

Enhancing the Role of the UN General Assembly in the Preservation of International Peace and Security¹

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Abstract

It has become apparent that, contrary to expectations, the United Nations (UN) Security Council does not adequately fulfill the function of protecting international peace and security. This most powerful organ of the UN generally failed to take effective action against armed attacks or aggressive acts that breached international peace due to the veto of one of the permanent members of the Security Council (USA, Soviet Union, Britain, France and China) during the Cold War whose main characteristics was East-West polarization. During the post-Cold War era that witnessed the demise of the bipolar system and the disintegration of the Soviet Union, the Security Council came under the influence of the USA and members like Britain and France which have too often acted in tandem with the USA. This means that this organ has been unable to take a consistent and principled stance against acts of states violating international peace. Besides, the status of some states as 'permanent members' of the Security Council can hardly be reconciled with the idea of 'equality of states'. Therefore, according some competences to the UN General Assembly in this area will provide more effective protection of international peace and security when recalling that this organ is far more representative of international society than the Security Council on account of its 'one vote for every state' principle. This article draws on the Uniting for Peace resolution, adopted by the UN General Assembly in 1950, which granted this body the right to "recommend" collective action against breachers of international peace, although no such authorization had been foreseen in the UN Charter, and suggests that, today, new powers could likewise be conferred to the Assembly in cases of war, aggression and threats of war, which will render this UN body a part of the decision-making process, alongside the Security Council, in cases of international crisis endangering peace, and thus enhance its international credibility.

Keywords: *International peace and security, UN Security Council, permanent members, veto mechanism, United for Peace Resolution, Post-Cold War Era, UN General Assembly*

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Uluslararası Barış ve Güvenliğin Korunmasında Birleşmiş Milletler Genel Kurulu'nun İşlevinin Arttırılması

Özet

Birleşmiş Milletler (BM) Güvenlik Konseyi'nin uluslararası barış ve güvenliği koruma konusunda kendisinden beklenen işlevleri yerine getiremediği artık açıkça görülmektedir. BM'in bu en fazla güç sahibi olan organı, Soğuk Savaş döneminde Doğu-Batı kutuplaşması nedeniyle uluslararası barışa zarar veren bir silahlı işgal ya da saldırganlık durumlarında sürekli üyelere birinin (ABD, Sovyetler Birliği, İngiltere, Fransa ve Çin) vetosu nedeniyle genellikle durumun gerektirdiği etkin tedbirleri almaktan uzak kalmıştı. Soğuk Savaş sonrasında ise çift kutuplu sistemin tarihe karışması ve Sovyetler Birliği'nin dağılması neticesinde, BM Güvenlik Konseyi'nin, ABD'nin ve çoğu zaman onunla eşgüdüm içinde hareket eden İngiltere ve Fransa gibi güçlerin güdümüne girdiği görülmüştür. Bu durum bu organın uluslararası barışa zarar veren saldırgan fiiller karşısında tutarlı ve ilkeli bir tutum almasını âdeta imkânsız kılmıştır. Bütün bunların yanı sıra, BM Güvenlik Konseyi'ndeki sürekli üyelik mekanizmasının yol açtığı ayrımcılığın 'devletlerin eşitliği' fikriyle bağdaşmadığı açıktır. O nedenle uluslararası barış ve güvenliğin daha etkin bir şekilde korunabilmesi için, her devletin bir oy hakkına sahip olması itibariyle 'temsili niteliği Güvenlik Konseyi'nden çok daha fazla olan BM Genel Kurulu'nun bu konudaki yetkilerinin arttırılması uygun olacaktır. Bu makalede, BM Genel Kurulu'nda 1950 yılında kabul edilen 'Barış için Birlik' kararının, bu organa, uluslararası barış ve güvenliği tehlikeye atan savaş, saldırganlık ve savaş tehdidi gibi durumlarda, BM Kurucu Antlaşması'nda mevcut olmayan ek bir yetki verdiği için hareketle, Genel Kurulun bu tür kriz durumlarında Güvenlik Konseyi ile eşgüdüm halinde hareket etmesine imkân verecek yeni yetkilerle donatılmasının uygun olacağı ve bunun da BM örgütüne olan güveni arttıracığı ileri sürülmektedir.

