

Understanding the Debate On UN Security Council Reform

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N*ew York, January 1, 2020 –After an intense debate among the 30 members of the United Nations Security Council, the resolution presented by the Russian Federation to promote the creation of an international force to put an end to Israel's blockade of the Revolutionary Federation of the People of Syria that prevents it from accessing drinking water was defeated. The proposal was voted down by one of the five countries with veto power, although it was approved by eight of the ten permanent members, three of the five semi-permanent members, four of the five recently re-elected members, and six of the nine non-permanent members. The representation of the small island states abstained, arguing that conflicts involving non-state organizations do not come under the competency of the Security Council. The matter will thus be reconsidered by the Committee on the Right to Access to Water, one of the 23 bodies of the Council itself.*

I begin with this futuristic paragraph to warn readers about the transcendence and complexity of what goes on inside the United Nations (UN), in order to decide one thing: is it necessary to reform the current Security Council or not? How many states should be part of it? What status should they have? How open should its debates be? How much should its faculties be broadened or reduced? How should its working methods be changed?

Today different bodies sustain the UN's three pillars, security, development, and human rights. But, we should be advised that, of its entire institutional structure, the Security Council continues to be the main body. This affirmation is based on the UN Charter, signed in San Francisco 65 years ago. Articles 24 and 25 state that the member states recognize

that the Security Council has the power to act in all their names and they agree to accept and comply with its decisions.¹

A great deal has happened in the world since the end of World War II. However, there is not yet any world state or global government, or even a supra-national body that determines states' behavior. And this means that the UN Security Council continues to be the only body from which an order can be issued completely legitimately for universal implementation, mandatory at least for the 192 sovereign states that comprise the United Nations. As a result, the council continues to be a mold for "doing" international law.

Today, the Security Council is made up of 15 states with "sovereign equality,"² but with a different kind of participation: five are permanent members (the United States, the Russian Federation, France, the United Kingdom, and the People's Republic of China) with veto power,³ and 10 are non-permanent members, elected using criteria of regional representation for periods of two years, without the possibility of consecutive re-election.⁴ So, it must be understood when we speak of the UN, and particularly of the Security Council, that we are not talking about independent bodies, but of member states, each with its own national interests, which come into play in negotiations, votes, and decision-making processes inside the organization, confronting each other, coinciding, or superimposing on one another, but always limited by the Charter itself and international law.

I would also suggest we look at the Security Council as a body in constant movement, as a function of the national interests and diplomatic strategies that come with the representatives of the states seated around the table. For example, with the end of the Cold War and the confrontation of interests between the Soviet Union and the United States, the number of topics dealt with increased enormously, as did the ac-

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cords and resolutions approved. On the other hand, at the end of the George W. Bush administration, whose unilateral actions profoundly questioned the collective security system promoted by the UN Charter, it is hoped that the Barack Obama administration —by the way, Obama was the first U.S. president to preside over a debate in the Security Council— will open up new opportunities for multilateral treatment of the main international contingencies in the council itself.

From 1945 until today, the Security Council has broadened out the matters and issues it reviews and the kinds of measures it implements, if not the number of its members. Among the council's biggest responsibilities are the authorization of peacekeeping efforts, establishing committees to evaluate imposing sanctions, and creating *ad hoc* tribunals.⁵ It should be pointed out that none of these measures are stipulated or defined in the UN Charter, which means that they are actually mechanisms conceived outside it, but according to its principles, to be able to effect functions and powers conferred on the council since the charter's signing in San Francisco. The council's evolution cannot be seen, then, in the normative structure, but is rather a product of experience, of the demand for attention to situations affecting international peace and security, with unprecedented causality and impacts.

With different formats and results, the Security Council has dealt with new topics that have traditionally come under the jurisdiction of other bodies in the UN system linked to the human rights and development agendas. As the UN agenda and concept of security have broadened out, the council deals with topics like migration and security, climate change and security, the protection of civilians, energy security, and food security.

Similarly, we find evidence of the council's decisions' coverage widening, once it adopts resolutions that identify not only member states but also non-state organizations and individuals as "mandated entities." This is the case of the resolutions and committees established to combat the financing of terrorism and the proliferation of weapons of mass destruction.

