discussions to Intergovernmental Negotiations when these countries got together. Although that resolution was later withdrawn by its sponsors, from 2008 onwards L-69 emerged as a new faction among the groupings on the issue of the Security Council reform. Members to the group are Barbados, Benin, Bhutan, Brazil, Burundi, Cape Verde, Fiji, Grenada, Guyana, Haiti, India, Jamaica, Liberia, Mauritius, Nauru, Nigeria, Palau, Papua New Guinea, Rwanda, Saint Vincent and the Grenadines, Seychelles, Solomon Islands, South Africa, Tuvalu and Vanuatu.[24]

The group emerged from the alliance of some of those who aspire for permanent membership on the Security Council from the developing world, including India, Brazil, South Africa and Nigeria, with some small states of the developing world with whom they have promised to better represent in the Security Council. Some of the demands of L-69 include an increase in both the permanent and non-permanent membership of the Security Council; greater representation for developing economies in order to reflect the contemporary world realities; greater representation for small and island states; an improvement in the working methods of the Security Council; and even-handed representation based on the geographical regions of the world. Furthermore, the group claims to be growing steadily and has made some efforts at gaining support from some African states.[25]

An insight into the background to the Security Council reform reveals that historically the permanent members of the Security Council have not been favourable to bringing change into the existing setup. Hence, any reform effort must keep into account the perspective of the P-5 as well as finding ways to bringing them on board while making any changes into the Security Council. Furthermore, the existing grouping of the states on the issue of reform and their perspectives reveals that again it is the veto and permanent membership

which is at the heart of the reform debate. Among the major factions two of them, the G-4 and the Uniting for Consensus, are at opposite poles. For the G-4 an increase in permanent membership along with the right of veto is important, whereas the Uniting for Consensus calls for increasing the non-permanent membership. The African Group has a middle perspective, and the L-69's recommendations are a hybrid of the G-4 and the African nations. The next section looks more deeply into the institution of the veto, and is then followed by the individual perspectives of the P-5.

The Veto

The word "veto" appears nowhere in the United Nations Charter. However it comes from the voting procedure enshrined in the United Nations Charter. Paragraphs 2 and 3 of Article 27 of the United Nations Charter reads as follows:

> 2. Decisions of the Security Council on Procedural matters shall be made by an affirmative vote of nine members.
>
> 3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members.[26]

In this way, the permanent members of the Security Council can nullify any draft resolution with a negative vote, irrespective of the popular support enjoyed by that resolution. Also there exists the phenomenon of the "double veto",[27] which refers to the influence the permanent members have with regard to the classification of an issue as being procedural or substantive.[28] The veto rights of the P-5 has been one reason why the Security Council has been quiet about a number of international conflicts with implications for international peace and security, including the Iraq war of 2003, the Georgian war of 2008 and the recent Syrian conflict. Furthermore the Council has remained ineffective in resolving protracted conflicts like the Palestinian-Israeli conflict, which has rendered the whole region instable over the decades.[29]

The great powers resented any opposition to their privileged status and made it a necessary condition for their participation in the intergovernmental organisation.

During the formative stages of the United Nations, the question of the veto was the most controversial aspect of the whole negotiations, and it threatened to thwart the whole process at some points.[30] While among the great powers, the question was not that the veto ought

to be included or not, the dispute was on its scope. The Soviet Union advocated for an unrestrained veto, whereas the British and American positions were less radical over the question as to whether the veto should be limited to a permanent member party over that dispute or not. And this dispute reflected the dilemma of power versus principle, which still lingers over the United Nations.[31] At the San Francisco Conference, a number of small and medium-sized states opposed granting the P-5 a privileged status in the Security Council; however, the great powers resented any opposition to their privileged status and made it a necessary condition for their participation in the intergovernmental organisation.[32]

The early decades of the Security Council, owing to superpower rivalry, were characterised by the extensive use of the right of veto by the P-5, particularly the United States and Soviet Union. While the statistics clearly show that the use of the veto has fallen since the end of the Cold War, the threat to veto any resolution has not diminished throughout this period in backroom diplomacy. The so-called "hidden veto"[33] refers to the invisible threat to veto any potential resolution.