Anahtar kelimeler: *Uluslararası barış ve güvenlik, BM Güvenlik Konseyi, sürekli üyeler, veto mekanizması, Barış İçin Birlik kararı, Soğuk Savaş sonrası dönem, BM Genel Kurulu*

Introduction

The Charter of the United Nations³ (UN) has assigned the Security Council (SC) with the task of peace-enforcement as enshrined in Chapter VII. The notion of permanent membership, combined with the veto mechanism, has however too often debilitated the impartiality and efficacy of this body. Doubts are growing as to whether the Council is adequately representing international society. Right from the outset, the SC was crippled by the impossibility of taking economic, diplomatic/political or military sanctions against a permanent member, and against its “allies” and “friends”. The SC was thus stifled by the Cold War polarization between the American and Soviet blocs until the end of the 1980s. Thanks to the end of polarization, the disintegration of the Soviet Union, and the collapse of socialist systems in Europe and the ex-Soviet Union, the SC was no longer paralysed by frequent vetoing in the aftermath of the Cold War. At least, in theory, this was good news! However initial optimism soon gave way to more guarded views, especially in the non-Western world, about the possible benefits to be gained through a more vibrant SC in the service of peace. At least, in the eyes of the Asian and African states and peoples, Iraq was brutally punished through the use of the collective enforcement mechanism of the SC seemingly in response to the former’s invasion of Kuwait in August 1990, while US occupation of Iraq (March 2003), the Israeli assault on Lebanon (July/August 2006) and Gaza (December 2008-January 2009), and the Ethiopian invasion of Somalia (December 2006)—with US encouragement and support- did not even elicit condemnation by the UN SC.

Instances of humanitarian intervention, authorized by the SC, have likewise been selective in their targets. The US-led military operations in northern Iraq, Somalia and Haiti relied on the “doctrine of humanitarian intervention” as propounded by the SC in the early 1990s. The Council failed, however, to take robust military action in the face of the genocidal killings in Rwanda (1994), Bosnia (1992-95) and Chechnya (1994-96; 1999-).

It has thus become all-too-apparent to many observers that the SC, as it stands today, cannot be considered as “the guardian of world peace” in the true sense of the word. One can hardly disagree with the following words expressed by the President of Iran, Ahmadinejad, when he addressed the United Nations General Assembly on 26 September 2007:

³ Charter of the United Nations, 26 July 1945 (United Nations, New York).

The presence of some monopolistic powers has prevented the Security Council from performing its main duty which is the maintenance of international peace and security based on justice. The credibility of the Council has been tarnished and its efficacy in defending the rights of UN member states has been undermined. Many nations have lost their confidence in the Council...

Indeed many states not only have lost their confidence in the UN system, but have come to feel less secure and more vulnerable in spite of globalization and the disappearance of rigid power blocs. The problem is well formulated by Chandra Muzaffar: “UN member states remain as impotent as ever largely because the UN General Assembly commands neither power nor authority especially in matters pertaining to the critical question of war and peace.”⁴ Today, at a critical juncture of human history, we need to find new ways to improve the relevance of the UN for world peace. This paper departs from the proposition that, a viable way of overcoming the deficiencies of the SC response to international security crises, is to increase the power of the UN General Assembly in matters of international peace and security.

This paper argues that, contrary to the SC, the General Assembly is reasonably representative of international society, because the decision-making in this world body is based on the principle of one state-one vote. Although the General Assembly has the competence to discuss all issues of international concern, including security matters, it lacks teeth to enforce its resolutions. The authority which it gained through the “Uniting for Peace Resolution” of 1950 merely permits this body to “recommend” military action against states that breach international peace and security. New normative frames, procedures and mechanisms need to be established so as to protect the credibility of, and maintain trust for, the UN system of collective enforcement action. This article puts forward a number of possible solutions whose main rationale is to enhance the role of the UN General Assembly on issues pertaining to international peace and security.

