EXAMINING THE STATE-CENTRIC UNSC FROM THE COSMOPOLITAN DEMOCRACY PERSPECTIVE[1]

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ABSTRACT

A variety of reform proposals have been offered by scholars and politicians for the United Nations Security Council (SC), almost all of which have focused solely on state-based solutions. The current study considers that reforming the Council through such means would not alter its current state to any significant extent. The international legal order does not involve only nation-states, and state-based systems are not able autonomously to deal with new international problems such as global environmental issues, refugee flows and mass migration across borders in the post-Westphalian era. The current paper has thus developed a different approach to the issue of the reformation. It examines the SC and its critics. It first provides a critical evaluation of the SC critics. It then underlines hypocrisy problem of the Council by basing on Cosmopolitan Democracy (CD). It later discusses the democracy concept for the Council. It is finally concluded that a reform proposal for the Security Council must produce a non-state based solution. It is proposed that the Council must consider advancing access for new international legal actors.

Key words: *Reformation of the UNSC, NGOs, Cosmopolitan Democracy*

JEL Classification: *F53, K33, L31*

DEVLET-MERKEZLİ BMGK'NIN KOZMOPOLİTAN DEMOKRASİ PERSPEKTİFİ İLE DEĞERLENDİRİLMESİ

ÖZ

Birleşmiş Milletler Güvenlik Konseyi'nin reform edilmesi için akademisyenler ve politikacılar tarafından birçok devlet merkezli reform önerileri yapılmıştır. Mevcut çalışma, sadece devlet merkezli yaklaşımlarla Konsey'i reform etmek, Konsey'in yapısında ciddi bir değişiklik oluşturmayacağını ileri sürmektedir. Uluslararası hukuk düzeni sadece ulus-devletleri kapsamamaktadır ve devlet merkezli sistemler Vestfalya sonrası çevresel meseleler, büyük mülteci göçleri gibi uluslararası problemlerle kendi başlarına üstesinden gelememektedir. Bu mevcut çalışma bu yüzden Konsey'in reform edilmesine farklı bir yaklaşım geliştiriyor. Konsey'i ve Konsey'e yapılan eleştirileri değerlendiriyor.

İlk olarak, Konsey'e yapılan eleştiriler için eleştirel bir değerlendirme sunuyor. Sonra, Kozmopolitan Demokrasi'ye dayanarak Konsey'in ikiyüzlülük probleminin altını çiziyor. Daha sonra, Konsey için demokrasi kavramını ele almıştır. Son olarak, Konsey için sadece devlet merkezli olmayan bir reform geliştirilmesi gerektiği sonucuna ulaşmıştır. Bu bağlamda, uluslararası sistemin yeni etkili aktörleri ile münasebetlerin geliştirilmesi gerektiği tavsiye etmiştir.

Anahtar kelimeler: *BMGK'nın Reform Edilmesi, STK, Kozmopolitan Demokrasi*

JEL Sınıflandırması: *F53, K33, L31*

1. INTRODUCTION

The current study presents criticisms of the UN Security Council. This does not mean that the Council is completely dysfunctional. The present study tries to find an alternative way to help the Council respond better to international peace and security issues. The report of the International Commission on Intervention and State Sovereignty in 2001 aptly states that

> *there is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes…The task is not to find alternatives to the Security Council as a source of authority, but to make the Security Council work better than it has*. (Report of ICISS, 2001)

Critics are therefore enjoined to investigate ways of making the Security Council function better than it does.

The issue of Council reform provides a reminder of the demands to change the UN Charter in order to develop a more democratic, effective and accountable Council. These demands, which may be feigned to hide a deeper purpose, are ostensibly a call to the Council to be more accountable for its actions, but often express regret that the UN Charter is the only obstacle to this desirable outcome, as it purportedly does not permit other members either to stop the Council from taking decisions or to take action when the Council's power of decision has been blocked by a member exercising its power of veto. These critics have mostly blamed those two factors: the Charter and the power of veto. They have therefore generally continued to demand reform of the Council's structure to make it more democratic, effective and accountable.

However, it is by no means certain that this question should be taken at face value. The facts might differ to some degree from the way in which the critics present them. The contention that the member states cannot control the Council is certainly questionable, so it becomes futile to scapegoat the UN Charter or veto powers the Council's failures. The veto power is undoubtedly a problem, but

not the only one (Roberts & Zaum, 2009). As will be shown, there are alternatives by which UN members can overcome this obstacle. Yet it will also be demonstrated that a lack of consensus or of the ability to act independently has prevented the UN's members from employing these alternatives. It is concluded that state-based solutions such as removing the veto power or adding more states to the Council are pointless. It is necessary rather focus on non-state based solutions that are more likely to enhance the Council's role.

2. THEORETICAL FRAMEWORK

As stated above, it is necessary for the UNSC to consider the developments of post-Westphalian order. A significant number of problems are seen to be emerging with which the state-based system alone cannot cope because it is hypocritical, and lacks both altruism and necessary sources. At this juncture, CD makes a significant contribution by its criticism of the state-centric structure. In particular, Daniele Archibugi's argument regarding the hypocrisy of states allows a clearer criticism of the UNSC's structure, and consequently the development of a stronger line of reasoning as to how that state-centric system should be changed.

Furthermore, as the current research concerns the development of a more democratic Security Council, CD provides significant insights with which to justify the desirability of democracy in the Council's system. CD emphasises that all individuals affected by decisions should have the right to participate in that system's decision-making process. It allows the definition of a demand for the development of a more democratic Council and describes grounds for a response to the question of why this demand for NGOs' participation is so important. CD has played a significant role in identifying possible benefits of the proposed solution. In short, the advocates of CD[3] have contributed significantly to the author's arguments regarding the Council.