Figure 1: Trends in the use of the veto power
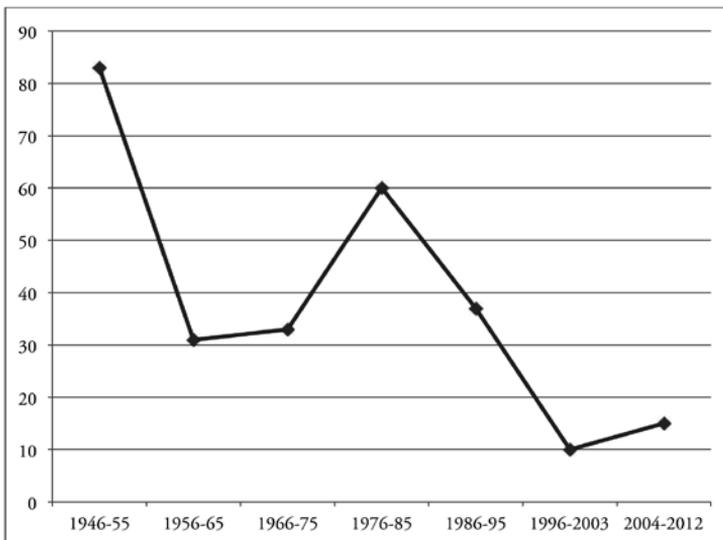
Source: Global Policy Forum, "Changing Patterns in the Use of the Veto in the Security Council", at http://www.globalpolicy.org/images/pdfs/Changing_Patterns_in_the_Use_of_the_Veto_as_of_August_2012.pdf [last visited 22 May 2013].

The privileged status of the P-5 does not stop at Article 27 as there are some unwritten privileges accorded to the P-5 as a by-product of the veto power. The so-called "Cascade Effect"[34] refers to the unwritten privileges accorded to the P-5, the source of which is not the United Nations Charter but rather the practice of the states which provides them with these privileges. For example, the P-5 enjoy permanent representation in the other UN bodies, including the Economic and Social Council (ECOSOC) and the International Court of Justice (ICJ). Similarly, the citizens of the P-5 countries have a higher chance of getting executive positions in the United Nations Secretariat.[35] In the discussions surrounding Security Council reform, the Uniting for Consensus group pointed to this extension of the veto in the practice of the other members of the United Nations and questioned the awarding of this privileged positions to even more states in a reform of the Security Council, rather than eliminating such practices based on injustice. [36]

It's worth mentioning here that in intergovernmental organisations today, the kind of privileged status accorded to the P-5 in the United Nations Charter has no other example. While the examples of the World Bank and the International Monetary Fund do hint towards the special status for the great powers, on the whole intergovernmental organisations are based on the sovereign equality of states. And at the time of the signing and drafting of the United Nations Charter the precedents to that effect were even less evident.[37]

> Moving an issue from the Security Council to the General Assembly is a procedural matter, not a substantive one, it is out of the ambit of the veto.

One of the most successful endeavours with regard to limiting the veto power came five years after the birth of the United Nations in the form of the Uniting for Peace resolution. The background to this resolution was provided by the potential Soviet veto over the Korean War. Presented by the then Secretary of State Dean Acheson, the idea of Uniting for Peace involved the moving of issues that threaten international peace and security through aggression from the Security Council to the General Assembly due to the inability of the Security Council to perform its function as a result of the threat of a veto. Since moving an issue from the Security Council to the General Assembly is a procedural matter, not a substantive one, it is out of the ambit of the veto. The Uniting for Peace resolution can be invoked by two-thirds

majority in the General Assembly, and has been used in more than 10 instances since its inception.[38]