This paper proceeds on the basis of questions put forward below:

1. Why should the SC monopoly over the issue of international peace and security be broken (so that the cause of peace is better served)?

⁴ Chandra Muzaffar, *The UN: Sickly at Sixty*, 17 October 2005, <http://www.just-international.org/article.cfm?newsid=20001117>.

2. Why is the UN General Assembly best suited to get a share of the quasi-monopoly of authority assumed by the SC in matters of international peace and security?

3. What new powers should be granted to the UN General Assembly in matters of international peace and security?

4. What is the legal reasoning, based on the UN Charter, that may justify extending the powers of the General Assembly?

1. Why Should the SC Monopoly Over the Issue of International Peace and Security be Broken?

It is known that the US and other hegemonic powers have a proven record of temptation to use “carrot and stick” strategies to ensure that resolutions which they propose receive the necessary support in the Security Council. Since the early 1990s, an accommodating Russia and a conciliatory China have meant that the US-British alliance in the SC has come to dominate the SC agenda and has managed to get the approval of the rest of the Permanent-5 for a growing body of resolutions that reflect US-British priorities and interests. One observer notes that “only 12 substantive vetoes were invoked between January 1990 and June 2003 in contrast to the 193 over the preceding 45 years.”⁵

I would argue that the US-British coalition, heartily supported by Israel and a few others, has indeed become a major threat to world peace. This alliance tends to be selective in its target of states “breaching peace”, while conducting “UN authorized” military operations in a way that eliminates or at least minimizes the power base of “unfriendly states”. Indeed the policies and actions of this coalition, as is well exposed in a declaration made by the Green Party of the United States in August 2006, “increasingly draw condemnation from the rest of the world, internal dissension from their own citizens, and the rage of other Middle Eastern and Muslim nations, risking global war.”⁶

Besides, this situation does not go well with the idea of a Security Council representing the “general will” of international society. “Permanent membership” and the “veto mechanism” in the SC in fact make a mockery of one state-one vote principle. That permanent members of the

⁵ Thomas G. Weiss, “The Illusion of UN Security Council Reform”, *The Washington Quarterly*, Vol. 26, No. 4, Autumn 2003, 147-161, p. 150.

⁶ <http://www.unitedforpeace.org/article.php?id=3356>

UN Security Council have a right of veto is an affront to the international legal principle of the “sovereign equality of states” on which the whole fabric of international law and international organizations is based. This “some are more equal than others” problematique does not at all serve the cause of world peace and security. The UN General Assembly, if empowered with a similar bite in matters of peace and security, possibly will not be marred by similar pressures and modes of behaviour reflecting *reelpolitik* considerations.

The history of SC enforcement actions which have intensified after the Cold War is not encouraging at all. Only a few states –“coalition of the willing”- have taken part in most of the military operations against states targeted by the SC. This was, for example, the case with the military campaign against Iraq in the second Gulf War of 1991 and the military intervention in Somalia in 1992-93. This fragmentation is no doubt an anomaly for international legality and legitimacy.

The SC has gone too far in the aftermath of the Cold War in fashioning new roles for itself. For example, it has taken upon itself a quasi-legislative role in matters such as international terrorism and the proliferation of weapons of mass destruction. The SC’s ever-expanding self-empowerment in fact risks marginalizing the UN General Assembly and other treaty-making bodies and mechanisms.