2.1. Other Alternative Theories

CD is not only one example of an approach to both cosmopolitanism and democracy. CD was first suggested by Daniele Archibugi and David Held at the end of the Cold War, as a new wave of democratization was building (Held,1995; Archibugi, 2008; Archibugi and Held, 2011:433; Archibugi & Held, 1995; Held, 2005). A group of thinkers have developed the project for the purpose of providing intellectual arguments in favour of an expansion of democracy, both within states and at the global level, in the early 1990s. CD has endeavoured to provide a response to issues such as the conditions under which public opinion could become paramount, the extent to which the general public could control the actions undertaken by the various subjects, be they national governments,

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[3] Including Daniele Archibugi and Boutros Boutros-Ghali.

international organizations or multinational corporations, and the institutional instruments that are available to confer an effective political role on the planet's inhabitants (Archibugi, 2008: 2-3). A significant and growing body of literature on supporting the democratizing globalization[4] has developed, whose authors include Falk, McGrew, Koehler, Habermas, Kaldor, Linklater, Dryzek, Thompson, Holden, Franceschet (2003), Boutros-Ghali and Morrison (2003). Naturally, these scholars disagree on some matters, but their main point in common is the development of democracy beyond state borders. They offer a variety of approaches to achieving this goal. Therefore, even though some of them do find fault with CD, the points on which they agree with it allow their use as supporting arguments in the present work.

Falk (1995; 1998) argues that a proper response to the emerging problems of the modern world demand a fundamental revision of the concepts of sovereignty, democracy, and security in practice. These concepts are subject to reshaping in the context of a transformation from a state-centric world to global governance. McGrew (1997; 2002; 2011) also underlines the transformation of the Westphalian state-based system, stating that "a post-Westphalian world order in the making as sovereign statehood is transformed by the dynamics of globalization". Habermas (1998; 2001) indicates that nation-states have been undermined by the processes of globalization, noting that they are therefore no longer able to claim the right of unlimited sovereignty and control over the traditional structures of international law. He believes that the international community must establish supranational institutions in which individuals could also participate. Linklater (1998) likewise affirms that globalization has challenged the traditional practices of nation-states, making it possible to establish new forms of the political community such as the cosmopolitan that is sensitive to differences and aims to reduce inequalities. Dryzek (1999) also holds that international civil society has played a significant role in the democratization of international institutions.

CD is only one example of an approach to transnational democracy. There are other alternative ways of making international institutions more democratic. Three other distinctly transnational democratic theories also contain some of these principles: deliberative democracy, liberal-internationalism and radical pluralism.

Deliberative democracy holds that legitimacy is engendered by the participation of several actors and that the decision-making process has a democratic, transparent and accountable character in which participants can question each other's interests and justify the public weal (Nanz & Steffek, 2004). Liberal-internationalism responds to the question of transnational democracy by developing

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[4]Some authors criticize CD, finding it inadequate. However, they agree with some of its basic tenets such as applying rules of law and shared participation in the fields of the international legal order. In common with CD, they urge the democratization of globalization (Archibugi, 2004: 438).

more representative, accountable and transparent international organisations (Falk, 1995). The distinguishing idea of liberal-internationalism is "civil society": it implies that states have been embedded in "domestic and international civil society", which systemically hinders state actions (Moravcsik, 1992). Radical democratic pluralism involves a substantive perspective on democracy (McGrew, 2002). It is concerned with establishing "good communities" based on "normative principles of equality, active citizenship, the promotion of the public good, humane governance and harmony with the natural environment" (McGrew, 2002: 5).

The abovementioned alternative theories are also of significant value for developing a more democratic SC. Nevertheless, none of these three theories comprehend the purposes of this study. For example, none of them adopts an even vaguely progressive approach.[5] Nor, despite their eagerness to highlight the importance of the participation of non-state actors, is any of them keen to criticize the state-based system.[6] They do have some points, such as the participation of NGOs and increasing accountability in common. Yet it is CD that comprehensively answers the purposes of this study, and it is, therefore, more practicable to employ it than to aggregate the common points of different theories.

2.2. Critics of CD

There are some objections to CD. Martell (2011) maintains that cosmopolitan goals cannot be achieved by cosmopolitan democracy. He has its doubts about cosmopolitan democracy while agreeing that it has value. For him, "…cosmopolitans are well-intended and concerned about the world's problems and cultural harmony and are proposing routes for solving them". He concedes the existence of common global problems, but questions whether global politics is the best way of tackling them. He believes that the world as it is not ready for a cosmopolitan order because of the lack of sociological and empirical basis in society. A defence of CD would, therefore, obstruct the development of alternative analytical means of arriving at cosmopolitan ends. He suggests that such ends would more likely be achieved through the adoption of non-cosmopolitan means. This is, in fact, the strongest argument against CD, as the current international legal order may not be ready for such measures. That does not mean it will not be ready in the future. The current study acknowledges difficulty that the time may not yet be right for its proposal.

Held (2010: 229) points out, however, that CD acknowledges the importance of force and interest, without regarding them as the sole principles by which to shape the international legal order.

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[5] The radical democratic pluralist theory refuses strongly reforming existing structures of global governance (McGrew, 2002).

[6] Even though liberal international theory highlights the significance of transnational civil society, it stresses the accountability of international organizations to national governments. Thus, it still remains state-centric (McGrew, 2003: 501).

The realist view that the mechanisms by which the world operates are different than those advocated by CD ignore the mutability of international circumstances. Their assumption would have prevailed before the 1990s, but the events of the last two decades offer very little to substantiate this viewpoint. Furthermore, Archibugi (2004: 453) also affirms that, if the realists were right, democracy itself should not have existed as a political system. Yet it does so, even despite its imperfections. CD also refutes the realist argument that its adherents simply restate their beliefs dogmatically.

In addition, realists also see the academic advocates of CD as dreamers (Wolf, 1999). They believe that the world is very different than imagined by this theory, maintaining that international relations should be regulated according to principles of force and interest. They, therefore, think that any effort to tame the international legal order by institutions and public participation cannot be considered as anything more than purely utopian (Zolo, 1997; Hawthorn, 2000; Chandler, 2003). On this view, some realists reject the feasibility and the desirability of the CD project.

Held (2010) points out, however, that CD acknowledges the importance of force and interest, without regarding them as the sole principles by which to shape the international legal order. The realist view that the mechanisms by which the world operates are different than those advocated by CD ignore the mutability of international circumstances. Their assumption would have been prevailed before the 1990s, but the events of the last two decades offer very little to substantiate this viewpoint. Furthermore, Archibugi (2004) also affirms that, if the realists were right, democracy itself should not have existed as a political system. Yet it does so, even despite its imperfections. CD also refutes the realist argument that its adherents simply restate their beliefs dogmatically.