The veto and Security Council reform

The veto power remains one of the most contentious issues in the ongoing reform debate, and whole debate is very much similar to that in 1945. The majority of the members of the United Nations oppose the existence of the veto as it inherently clashes with the principle of sovereign equality of states. Furthermore, the veto is seen as making the United Nations undemocratic. The only states that support the veto in the contemporary setting are those that have the power or who aspire to it.[39] However, despite the unpopularity attached to the veto power, the early euphoria, which was seen clearly when the discussions of reforming the Security Council began in the post-Cold War era, about limiting or eliminating the veto power from the Security Council has diminished to a great extent and the focus has shifted towards the enlargement of the Security

Council. The reason for this is the staunch opposition by the P-5 to giving up their right of veto. Only the United Kingdom and France have demonstrated certain complaisance towards the veto power.[40]

Looking at the mainstream state-sponsored reform proposals it becomes evident that on one end of the spectrum is the perspective of the G-4 (Japan, Germany, India and Brazil) who aspire to become permanent members of the Security Council, and hence they have no difficulty with the veto. At the other end of the spectrum is the Uniting for Consensus group which consistently opposes the continuation of the veto power in case of a reform. And the midway perspective is that of the African group who demands permanent seats for some African states with the full rights and privileges of the existing permanent members; however, they make it clear that "even though Africa is opposed in principle to the veto. It is of the view that so long as it exists, and as a matter of common justice, it should be made available to all permanent members of the Security Council".[41]

Table 1: Veto use by the P-5

Period	United States	Russian Federation (USSR)	China	France	United Kingdom	Total
1946-55	-	80	1	2	-	83
1956-65	-	26	-	2	3	31
1966-75	12	7	2	2	10	33
1976-85	34	6	-	9	11	60
1986-95	24	2	-	3	8	37
1996-2003	8	-	2	-	-	10
2004-2012	5	7	5	-	-	17

Source: Global Policy Forum, "Changing Patterns in the Use of the Veto in the Security Council", at http://www.globalpolicy.org/images/pdfs/Changing_Patterns_in_the_Use_of_the_Veto_as_of_August_2012.pdf [last visited 22 May 2013].

The P-5

On the whole, the P-5 are in favour of a modest expansion of the Council. However, with the exception of the United Kingdom and France, who support the G-4, and the African proposal, the P-5 are following a policy of wait and see.[42] The P-5 are content with the *status quo*, and as a result the slow momentum of reform is not troubling for them. Even the existing differing perspectives among the P-5 are some time seen as a way to avoid a substantive reform. Most importantly, there is almost complete agreement among the P-5 that they are not going to endorse any reform effort which puts limits on the right of veto that they have enjoyed since the start of the Security Council.[43]

The United States

The United States had a lead role in the planning of the post-Second World War intergovernmental organisation. Beginning in the autumn of 1939, officials in the Department of State started preparations in this regard, for which the League of Nations was taken as a blueprint.[44] The Security Council as it exists today resembles closely the vision of then American President Franklin D. Roosevelt who spelt out the idea of "Four Policemen",[45] the United States, the United Kingdom, the Soviet Union and China, having the exclusive right over the decisions pertaining to the use of force.[46]

The United States has been the most frequent user of the veto power among

the permanent members of the Security Council in the post-Cold War era, and was the second most frequent user during the Cold War after the Soviet Union. And most of the time, the United States has used its veto power in relation to the Palestinian-Israeli conflict in support of Israel.[47]

> The United States has been the most frequent user of the veto power among the permanent members of the Security Council in the post-Cold War era.

Despite having a lead role in the deliberations of the Security Council and its decision-making process, the United States has not played a large role in the reform of the Security Council. While not denouncing the reform efforts out rightly, the United States, instead of giving support to a specific reform proposal, has issued some general principles which it aims to meet in case of a reform:

- The efficiency and effectiveness of the Security Council should not be damaged with any reform.

- Any reform proposal must specify the names of the countries proposed for the inclusion in the Security Council as members.