Unlike the UN General Assembly, the SC appears to have a “negative” conception of peace as the “absence” of the “war/threat of war”. This is so in spite of the SC declaration in the early 1990s⁷ that registered a more sophisticated notion of threats to international peace and security. Its words have not since been transformed into deeds. To espouse a “positive” notion of peace, the UN should come to recognize, *inter alia*, poverty, environmental pollution, transnationally organized crime, and infectious diseases as possible threats to international peace and security.⁸

On the other hand, today, at a time when democracy and legitimacy have become keywords for politics and international law, a less-than-representative exclusivist “club” of states as the SC appears rather archaic.

⁷ The Council, having met at the level of heads of state or government, declared, in 1992, that “the non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security.” (Note by the President of the Council, UN SCOR, 47th Session, UN Doc. S/23500, 1992)

⁸ Nico J. Schrijver, “The Future of the Charter of the United Nations”, *Max Planck UNYB*, Vol. 10, 2006, 1-34, pp. 9-10.

Furthermore, there is no compelling moral or political reason why the Security Council should have prerogative over the preservation of international peace and security.

But does reforming the SC heal the long list of problems which are associated with this body? Certainly not. As is well-known, the SC reforms, a recurring theme from 1993 until a few years ago, which were designed to render the Security Council more representative by, *inter alia*, increasing the number of states in this UN body, have ended in failure. However, even if SC reforms were completed successfully, this would still fall short of getting in the way of hegemony-seeking states such as the US to intimidate or seek to bribe detractors in the corridors of the SC. Such strategies on the part of permanent members, combined with the right of veto by Permanent-5, will continue to debilitate the usefulness and efficacy of the SC with or without “reforms”. In any case, as noted by Weiss, “if the veto was undemocratic and debilitating for the Security Council’s work, should this privilege be given to new permanent members?”⁹

This suggests that there isn’t much to be done to increase the SC’s ability and willingness to respond to global aspirations for peace and security not dashed by bias and double-standards. So long as the veto mechanism remains, the US will always find ways to manipulate the SC for its imperial drive. There is no way in which a

*U.S. administration will permit the council to stand in the way of pursuing the country’s perceived interests in national security. Yet at the same time, the Security Council often may serve vital interests as well as give the United States cause to proceed cautiously and with international acquiescence, if not jubilant support.*¹⁰

That’s why a solution to the collective security system of the UN has to be found in the context of the General Assembly.

2. Why is the UN General Assembly Best Suited to Get a Share of the Quasi-Monopoly of Authority Assumed by the SC With Regard to international Peace and Security?

First, the General Assembly is the most representative and democratic body of the UN where each state has one vote. Therefore the cause of

⁹ Weiss, *op.cit.*, p. 152.

¹⁰ *Ibid.*, p. 157.

peace will be better served by conferring on the General Assembly the right to have a say on the maintenance of international peace and security. Granting that the Assembly is representative of international society and has been entrusted with the task of discussing all matters of international concern, this quasi-world parliament will, in all probability, endeavour to put security matters into the wider context of international politics, poverty, human rights and disarmament. In other words, the General Assembly is likely to handle security issues more subtly and skilfully than the SC.

The history of General Assembly testifies that this UN body does not prioritise “peace and security” –stability- over “justice” because of its broad range of concerns and activities. The General Assembly has been committed to the creation of a new international order and associated itself with the goal of disarmament. Its conception of security is not limited to the prevention of war, but is rather designed to lay the grounds for solid economic, political and intellectual foundations for sustainable peace.

The General Assembly, both because of its extensive membership and ties with grassroots such as NGOs, is better positioned than the SC to come to grips with world public opinion and the aspirations of international community. As remarked by Hossain, “in the event of non-action or selective actions by the Security Council for peace maintenance, the General Assembly has become the central place where world opinion is delivered.”¹¹ Furthermore, the General Assembly is not susceptible to great power pressure and intimidation to the same degree as the SC.