In short, this objection could be referred to as the difficulty of CD's practicality. The realist view rejects the philosophy's feasibility, basing its argument on the fact that the international legal order is based on power and interests. They thus believe that there is conflict of interests that would not allow CD to be implemented. In this respect, Martell (2011) accepts the realist view. He goes further, however, to make alternative suggestions by which cosmopolitan goals can be achieved. His criticisms are thus more constructive than the simple realist dismissal of CD as a dream. At least he does not merely disparage CD as an unrealistic or infeasible vision.

Nevertheless, CD does, in fact, take the realities of the international legal order into account, thus actually recognising facts ignored by realists. This does not mean the total rejection of force and interest as factors to be taken into account, but only of their monopoly as considerations. Barack Obama (2015) has recently stated that the traditional use of force is no longer an efficient way of dealing with problems in the international legal order. Many international treaties have been adopted by states who have relinquished their interests. If the realist perspective were valid, many international

humanitarian treaties and mechanisms for cooperation would not have been considered by international actors.

What is more, Eckersley (2007) points out that the majority of like-minded cosmopolitan nation states must agree in order to achieve a cosmopolitan global order. He thus believes that CD should not attempt to weaken nationalism, but rather should seek ways that would rescue, reframe and harness nationalism in order to take on a more cosmopolitan character. Kuyper (2012) indicates that globalization makes CD a necessary project while relegating its fulfilment to the distant future. He concedes that there might well be increased interdependence and cooperation of actors at the global level that renders the CD proposal necessary. On the other hand, he points out that globalization also amplifies power imbalances and skews the interests of various actors. He also puts forward the argument that CD has failed to provide empirical evidence that could support its vision. He thus suggests that CD should focus on questions emanating from Historical Institutionalism (HI) and International Relations (IR) rather than only grounding itself in the democratic equality of individuals while advocating the abolition or establishment of international organizations. He states that "how agreement can be reached under uncertainty, how nation-states could credibly commit to such a scheme, what types of institutional design should be sought, and other questions must be analysed in depth" (Kuyper, 2012: 44). In fact, CD also tries to respond to these questions, noting, for example, the requirement for states to approve the compulsory jurisdiction of the ICJ (Held, 2010). CD also considers the progressive approach that would be necessary when it proves hard for actors to reach a consensus. The present study likewise considers how the UNSC's efficiency could be improved rather than directly proposing a replacement cosmopolitan structure.

3. WHAT IS WRONG WITH THE UNSC?

Firstly, it is reasonable to assess the sources of the power invested in the UNSC to enable it to perform its functions. In accordance with Article 23 of the UN Charter, there are five permanent members, each with the veto power, and 10 non-permanent members with no veto power. In fact, it is evident that this veto stipulated by the UN Charter gives any one permanent member the power to prevent the Council from taking a decision (Pauwelyn, Wessel and Wouters, 2014). Nonetheless, it is not something that cannot be overcome under the provisions of the current UN Charter. Article 27 states explicitly that all decisions, procedural or otherwise, should be taken by a majority of no less than nine Council members. It is thus clear that the five permanent members alone cannot take any decisions, and that the seven non-permanent members are able to block the Council from taking any decision. It is, however, not surprising that there has not been a single case in which the non-permanent members have exercised this power (Dervis and Ozer). The second concern often voiced is

that the non-permanent members are not able to urge the Council to take action regarding any international issue. But this need not present a problem that cannot be overcome by the Uniting for Peace Resolution.

The authority emanating from the Uniting for Peace Resolution[7] provides for General Assembly members to take an active role when the UNSC fails to resolve any particular international peace and security issue because of inefficiency or the exercise of the veto power. It means that the Council is not the UN's sole decision-making organ with regard to such issues. The General Assembly can, in fact, urge its member states to take action when the Council's permanent members cause deadlock. This resolution was adopted in 1950; its significance is that the UN had to some extent solved the veto problem just five years after its establishment. Nevertheless, there are only a few weak instances in which the provisions of that Resolution were implemented: Korea (1950), the Suez Crisis (1956), the Congo Crisis (1960), the conflict between India and Pakistan (1971) and the Afghanistan conflict (1980) (Köchler, 1991). It was, however, forgotten in the case of the Rwandan genocide, and has not been applied to some current crises such as those in Palestine, Syria, and Myanmar (Köchler, 1991).

It can thus be seen that non-permanent members of the Council can prevent its permanent members from taking any undesirable action[8] and that the Assembly can assume final responsibility for taking action in any international dispute in which the Council has been rendered ineffective. It is also evident, however, that both of these capabilities have not properly been fulfilled by the UN's members. Even though the Uniting for Peace Resolution was practiced on a few occasions, even these depended on the consent of the big powers. It therefore does not follow to attribute blame solely to the UN Charter or the Council's permanent members; it must also be remembered that member states have their own power but cannot or do not choose to exercise it on their own authority.[9] This is why

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[7] The General Assembly Resolution 377 was adopted in 1950. This resolution states that "where the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security, the General Assembly shall seize itself of the matter'. (Woolsey, 1951)

[8] For example, "in the cases of East Timor, Sierra Leone, and Haiti, the Security Council took enforcement actions after reaching the conclusion that the situations under review were threats to peace and security—a conclusion that is required to justify such action under the Charter. It seems quite clear, however, that there was very little danger to international peace and security in these isolated conflicts, where primitive armaments dominated and no major powers were involved. Yet the Security Council confirmed the necessity of action." (Rich, 2001: 31)

[9] For example, Vijay Mehta states that: "Early in 2003, before the Iraq war began in 2003, an attempt was made to hold a debate. Some 59-member states were prepared to call for a meeting, although 96 members would have been required. The war came too soon for a debate. Another obstacle for many of the smaller members was a demand by the United States that they withhold their support for a vote, warning them of dire consequences in their relations with that country." (Mehta, 2010) It is thus made clear how a superpower can exert pressure on other member states to withhold their authority

the UNSC is in a deadlock in significant international issues such as the current Syrian conflict and Ukraine crisis.

In addition, the structure of the UNSC itself is hardly without its problems. There might indeed be some possibility of enhancing the UNSC by restructuring the UN Charter. The veto power could be removed or limited. More members can be added, which could cause more problems or could alleviate them. These solutions are however subject to Articles 108 and 109 of the UN Charter that require the approval of the permanent members for any amendments to the UN Charter. Thus, such expectations would quite be hard to put into effect.