- The criteria for the permanent membership should be based on the contribution of that country towards international peace and security.

- The existing veto structure should be retained without changes.

- The reform must be based on the existing Charter requirements, including the approval by two-thirds of the United States Senate.[48]

The Russian Federation

Being a victor of the Second World War, an active participant in the deliberations which culminated into the birth of the United Nations, and a superpower in the period following the Second World War, Russia has enjoyed a leading position in the Security Council. Russia actively pursues its interests by exploiting its permanent seat on the Security Council. It makes use of its influence, as well as its vote in the Security Council, to play an active role in world affairs, particularly in matters relating to international peace and security. During the Cold War period, the Soviet Union was the most frequent user of the veto power among permanent members of the Security Council. In the period 1946-65 alone, the Soviet Union used its right of veto 106 times. With the end of the Cold War, however, the number of vetoes

by the Russian Federation has reduced considerable. Yet according to statistics as of 2012, the top user of the veto power remains the Russian Federation with 128 cases.[49]

> During the Cold War period, the Soviet Union was the most frequent user of the veto power among permanent members of the Security Council.

Russia's relationship with the Security Council has evolved considerably over the decades. In the early years of the United Nations, the Soviet role was dominated by ideological considerations, which were replaced by a more pragmatic attitude during the period more popularly termed as *détente*. Soon after the disintegration of the Soviet Union, the Russian Federation chose to act more like a regional power with limited aims and ambitions. However, this started to shift again in the 20th century and subsequent administrations (Putin's and Medvedev's) have pursued a policy with global ambitions or at least beyond its regional area.[50]

Russia supports the permanent membership of the G-4 countries, plus South Africa and Egypt, in the Council. However, Russia denounces the extension of the veto power to the upcoming permanent members and also opposes any plan which aims at limiting the right of veto to the existing permanent members. Also the Russian perspective on the Security Council reform supports a small number of memberships of the Security Council, around 20 members.[51]

Russia does not seem opposed to reform of the Security Council, but in contrast with the other permanent members of the Security Council, it has serious reservations about a Council with a large number of members, which can weaken the effectiveness of the Security Council according to Russian policy makers. However, Russia takes a cautious stance by maintaining that it would support any reform proposal only when it is backed up with a large majority of votes in the General Assembly, greater even more than two-thirds.[52]

In relation to procedural reform, Russia opposes any proposal which puts constraints on the use of the veto, and supports general reform with regard to the working methods of the Security Council. The rejection of the Small Five (Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland) proposal, which aimed at radical change in procedures, by the Russian Federation was based on the fact that it made a direct attack on the right of veto.[53]

China

China was barely a country at the time when the United Nations was born; however, the Chinese permanent seat in the Security Council was due to the efforts of the United States because China was actively fighting Japan in the Second World War. Both Britain and the Soviet Union objected to the Chinese permanent seat in the Security Council. Britain's reservations came from a belief that the US's influence on China would mean that the Chinese member would result another vote for the United States in the Security Council. The Soviet Union was conscious of its neutrality treaty with Japan. However, both countries withdrew their objections in the end.[54] Till 1971, the Chinese seat in the United Nations was occupied by the Republic of China, later replaced by the Peoples Republic of China; the United Nations Charter even today uses "Republic of China" in the names of the permanent members of the Security Council. Among the five permanent members of the Security Council, China has the record of having used its veto power on the least number of occasions. However, the recent few years have seen

> Russia denounces the extension of the veto power to the upcoming permanent members and also opposes any plan which aims at limiting the right of veto to the existing permanent members.

a departure from the old pattern, and China has increasingly exercises its veto power.