Even the “Uniting for Peace” resolutions of the General Assembly, examined below, which are legally non-binding, exert a very positive influence in the cause of peace: they intensify “the fear of global isolation among the US public and elite”; they provide “a heightened legitimacy to all the actions of the global peace movement”; they “can thus provide the starting point for reconstituting the UN as the voice of the world.”¹²

3. What New Powers Should be Granted to the UN General Assembly in Matters of International Peace and Security?

There are a number of ways in which the role and effectiveness of the General Assembly in preventing international aggression and other breaches of international peace and security could be enhanced. All of

¹¹ Kamrul Hossain, “The Complementary Role of the United Nations General Assembly in Peace Management”, *Uluslararası Hukuk ve Politika*, Vol. 4, No. 13, 2008, 77-93, p. 78.

¹² Jeremy Brecher, “Uniting for Peace”, 2 April 2003, *Counterpunch*, <http://www.counterpunch.org/brecher04022003.html>

them, however, require changes to the UN Charter. This paper thus offers possible formulations to overcome the Assembly's inability to impact on Chapter VII deliberations for lack of power.

First, before the SC takes enforcement action against a state (or, a group of states), the draft SC resolution ought to get the approval of the General Assembly by a two-thirds majority. This requirement for a double-majority –in the SC and General Assembly- will ensure widest possible support from international society for proposed sanctions against an allegedly “peace-breaking state” and will thus enhance their legitimacy.

Second, the General Assembly should, by a two-thirds majority, be able to overturn a veto by a permanent member of the SC that has killed off the possibility of imposing economic, diplomatic or military sanctions against an “aggressor state” when a minimum of 12 SC member states have concurred about imposing sanctions.

Third, the General Assembly should, on its own initiative, be able to “recommend” economic, diplomatic, and military sanctions against “aggressive” states that breach international peace and security. This right of initiative should not be dependent on a previous stalemate in the Security Council over the crisis.

Finally, a standing UN army ought to be created. Each UN member could contribute to the army on the basis of a combination of economic power and population. When the General Assembly decides to authorize military action, the UN army should consist of the military contingents of states that have voted in favour of the motion.¹³

4. What is the Legal Reasoning, Based on the UN Charter, That May Justify Extending the Powers of the General Assembly?

“Uniting for Peace” procedure shows the path as to how the UN General Assembly can be furnished with extra powers in the absence of direct authorisation by the UN Charter. In the wake of the sudden invasion of southern Korea by north Korea in June of 1950, the US decided to activate the UN General Assembly in order to circumvent the Soviet factor in the SC. Indeed, frustrated by the Soviet veto in the SC, the US presented the Uniting for Peace resolution before the UN General Assembly in 1950 to

¹³ A special fund could be set up by members of the UN to channel financial assistance to the least-prosperous states when they participate in UN military campaigns and/or UN-imposed economic sanctions.

engage this body in the Korean War. After the motion got the necessary two-thirds majority, the General Assembly obtained new powers. This organ was henceforward able to recommend “collective measures including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security.”¹⁴ The Uniting for Peace procedure has been resorted to by the US many times since. For instance, a UN General Assembly resolution, initiated by the US, called for a cease-fire and the withdrawal of foreign troops after the British, French and Israeli troops invaded Egypt in 1956. This step was decisive in bringing an end to this concerted military campaign.

A General Assembly resolution on international peace and security, especially if supported by a handsome majority, may be reflective of the general opinion of international society. In this sense, the General Assembly’s power of recommendation is undoubtedly more than a mere “recommendation”. This is related to this body’s moral and political weight, as well put by Hossain: “A resolution endorsed by the General Assembly by means of the Uniting for Peace procedure and authorizing, for example, resistance to an aggression provides moral and political weight when the question of legality or legitimacy is concerned.”¹⁵

5. Possible Implications of New Competences for the UN General Assembly

Today it would be inconsistent for the US and the rest of the Permanent-5 to refuse transferring new powers to the UN General Assembly on the grounds that such an authorisation does not find its place in the UN Charter. “Uniting for Peace” resolution of 1950, which the US itself sponsored, was likewise a deviation from the Charter but has since been universally recognized.