The primary question seems to concern the actors in the UNSC. Rather than focusing on state-based solutions, a non-state approach should be adopted. It is more a question of the unwillingness or inability of member states to enhance the role of the UNSC: when one or more permanent Council members block the system, surprisingly the other 192 members simply feel obliged to respect this international institution (Murithi, 2012). The main problem is therefore mostly the result of the members' inability rather than rules of the Charter. To illustrate this, member states have been warned by the superpowers that the UN might fall into a state of irrelevance similar to that which preceded the demise of the League of Nations during the course of the Second World War (Köchler, 2006: 333). This ominous warning was issued by the US in connection with its attempts to have UNSC resolutions passed authorizing the use of force in Iraq, or "legitimizing the occupation of Iraq", *post festum (after the fact)* (Köchler, 2006: 334).

The member states of the UN can be pressured by the big powers into restricting their actions to those of which the big powers approve. For example, on 19 November 2003 at Whitehall Palace in London, then-US President George W. Bush said that the UN was aware that its credibility *"depends on a willingness to keep its word and to act when action is required. America and Great Britain have done and will do all in their power to prevent the United Nations from solemnly choosing its own irrelevance and inviting the fate of the League of Nations"* (The New York Times, 2003). President Bush can be seen as having acted according to the dictates of his predecessor Theodore Rooselvelt speaking softly and carrying a big stick as he warned or threatened other UN member states. President Bush has thus made it explicit that UN member states may not take action independently without big power consent. If they do not wish to jeopardize their own interests, they might also prefer to remain silent. In this context, the USA, Russia and the other big powers may not be solely responsible for refusing to adhere to the common rules of international law (Jacobs & Poirier, 1976: 606). There are significant ideological or economic disagreements among UN members, so the organization has many times been wracked with dissension rather than being united in consensus.

In such an environment, the weakness of the UNSC is inevitable (Jacobs & Poirier, 1976). Neither maintaining the current state-centric structure nor reforming it would make any sense without considering the inclusion of new agents. Köchler (2006: 335) pithily observes that "this leaves the United Nations trapped between a rock and a hard place when it comes to crucial matters of international peace and security" such as the ongoing crises in Palestine, Syria and the Ukraine. Member states are regrettably unable to enforce the rules of the UN Charter against the will of its most powerful members – nor, indeed, do they want to if they are to preserve their interests. In that respect, rather than attempting to reform the UNSC, it is essential to seek out new actors that would be able to act freely.

The balance of power may prevent the Council from fulfilling its duty properly, but at least it can play a deterrent role in international or domestic conflicts through the participation of new actors. Changing the UN Charter might be impossible in practice, and may not be a proper solution in any case, in light of the many democracy promises made by various UN pronouncements. Members have some right to challenge the Council and make the General Assembly the final decision-making organ. These rights are, however, dependent on the consent of the big powers, whose statements must be heeded by the other member states. They indeed have rights, but can only use them at the discretion of the big powers.

This implies that the main problem concerns the willingness of states to dare to take risks against their interests. In this context, it does not seem that it would make any sense if other member states were to have further places on the Council. The Charter might have some impact on states' behaviour, but it is the positions of states that have the greater effect on their actions. The Security Council's failure is not purely a consequence of the UN Charter; it is more about the choices of decision-makers. Given this situation, while state actors are already on the scene, it is quite useless to pursue state-centric reforms. These independent actors would not be concerned about the pressure that powerful states could exert; they would be able to act autonomously.

The Council also has significant duties such as maintaining international peace and security, but states do not seem adequately to be able to perform these obligations due to their self-interested politics. This certainly implies that leaving such important responsibilities to a state-based system would be the equivalent of setting a wolf to guard the sheep (Köchler, 2006: 20). The former Secretary-General of the UN, Boutros-Ghali, has provided a clear, coherent theoretical framework for the future enrichment of global democracy, highlighting the fact that making the Council a more democratic and effective international actor would be possible by granting it considerable autonomy from the traditional fetters that the most powerful states have imposed on it (Boutros-Ghali, 2000: 108).

3.1. The State-centric System's Problem: Greed for Power, not Peace

It is frequently argued not only that states are the source of the world's problems (Willets, 2000: 208), but further that the "nation state" has begun to be considered as an obstacle in maintaining international peace and security in the post-Westphalian era (Drake, 1999: 243). Criticisms about "the state-centric nature of the set of UN Charter principles because of its fundamental dissatisfaction with the Charter scheme as a foundation for global order" have been voiced (Falk, Kim & Mendlovitz, 1991: 8-9). The UNSC system is, in fact, a club of nation-states; it is mostly handicapped when it comes to resolving disputes in the international realm. This might indicate that the Council's state-centric system is inadequate to face problems in international relations.[10] Such an inability should serve as a clear signal that Council has reached its systemic limits, and must consider changing its state-centric system in order to achieve both effectiveness and democracy.

Archibugi (2008: 156-164) has proposed two hypocrisies by way of pointing out how difficult it is for a state-based system to be both democratic and compatible with the current international legal order. The first of these hypocrisies, he maintains, has arisen through the Western democracies. The US, the UK and France, in fact, consider the UN as a tool for propagating their own "constitutional forms" into the international arena. They have had no compunction about appropriating "the right to block any decision regarding security" (Archibugi, 2008: 157). They have arrogated to themselves the "imperial privilege"[11] of being the permanent members of the UNSC with the veto power (Archibugi, 2008). The Soviet Union seemed to be the more consistent actor by explicitly preventing the word "democracy" from appearing in the Universal Declaration of Human Rights (Kelsen, 1945). That absence makes it cruel but not paradoxical that the major UN powers include authoritarian countries. On the other hand, it is both cruel and contradictory when democratic countries (such as USA, UK, Italy, France and etc.) are included (Archibugi, 2008: 157).

The second hypocrisy has arisen from the governments of developing countries. Even though they have continually demanded more democracy in the UN's structure, accusing the organisation of not being responsive to the claims of weaker states, most of these governments have been reluctant to apply democratic principles within the boundaries of their own states. Harassment – and in some cases massacre – of their own peoples have therefore often accompanied their "anticolonial and anti-imperialist rhetoric" (Archibugi, 2008). Their representatives do not have any credibility on this ground to demand democracy while ignoring it "in their own backyard" (Archibugi, 2008).