China has described the various proposals on Security Council reform as immature, including the 2011 G-4 resolution, and is an advocate of adopting a comprehensive proposal. China supports giving more representation to the African continent. China opposes the permanent candidacy of India and Japan in the Security Council, and also actively participates in the experts meetings of the Uniting for Consensus group.[55] Chinese opposition towards including Japan and India as permanent members comes from the fact that adding both of these states into the Security Council would undermine the concentration of Asian representation in the Chinese seat. Furthermore history in the case of Japan and India's great power ambitions have compelled China to oppose the candidacy of both these countries in the Security Council.[56]

Britain and France

Britain was among the three principle powers whose efforts resulted in the

establishment of the United Nations. France was not represented at the Dumbarton Oaks Conference, nor was it among the sponsors of the San Francisco Conference, which eventually resulted in the signing of the United Nations Charter.[57] The French permanent seat in the Security Council was largely the result of British efforts, which wanted to keep a balance of power in the European continent, and wanted to keep France as protection against Soviet expansion.[58]

> The French permanent seat in the Security Council was largely the result of British efforts, which wanted to keep a balance of power in the European continent, and wanted to keep France as protection against Soviet expansion.

Britain and France, while acknowledging that the Security Council represents the realities of the past century, support the inclusion of new emerging power centres in the permanent as well as non permanent category. In this regard, both of them favour the permanent candidacy of Germany, Japan, India and Brazil (the G-4). Also they support the inclusion of African states on the Security Council in the permanent

category of membership.[59] Britain and France not only share their perspectives towards Security Council reform, they have also proposed a plan in this regard.

Termed as the intermediate approach/ model, this is the first plan for Security Council reform that has emerged from the permanent members of the Security Council. In a letter from the permanent representatives of both countries to the United Nations, to Ambassador Zahir Tanin, chair of the Intergovernmental Negotiations, the two countries reiterated their support for the permanent membership to Germany, Japan, India, and Brazil and for some African states in the Security Council and stated that:

> With a view to breaking the deadlock in the negotiations, the United Kingdom and France support a pragmatic intermediate solution that could provide for a new category of seats with a longer mandate than that of the members currently elected. On completion of this intermediate period, a review should take place to convert these new seats into permanent seats.[60]

Conclusion

The permanent membership of the five great powers and the subsequent right of veto not only constitutes the most controversial aspect of the Security Council, it has become in fact a bone of contention in the Security Council's reform process. Except for those

countries that have the right of veto, there is near agreement among the majority of the members of the United Nations that the veto is anachronistic, represents power politics and impinges on the principle of sovereign equality of states that is the cornerstone of the United Nations Charter, and hence ought to be abolished. In fact the ineffectiveness of the Security Council in performing its duties was mainly owing to this special right accorded to the permanent members of the Security Council, since it was this right that has contributed to the Security Council being quiet on a number of issues that have had serious repercussions for international peace and security. The best example is the Palestinian-Israeli conflict, which the United Nations has been unable to solve even after decades, and the United States' veto power is a reason for this ineffectiveness.

> The Palestinian-Israeli conflict, which the United Nations has been unable to solve even after decades, and the United States' veto power is a reason for this ineffectiveness.

The P-5 are sometimes more opaque on their position regarding the reform of the Security Council. While each of these five states retains its own individual perspective on reform depending on their interest as well as on geopolitics, they all almost agree that there is a need to preserve their veto powers, with only Britain and France having shown some flexibility on this issue. And this attitude of the P-5 has enough potential to block any reform of the Security Council in the near future. In short, on the one hand there is the existence of veto in the United Nations Charter and its practice by the permanent members which has rendered the Security Council ineffective; on the other hand, there is the stance of the permanent members, which is aimed at preserving their right of veto and interests, which has proved to a stumbling block for reform.

However, this should not be taken to the logical conclusion that since the P-5 is not favourable to reform, reform is impossible. At the outset it must be kept in mind that the attitude of the P-5 towards the reform process is one of the major reasons- not the sole reason- behind the lack of success in this regard. The lack of consensus among the rest of the world has also had its role in prolonging this issue over the decades.

Endnotes

1 David L. Bosco, *Five to Rule Them All: The UN Security Council and the Making of the Modern World*, New York, Oxford University Press, 2009, p. 5.