“Uniting for Peace” procedure does not necessarily envisage only the *launching of collective military action*; instead, it may also *forestall an impending military offensive* by a potential aggressor against another state. Suffice it to note that, on the eve of its invasion of Iraq in 2003, “the United States Government was afraid of a possible General Assembly emergency session that might have invoked the Uniting for Peace resolution

¹⁴ United Nations General Assembly Resolution 377, «Uniting For Peace», A/RES/377 (V), 3 November 1950.

¹⁵ Hossain, *op.cit.*, p. 87.

procedure.”¹⁶ A number of states, various political groups and numerous NGOs called on the General Assembly to adopt a resolution against the upcoming invasion of Iraq on the bases of Uniting for Peace procedure. However many states were discouraged from taking action in the General Assembly for fear of US retribution after US President Bush adopted the threatening rhetoric of “you are either with us or against us”. Similar calls, likewise fruitless, were made to mobilize the General Assembly into action during the course of the Israeli assault against Lebanon in the Summer of 2006 whereby the SC, unable to move because of the US (and other Western states) factor, watched the tragedy in cold blood .

Even at its present state, then, the General Assembly may come to play a significant role if existing rules and mechanisms are more efficiently and effectively used. Even the SC has conventionally felt obligated to pay some attention to the resolutions adopted by the General Assembly, on account of the fact that its decisions reflect the general view of states that advocate such decisions.¹⁷ Resolutions of the General Assembly which muster overwhelming support may even constitute evidence of customary international law or source of future custom. This is an aspect of General Assembly competence which the International Court of Justice in its advisory opinion on the *Legality of Nuclear Weapons* in 1996 found worthy of mention.

*The Court notes that General Assembly resolutions, even if they are not binding, may sometimes have normative value. They can, in certain circumstances, provide evidence important for establishing the existence of a rule or the emergence of an opinio juris. To establish whether this is true of a given General Assembly resolution, it is necessary to look at its content and the conditions of its adoption; it is also necessary to see whether an opinio juris exists as to its normative character. Or a series of resolutions may show the gradual evolution of the opinio juris required for the establishment of a new rule.*¹⁸

This suggests that there is no reason for an *à la carte* refusal to the granting of binding quality to General Assembly resolutions, especially if they are declaratory of customary international law.

¹⁶ *Ibid*, p. 84.

¹⁷ *Ibid*, pp. 80-81.

¹⁸ *Legality of the Threat or Use of Nuclear Weapons*, ICJ Advisory Opinion, 8 July 1996, paragraph 70.

Let us not forget that the UN Charter is not at all shy about recognizing the significant role which the UN General Assembly can play on problems and matters directly or indirectly linked to international peace and security. According to Article 10, “The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter.” In the light of the wide scope of this article, we can draw the conclusion, that the General Assembly has the legal entitlement to debate issues related to peace and security. Article 11 is indeed a confirmation of this interpretation in the specific context of international peace and security:

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security...

Conclusion

There is no denying that, for a very long time since the Cold War became a matter of history, the SC seems to have been “hijacked” by the US and Britain in the service of their imperial goals. The SC’s “negative” conception of peace is likewise a barrier to establishing meaningful links between security, justice and freedom. By contrast, the General Assembly has a more assuring record about linking security with other global issues and problems such as poverty and disarmament. The SC, as it stands, has sadly become a major obstacle to world peace. Therefore the General Assembly must be given new powers if the UN is to maintain its relevance with regard to international and civil wars, conflicts, threats and all forms of aggression. In the words of Muzaffar,

Empowering the General Assembly means bestowing it with the ultimate authority, as the representative organ of the UN, to decide on all matters pertaining to the resolution of conflicts...Even the imposition of economic sanctions against a state or the decision to take some other form of punitive action should be left to the General Assembly.¹⁹

¹⁹ Chandra Muzaffar, *Tehran Times*, Opinion Column, 12 August 2005.

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