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[10] For instance, the SC cannot afford to deal with problems of subnational groups or direct their grievances since the SC is unable to resolve 'disputes between illegitimate governments and the armed militia that seek to overthrow them through violent means'. (Murithi, 2012: 134)

[11] In according to Archibugi (2008), it is used in the literal sense of the term.

As Archibugi (2008) states these two hypocrisies, they are not likely to allow headway to be made for a more democratic UNSC. They seek to advance their own interests rather than developing a more democratic organization that can promote international peace and security more effectively. And it is not necessarily reasonable to expect member governments to comply with or practice untried and untested democratic values that do not reflect the existing dynamics of power, irrespective of whether or not they have approved them (Archibugi, 2008). It is thus not to be expected that such actors will promote a more democratic UNSC. Even though they could manage to establish one, it would only be natural to expect them to continue their hypocritical positions by attempting to avoid applying these democratic values.

To further illustrate the hypocrisy of the members, there has been a debate about involving regional organisations such as the EU, the African Union (AU), Mercosur and the Arab League to the UNSC. However, even though the EU has been moving toward a common foreign policy, it is not surprising to see that some Western members of the UNSC have voted against the EU having a seat on the Council (Murithi, 2012). When it is considered that this issue concerns the EU, not the UN (Archibugi, 2008), it is not difficult to see how states would not be inclined to act on behalf of common interests or a group. A self-interested state-based system is thus not a fit instrument for benefitting the UN's people or for complying with its purposes and principles. This question particularly concerns the UNSC, which bears the primary responsibility for the maintenance of international peace and security.

This issue of the permanent members' hypocrisy raises another significant issue. The powerful states have used the "democracy" argument many times to legitimate their military interventions through UNSC resolutions. Their goal has always been to increase their geo-political pressure in order to serve their interests (Murithi, 2012). This is why they promote democracy across the globe in word but not in deed. The UK and France, two of its permanent members, also belong to the EU, which consistently underlines the importance of democracy in its member states. Another permanent member, the US, claims to desire and promote democracy - indeed, to the extent that it can even declare a war against any entity for democracy's sake. France's reaction to the Rwandan genocide in 1994 was frankly irresponsible. President Francois Mitterand said, "In such countries, genocide is not too important…" (Gourevitch, 1999).[12] There are cases such as Palestine, Syria and the Ukraine in which the Council has failed to take effective responsibility.

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The Palestinian case, in particular, raises many issues, but one outstanding example shows how the US, supposedly the world's leading promoter of democracy, could challenge a democratic step under the auspices of the UN. It has withdrawn funds from UNESCO after Palestine was upgraded to non-member observer status in the General Assembly (The Guardian, 2011). It is politically understandable that the US voted against this, yet it is hardly to be comprehended that the country took such a drastic step as to cut funds from a democratically elected entity.

The Syrian case involves two types of hypocrisy as outlined by Archibugi (2008). First, the UNSC undertook military operations against Gaddafi in Libya in 2011 after expressing its concern about "protecting civilians, the escalation of violence, and the heavy civilian casualties" in that country (UNSC Resolution 1973, 2011). When violence escalated in Syria, with resultant heavy civilian casualties, it was widely expected that the Council would respond likewise to that situation.[13] Yet a single effective action has yet to be taken in that case. The second hypocrisy is that many Middle Eastern countries who have called on the Syrian government to establish democratic principles and negotiate with anti-government movements are hardly in a moral position to do so, responding violently as they do to any demands for democracy from their own citizens.

However, whilst the major powers maintain their desire for democracy throughout the world, their actions betray their detestation of the concept in the context of the UNSC. Murithi (2012) asserts that "this is one situation in which the UN Charter came under direct threat from the dogmatic interests of powerful permanent members of the UNSC". Of course, other permanent members are hardly blameless. The case of the Ukraine could be cited as the clearest demonstration of how Russia has used military intervention in order pretend to preserve the Crimea's rights. And Russia and China has now been preventing the UNSC from intervening militarily in Syria to protect civilians for years.[14]

This problem of hypocrisy renders nation-states incapable of acting to maintain international peace and security. While a particular state can be highly sensitive to the security of its own people, the same does not even vaguely pay attention to that of other countries' peoples. States can sometimes even apply a double standard, favouring its native-born citizens against its immigrant ones in terms of human rights. The UNSC should not be a place in which governments hypocritically proclaim one set of values while practising another (Roberts & Kingsbury, 1993: 14). It should also not be a vehicle to disguise the pursuit of power politics. It is thus entirely plausible to maintain that commending international peace and security to nation-states is dangerous and hopeless.

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[13] In the meanwhile, I do not discuss the necessity of applying military operation, here, I just illustrate hypocrisy example.

[14] It does not mean that this proposal complain about why the SC do not take military action in Syria, contrary to this, this proposal offers to apply always peaceful means as much as possible. Ergo, it is aimed to illustrate how a state could react differently and how a state's sensibility can wary unfairly in the sense of hypocrisy.

4. DEMOCRACY IN THE CONTEXT OF THE UNSC

"In the Security Council, the five-country right to veto is a breach of all conventional democratic principles…" (Archibugi, 2008: 93)

"The exclusive character of the Security Council veto was anathema to any notion of democracy." (Kasemsarn, 2001)

The international legal order is a system that provides a framework that encourages international agents to maintain their affairs as stably as possible (Kasemsarn, 2001). The rules of the international legal order regulate international agents' interactions, moderate their conflicts and provide a mechanism for resolving their disagreements (Morrison, 2004). These rules also form a common basis for international peace and security (Morrison, 2004). They may vary from time to time. For example, the previous formative principles were that states were the only significant actors[15], recognition of a new actor depended on "territorial integrity" and "political independence", the maintenance of international order was based on "collective security", it was possible for states to control all other actors, both individuals and groups, and democracy was a strictly national issue (Therien & Belanger-Dumontier, 2009: 359).