2 Robert S. Snyder, "Reforming the Security Council for the Post-Cold War World", *International Journal on World Peace*, Vol. 14, No. 1 (March 1997), pp. 8-9.

3 Yehuda Z. Blum, "Proposals for UN Security Council Reform", *The American Journal of International Law,* Vol. 99, No. 3 (July 2005), p. 636.

4 Ibid.

5 Dimitris Bourantonis, *The History and Politics of UN Security Council Reform*, New York, Routledge, 2005, pp. 13-15.

6 Ibid., p. 19.

7 Edward C. Luck, "Reforming the United Nations: Lessons from a History in Progress", *International Relations Studies and the United Nations*, Occasional Papers No.1 (2003), pp. 7-10.

8 Draft Resolution Doc. A/34/L.57 and Add.1, at http://www.globalpolicy.org/images/pdfs/Security_Council/Razali_Reform_Paper.pdf [last visited 10 October 2013].

9 Bardo Fassbender, "All Illusions Shattered: Looking Back on a Decade of Failed Attempts to Reform the UN Security Council", *Max Planck Yearbook of United Nations Law,* Vol. 7 (2003), p. 187.

10 Jonas V. Frieseleben, "Reform of the Security Council", in *Managing Change at the United Nations*, New York, Center for UN Reform Education, 2008, pp. 3-4.

11 According to Article 53 of the United Nations Charter, "the term enemy state… applies to any state which during the Second World War has been an enemy of any signatory of the present Charter".

12 Shashi Tharor, "Security Council Reform: Past, Present, and Future", *Ethics and International Affairs,* Vol. 25, No. 4 (2011), p. 398.

13 General Assembly, Draft Resolution A/59/L.64, pp. 2-3, at http://www.globalpolicy.org/images/pdfs/Security_Council/0706g4resolution.pdf [last visited 11 November 2013].

14 Frieseleben, "Reform of the Security Council", p. 3.

15 General Assembly, Draft Resolution A/59/L.68, pp. 2-3, at http://daccess-dds-ny.un.org/doc/UNDOC/LTD/N05/434/76/PDF/N0543476.pdf?OpenElement [last visited 12 August 2013].

16 Frieseleben, "Reform of the Security Council", p. 3.

17 African Union, *The Common African Position on the Reform of the United Nations: 'The Ezulwini Consensus,* Addis Ababa, African Union, 2005, pp. 9-10, at http://responsibilitytoprotect.org/files/AU_Ezulwini%20Consensus.pdf [last visited 13 July 2013].

18 Stands for Committee of Ten, African Permanent Representatives.

19 Shafa Gasimova, "The Security Council's Endless Enlargement Debate", *Central European Journal of International & Security Studies,* Vol. 6, No. 3-4 (2012), p. 272.

20 Lydia Swart, "Reform of the Security Council: September 2007- May 2013", p. 41, at http://www.centerforunreform.org/node/423 [last visited 26 October 2013].

21 Ibid.

22 The name of the group comes from the number of the draft resolution, A/61/L.69, these countries presented in the General Assembly which culminated in the shifting of the issue of Security Council reform from the open-ended working group to the intergovernmental negotiations. L stands for limited distribution and 69 is the number allocated to this document by the conference services.

23 Since the beginning of the issue of Security Council reform in the post-Cold War era, the focus of negotiations concerning reform was the open-ended working on the question of equitable representation on and increase in membership of the Security Council and other matters related to the Security Council (known as the Working Group) which was meant to provide an official forum for the discussions pertaining to the Security Council reform. However, in 2007 the issue was shifted to Intergovernmental Negotiations upon the request of General Assembly draft resolution A/61/L.69.

24 Swart, "Reform of the Security Council", p. 46.

25 Ibid.

26 United Nations, "Charter of the United Nations", at http://www.un.org/en/documents/charter/index.shtml [last visited 28 April 2013].

27 Hans Koechler, *The Voting Procedure in the United Nations Security Council: Examining a Normative Contradiction in the UN Charter and its Consequences for the International Relations*, Vienna, International Progress Organization, 1991, p. 18.