However, the international legal environment has evolved remarkably in several respects such as the introduction of new actors, new problems and new inventions. For example, the major organization, the United Nations, has increased its membership from 51 states to nearly 200, while the world's population has risen from about 2.5 billion to approximately 7 billion. It is necessary for the international legal order to adjust to this new environment. For Fred Morrison, this order is not an immutable body of rules; it is a living system and it should respond to the changes brought about during the past century (Morrison, 2004: 338).

The question of whether the UNSC must be more democratic must be answered in the affirmative when the realities of the current world order are considered. The Council was established and its permanent members were empowered by veto power to control their aggressive actions for the sake of preventing a third world war.[16] Yet there are significant differences between 1945 and the modern world. If the main reason for the Council's structure was to prevent international conflicts, new threats such as global environmental degradation, refugee flows and mass cross-border migration, the spread of infectious diseases, global terrorism and transnational crime have manifested themselves in the meantime (Jacobs & Poirier, 1976). These threats could be as serious as any possible conflict

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[15] Article 34(1) of the Statute of the International Court of Justice: "Only states may be parties in cases before the Court"

[16] "The veto was originally viewed as a device to insure the unity of the "big powers" on actions taken by the United Nations in matters of great importance." (Jacobs & Poirier, 1976: 603)

among the permanent five. As new global threats have emerged, the UN has also become essential for the national security of big powers (Kelemen, 2011). The UNSC must therefore restructure its system in response to these threats. The way to effect this is to make the institution more democratic.

Democracy in the UN, particularly in the UNSC, could be seen as a contentious issue. Barry Holden sees that 'what global democracy is, and to what extend its existence is likely or desirable, are matters about which there is considerable controversy' (Holden, 2000). Such dissension might be due to the fact that, on the insistence of the USSR, the UN Charter does not use the word "democracy"; instead it refers to some of its principles (Archibugi, 1995). Democracy was apparently sacrificed on the altar of the Soviet Union's ideological purposes. If democracy had been directly mentioned in the Charter, it would perhaps have paved the way for the quicker development of a more democratic UNSC by possibly making it easier for arguments to be based on it and for other authorities to demand more democracy in the Council. Of course, it would also thereby make the idea less controversial.

Secondly, while the enrichment of democratic culture is seen as the first step towards democratization (Archibugi, Balduini & Donati, 2000), there are significant contradictions between the Charter and the Council's practices, preventing the development of a democratic base and making it difficult to picture a practicable democratic structure. Principles of democracy are outlined in the UN Charter, yet these have been arbitrarily interpreted by the permanent members of the UNSC (Köchler, 1991: 18). The lack of a clear, widely acknowledged theoretical frame of reference also makes democratic reforms more difficult. Lastly, when member states call for a more democratic Council, the aim of such demands is more often than not to gain advantage under the guise of democracy rather than to actually democratize the UNSC. It can, therefore, be said that "the commitment to democratization is, however, stated in terms of pragmatism rather than of a comprehensive and long-term political project" (Köchler, 1991). Under these circumstances, it is hard to define a concept of democracy for the UNSC.

The World Commission on Culture and Development's report (1995) *Our Creative Diversity* states that "as we enter the twenty-first century, it is time to restore the supremacy of the people in international organizations on the same lines as it is at present being restored within nations all over the world". A principle of democracy also enshrined in the Universal Declaration of Human Rights adopted by the General Assembly in 1948. The concept of democracy is eloquently expressed in Article 21(3) of the Universal Declaration of Human Rights in the phrase "the will of the people shall be the basis of the authority of government…" (Joyner, 1999).

While the UN Charter and its statements such as the Universal Declaration of Human Rights have embraced some principles of democracy in theory, they have been applied ambiguously rather

than by adhering to the purposes for which they were made. In this context, as the report of the *Our Creative Diversity* (1995: 61-62) observes, "fifty years ago, the United Nations was created in the name of "We, the Peoples", yet, people did not have too direct a say in the operations of the United Nations as governmental representatives took over all its organs, including the General Assembly and the Security Council".

In fact, four significant factors have motivated the UN to include global democracy on its agenda: the end of the Cold War, the third wave of democratization, globalization and the influx of new international actors (Therien & Belanger-Dumontier, 2009: 358). The UN has thus changed its attitude to the notion of democracy. However, it has only been partially successful of an idea and making up a historical backdrop since no significant development regarding the practice of democracy is evident. Jacobs and Poirier aptly point out that "despite the cooperative goals espoused in the Charter, the United Nations is a political institution in which members are pursuing their national interests as they see them" (Jacobs & Poirier, 1976, p.606). Bertrand (1993: 436) likewise indicates that attempts by states to democratize the UN have remained largely theoretical, without a general commitment to their implementation.

The UNSC has accordingly also struggled between stated principles and their practical application. Firstly, the Council was set up to maintain international peace and security, but the history of international conflicts shows that the Council's permanent members, in particular, have been involved in many conflicts, either by inciting the parties concerned (generally indirectly) or by directly intervention. Archibugi (2008) states regarding the UN's general condition that the practices of influential members are sufficient to demonstrate that "this is a formal principle that is not upheld in practice". It is thus essential to reconsider who implements the UN's rules.

Article 2(1) of the UN Charter speaks eloquently of the need to act in accordance with democratic principles: "the Organization is based on the principle of the sovereign equality of all its Members". The veto power is thus a legal abuse that has no possible democratic justification (Archibugi, 2008: 134). In this regard, Köchler (2010: 1-2) also maintains that "the co-ordination of policies at the global level should be organized in a democratic way, something that is also required under the UN Charter's principle of sovereign equality".

In addition to this, the United Nations might principally be an organization of sovereign States. However, the Charter has also provided an indispensable system that offers cooperation with governmental or non-governmental actors (Archibugi, 2008: 110-111). Chapter VIII of the UN Charter consists entirely of regional arrangements; Article 54, in particular, is devoted to the UNSC's cooperation with regional arrangements and agencies in maintaining international peace and security.