28 Ibid.

29 Sahar Okhovat, "The United Nations Security Council: Its Veto Power and Its Reform", *Center for Peace and Conflict Studies*, Working Paper No. 15/1 (December 2011), p. 11.

30 Ian Hurd, *After Anarchy: Legitimacy and Power in the United Nations Security Council*, New Jersey, Princeton University Press, 2007, p. 86.

31 Brian Cox, "United Nations Security Council Reform: Collected Proposals and Possible Consequences", *South Carolina Journal of International Law and Business,* Vol. 6, No.1 (Fall 2009), p. 98.

32 Tom Ruys and Jan Wouters, "Security Council Reform: A New Veto for a New Century?", *Tijdschrift voor Militair Recht en Oorlogsrecht / Revue de Droit Militaire et de Droit de la Guerre,* Vol. 44, No. 1-2 (2006), p. 142.

33 Gasimova, "The Security Council's Endless Enlargement Debate", pp. 274-275.

34 Frieseleben, "Reform of the Security Council", p. 3.

35 Bourantonis, *The History and Politics of UN Security Council Reform*, p. 6.

36 Frieseleben, "Reform of the Security Council", p. 3.

37 Vaughan Lowe, et. al. (ed.), *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945*, New York, Oxford University Press, 2008, p. 135.

38 Gasimova, "The Security Council's Endless Enlargement Debate", pp. 282-283.

39 Fassbender, "All Illusions Shattered", pp. 211-212.

40 Gasimova, "The Security Council's Endless Enlargement Debate", p. 273.

41 African Union, *The Common African Position on the Reform of the United Nations,* pp. 9-10.

42 Alischa Kugel, "Reform of the Security Council- A New Approach", *Dialogue on Globalization*, FES Briefing Paper 12 (September 2009), p. 4.

43 Swart, "Reform of the Security Council", p. 49.

44 Mary Ellen O'Connell, "The United Nations Security Council and the Authorization of Force: Renewing the Council through Law Reform", *Public Law and Legal Theory*, Working Paper Series No. 31 (April 2005), p. 4.

45 Cox, "United Nations Security Council Reform", p. 94.

46 Ibid.

47 Gasimova, "The Security Council's Endless Enlargement Debate", p. 275.

48 Kara C. MacDonald and Stewart M. Patrick, "UN Security Council Enlargement and US Interests", *Council on Foreign Relations*, Special Report No. 59 (December 2010), p. 13.

49 Global Policy Forum, "*Changing Patterns in the Use of Veto in the Security Council*", at http://www.globalpolicy.org/images/pdfs/Changing_Patterns_in_the_Use_of_the_Veto_as_of_August_2012.pdf [last visited 22 July 2013].

50 Alexander Nikitin, "Russia as a Permanent Member of the UN Security Council", *Friedrich Ebert Stiftung International Policy Analysis,* November 2012, p. 14.

51 Ibid., pp. 11-12.

52 Ibid.

53 Ibid., p. 14.

54 Cox, "United Nations Security Council Reform", pp. 97-98.

55 Swart, "Reform of the Security Council", p. 50.

56 J. Mohan Malik, "Security Council Reform: China Signals its Veto", *World Policy Journal,* Vol. 22, No. 1 (Spring 2005), p. 20.

57 Blum, "Proposals for UN Security Council Reform", p. 636.

58 Cox, "United Nations Security Council Reform", pp. 97.

59 France at the United Nations, "Security Council Reform", at http://www.franceonu.org/france-at-the-united-nations/thematic-files/un-reform/security-council-reform/article/security-council-reform [last visited 2 June 2013].

60 Letter from the Permanent Representatives of United Kingdom and France to the Ambassador Zahir Tanin, at http://www.franceonu.org/IMG/pdf_Reforme_CSNU_-_Position_FR_UK_-_EN.pdf [last visited 2 June 2013].