Article 57 is generally devoted to the UN's international economic and social cooperation with special agencies, while Article 71 also authorizes the ECOSOC to make direct arrangements for consultation with non-governmental organizations (NGOs) in order to increase its capabilities. Examination of the UN's principle organs reveals more promise in the General Assembly's, ECOSOC's and the Secretariat's embracing of popular entities.[17] The UNSC and the International Court of Justice (ICJ), by contrast, have remained reluctant to formally involve NGOs (Archibugi, 2008; Paul, 2004; Annan, 2000; Ghali, 1996).[18]

From the UN's inception, its provisions have allowed for the establishment of interaction and cooperation with new actors. The UNSC has, however, failed to make any formal contact with new actors, as fundamentally required if the Council is to be democratized. Boutros-Ghali (2000) maintains that international democratization is possible by including all actors in international decision-making systems such as those in the developed and developing worlds, rich and poor, North and South, as well as giving voice to new actors. The Council has practical problems, while the Charter is quite suitable for establishing and maintaining relations with recently arrived entities.

The preamble of the Charter also begins with "we the peoples of the United Nations…", stating that "when decisions will be reached by means of a truly participatory process" (Barabé, 2000: 113) and referring to peoples rather than states. Thus, as a reflection of the fundamental principle of democracy, the UN should not be limited to a states-only entity; rather, it should represent all people's associations such as regional organizations (e.g. ASEAN, the AU or the EU), developing nations, unrepresented peoples[19] and NGOs. Yet, the UN has traditionally seen itself as a forum for sovereign states alone (Therien & Belanger-Dumontier, 2009: 360). This might be because power rather than democratic principle seems to be the dominant dynamic in such interstate relationships, as the principles were interpreted by and on behalf of states.

Nevertheless, in the context of the UN, the term "democracy" has at times been used to refer to an inter-state project whose aim is to grant all states, large or small, the greatest chance to participate in global decision-making based on the principles of the UN Charter (Therien & Belanger-Dumontier, 2009: 356). Yet, this discourse has been affected by recent international developments, resulting in the

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[17] ECOSOC has granted 'consultative status' for NGOs. See the Article 71 of the UN Charter. Significant numbers of regional organizations participate in the sessions of the General Assembly with permanent observer status to provide consultation and diplomatic and operational support for peace and security. The Secretary General has underlined the importance of NGOs and the willingness to work with them; for instance, see A/53/170: Report of the Secretary-General

[18] Formal access refers to granting accredited NGOs Council access through a committee. It is to provide counselling or observer status in order to allow them to participate in decision making processes without the right to vote. In fact, the Council could also establish a subsidiary organ under the Article 29 of the UN Charter

[19] Peoples of occupied or unrecognized nations such as Turkish Republic of Northern Cyprus, Palestine, Taiwan and Western Sahara

notion of democracy beginning to take on a broader resonance that also addresses the demand to provide formal participation to non-state actors such as NGOs, the private sector, local authorities, and parliamentarians. The UN's policies have fostered more participation by non-state actors in the organization's deliberations and operations, so there is a strong case that the UN's policies have developed the idea of a "democracy without borders" by promoting the greater inclusion of global constituencies in world politics (Therien & Belanger-Dumontier, 2009: 357-358).

In that respect, UN leaders have often proclaimed that "the globalization of democracy is a trend consistent with recent structural changes in the world order" (Therien & Belanger-Dumontier, 2009: 371). The UN considers "democracy as a universal right and a source of legitimacy" (Therien & Belanger-Dumontier, 2009). Additionally, the UN also indicates the demand for "a stronger engagement of civil society, business, and other global constituencies in world affairs" (Therien & Belanger-Dumontier, 2009). The organization has therefore increasingly allowed non-state actors to take part in UN deliberations.[20] The UN has, however, failed to develop a similar case for democratic UNSC reform, since the majority of Council reform proposals have focused on simple growth (Center for UN Reform, 2013). The most thoroughgoing of these proposals still do not transcend state-based solutions (Winkelmann, 1997; Cox, 2009; Kelly, 2011; Zorn, 2007).

However, it seems that these problems regarding the Council's effectiveness and accountability have to do with the balance of power within the institution. In other words, reform proposals are focused mostly on balancing the veto power rather than enhancing the Council's functions. For Archibugi (2008), democracy is the most efficient way to enhance the Council. Yet he also points out that it should not be used only to balance and manage power, but also to develop the Council's functions (Held, 2010: 183).

4.1. Parameters of the Democracy Concept for the Security Council

As there is no agreed definition of democracy in international law, a variety of interpretations could exist according to circumstances, such as who is defining the term and the context in which they are doing so. Likewise, Varayudej (2010: 14-15) also states that "while international law appears to have embraced the idea of democracy, it has not yet articulated a detailed normative framework or an extensive body of practical rules defining the meaning of democracy". This might be because of the paucity of theoretical work in defining and discussing democracy in the context of relations among rather than within states. Neither the theoretical literature nor the historical experience of democracy between states has been developed and consolidated (Crawford, 1993: 113-133). There is thus not a

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[20] "…because they are involved in a growing number of UN-sponsored operational partnerships, non-state actors have also been able to strengthen the output-based legitimacy of the world body." (Therien & Belanger-Dumontier, 2009).

sufficiency of successful democratic international organisations, and those that do exist consequently have no adequate theoretical foundation in terms of democracy (Archibugi, Balduni & Donati, 2000).

It is important to determine what it means to "make the Security Council more democratic". The Council is expressly not a democratic body when the UN Charter (For example, see Article 23(1), 27(3), 108) and its actions are considered. Archibugi (2008) indicates that the UN is an antidemocratic entity and "the SC represents the most extreme form of intergovernmental oligarschism". The phrase cannot therefore mean to develop the Council's democratic profile as though it was already democratic entity. Nor does it mean directly developing a fully democratic Council. "Making the Council more democratic" refers to introducing some democratic instruments into the Council at least to increase its level of democracy in order to pave the way for the development of a pure democratic Security Council.

Paul and Nahory (2005) state that "critics of the Council made seven demands – that the Council be: (1) more representative, (2) more accountable, (3) more legitimate, (4) more democratic, (5) more transparent, (6) more effective and (7) more fair and even-handed (no double standards)". A more "democratic" body might refer to one that is more representative and fair and even-handed, while more "accountable" could mean more legitimate and transparent. These demands can thus be reduced to a Council that is more democratic, effective and accountable.

In fact, there is a strong relationship between demands for democracy and those for effectiveness and accountability. Delbruck notes that some concepts are related to the concept of democracy, or indeed depend on its definition. He thus stresses that transparency and accountability are essential to democracy (Delbruck, 2003: 31). In this context, Archibugi and Held (2011: 436) also maintain that accountability, representativeness, transparency and participation are key democratic values.

Held (2004: 376) also maintains that "systematizing the provision of global public goods requires not just building on existing forms of multilateral institutions, but also on extending and developing them in order to address questions of transparency, accountability and democracy". It is clear that democracy and accountability are complementary concepts, as they are usually treated together. It is, therefore, obvious that a more democratic Security Council ought also to be a more accountable one.

The question of democracy for the Council can be regarded as being raised when it is ineffective and not accountable. The more the Council fails to take action regarding international crises, the more insistently do the UN's member states raise the issue of reform, goaded by the Council's inability to act because of the veto (Köchler, 2007: 2). In this regard, the Council has often

been accused of inefficiency in cases of genocide, war and conflict (Mehta, 2010).[21] These failures to fulfill its significant responsibilities have made the Council the target of severe criticisms regarding its undemocratic nature (Köchler, 2006: 333).

The Council's failure in Syria was due to Russia's and China's application of the veto to block a resolution that would have allowed meaningful action against the Syrian regime. Such reactions by states to these Security Council failures signifies that the veto has made the Council's current system undemocratic, and it therefore needs to be reformed in order to increase its capacity to maintain international peace and security. Calls for a more democratic or more representative Council have thus stemmed from the Council's inefficiency. The underlying reason for a more democratic Council is its systemic inability to take action. Put another way, its inefficiency can be redefined as the non-democratic nature of its system.

Another issue is that demands for reform have been based on making the Council more democratic by adding new members to increase its representativeness, effectiveness and accountability. Thus, these demands for a more democratic Council inevitably entail a more representative, effective and accountable one. So making the Council more democratic caters for these desires for its increased effectiveness and accountability.

The absence of a democratic structure has nevertheless meant that the Council's dealings with international problems have mostly been failures because of this ineffectiveness and lack of accountability. There is most likely no way other than democratization that would enhance the Council's function. For Boutros-Ghali "democratization at the international level has become an indispensable mechanism for global problem-solving in a way that is accountable and acceptable to all and with the participation of all concerned" (Barabé, 2000: 107). The immediate implementation of such a democratic mechanism in the Security Council is perhaps not to be expected; yet the foundations of a democratic Council could – and should – at least be laid in order for it to efficiently fulfill its obligations.

The Council's main problem is its lack of proper responses to international peace and security issues. In other words, it does not efficiently fulfill its main duty: to maintain international peace and security. Issues such as inefficiency, lack of accountability and a lack of representativeness have been raised in that respect. These three concepts draw attention to the need for the Council to be more democratic so as to overcome these problems.

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[21] "The UN has failed to stand up to dictators and perpetrators of genocide." Its failure to halt the Rwandan genocide in 1994, its failure to stop the humanitarian crisis in Sri Lanka and failure maintain peace and security in Syria crisis 'are a few examples of its impotency on the major issues of the day'. (Mehta, 2010: 3)

Moreover, it is not necessary for this to be considered as a reform proposal because it does not require any Charter amendments. This can be understood primarily with reference to the invention of UN peacekeeping forces in the field of security in 1956 as it was established on the initiative of Pearson and Hammarskjold (UNEF). This has been a fundamental UN reform effected without altering the organisation's Charter (Bertrand, 1993: 421).

The word "reform" in that context is different from its use in the demands for Council reform: "the word reform has never been used in this connection" (Bertrand, 1993). Bertrand (1993) gives another example, stating that comprehensively implementing the provisions of the UN Charter has also never been regarded as reform. For example, Article 43 delegates authority for special agreements on the assignment of military forces to the Security Council and Article 47 allocates major responsibilities to the Military Staff Committee. Whenever any of these articles is implemented, significant UN reform as proposed by Secretary-General Boutros-Ghali would result. Yet such proposals have been described as revitalization rather than reform (Bertrand, 1993: 422). Implementing present structure effectively, in other words, does not refer to reform.

In fact, both reform and revitalization aim to enhance the Council's role. However, revitalization concerns the more efficient use of current Charter instruments. The present proposal likewise does not require any Charter amendments, as it can be put into practice under that Charter's Article 29 (the Council could establish subsidiary organs for the sake of its performance and functions), Rule 39 of the Provisional Rules of Procedure of the Security Council (the Council could invite other individuals) and the Appendix to the Council's Provisional Rules of Procedure (the Council is able to receive written statements from non-governmental bodies).

The proposal is thus deliberately circumscribed as it opens the way for democracy. It does not aim instantly to produce a purely democratic Council, but rather to fulfill certain conditions preparatory to the development of an ideal Security Council. The effect of these limitations on the study's purpose is to minimize the possibility of failure in its implementation by its embodiment of a progressive approach. Limiting the parameters of the concept of "making the Security Council more democratic" in this way makes it more possible to develop a more democratic Council.

5. CONCLUSION

There are significant problems with the Security Council, both in the UN Charter and in practice. The Charter provides the permanent Council members with a veto power. In practice, the first difficulty arises from the use of that power. More problems have been raised by the Council's members themselves. Its non-permanent members have not yet blocked any decision taken by the five permanent members, and the Uniting for Peace Resolution authorises the General Assembly to be final

decision-making body on peace and security issues. Yet this authority has mostly been ignored; most UN members have instead criticised the permanent Council members for the Council's failures.

According to the tenets of CD, it is essential for an international entity to open its doors to new non-state actors in order to be more democratic at the international level. The application of such tenets provides assurance that democracy is representative, accountable and effective. It is the argument of this study that the only possibility of attaining democracy is by taking into account the new actors in international legal order. The Security Council will eventually become more accountable, effective and representative. It is therefore also argued that would be a more democratic entity by granting formal access to non-state actors. By doing so, it demonstrates that it would erode the Council's conservatism and would make enable it to coexist with the world's altered realities. Morrison (2004: 339) likewise indicates that "to remain within the changed realities of the world, the original organization and its rules had to change". However, if the Council were to insist on compliance with the specific terms of its existed structural instrument, it would become irrelevant and eventually become defunct. In short, a system mired in the circumstances of its creation in 1945 would doom the Council to failure. The Council must, therefore, accommodate itself to changing circumstances. The author believes that a progressive approach would make this possible.

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