We should understand that this effective expansion of the council is not happening to the detriment of the charter, nor does it lead to violations of international law, since it rests on the principles of legitimacy and authority self-contained in the council. Nevertheless, it should be stated that this augmentation is accompanied by differentiated forms of action depending on the degree of interest each of its mem-

bers has in the issues and countries involved. For this reason, before decisions are made, each of the countries should reflect on to what extent it is appropriate for the Security Council to increase its reach, considering the pros and cons of raising an issue to the level of a threat to international peace and security, and the future normative impact implied in any *order* issuing from the council.

In the debate about reform, there is more and more demand to increase the number of Security Council members, which undoubtedly stirs up "national passions."⁶ However, nothing can assure us that a council with more seats would work better. To favor greater representativeness and more democratic functioning that would make its decisions more legitimate, the council's efficacy and effectiveness —already hard to come by in the UN system— might be sacrificed. Just as an example of the difficulties encountered in bodies with larger memberships, we could cite the case of the Conference on Disarmament (CD), which has been in a quagmire for about

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a decade.⁷ In addition, in the main recent international crises, the most powerful countries have opted for not making decisions by consensus in groups of 50, 100, or more countries, but by negotiation in limited, discriminatory, questionable groups that are, nevertheless, more effective and executive.

There is no perfect formula. But, the fact is that the diplomacy of groups has gained ground in multilateralism.⁸ We have to be realistic: no state would give up its veto power. None of the countries who aspire to occupying a permanent seat and/or have the veto currently has enough power to convince 191 states of the benefits of its incorporation into this exclusive group. Furthermore, there is also insufficient consensus for an agreement on permanent regional representations in a context in which the presumption of the existence of leaderships undermines from the get-go the principles of legitimacy and democracy that are so aspired to.

It would be better to accept and try to strengthen what exists today: a Security Council that in practice has been very

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effective as a forum for facilitating negotiations and relations among powers and for displaying their positions before the international community. It is true that the greater the power, the greater the ability to influence setting the agenda, which creates tension and constant clashes of interests.⁹ However, that constant also makes it possible to find unexpected agreements and generate some creative alliances.

By perfecting the council's working methods, which are only provisionally regulated, it is possible to increase negotiations prior to decisions, promote transparency in negotiations, generate more participatory dialogues, and strengthen the very desirable coordination among the different bodies of the United Nations. ■■■

NOTES

- ¹ *Charter of the United Nations*, <http://www.un.org/en/documents/charter/chapter5.shtml>. [Editor's Note.]
- ² Article 2 of the UN Charter states, "The Organization is based on the principle of the sovereign equality of all its Members."
- ³ The Charter does not mention the right to veto, but it is implicit in Article 27, which requires an affirmative vote of all the permanent members. That they were given this power can be explained only in the context of the end of World War II, as a supplementary guarantee for the understanding among the states on which, because of their level of resources and strength, world peace depended.
- ⁴ Currently, these are Austria, Bosnia-Herzegovina, Brazil, Gabon, Japan, Lebanon, Mexico, Nigeria, Turkey, and Uganda.
- ⁵ We are referring, at least for 2010, to 18 UN Peacekeeping Operations, three permanent committees, three *ad hoc* committees, and 11 committees on sanctions and *ad hoc* tribunals.
- ⁶ Today, negotiations and the discussion of proposals to reform the council are presented to the Open-ended Working Group on the Question of Equitable Representation and on Increase in the Membership of the Security Council and Other Matters Related to the Security Council, established by General Assembly Resolution 48/26.
- ⁷ The Conference on Disarmament is a multilateral negotiating forum established in 1979 by the international community to negotiate multilateral arms control and disarmament agreements. It succeeded the Ten-Nation Committee on Disarmament (1960), the Eighteen-Nation Committee on Disarmament (1962-1968), and the Conference of the Committee on Disarmament (1969-1978). [Editor's Note.]
- ⁸ Thomas Wright, "Toward Effective Multilateralism: Why Bigger May Not Be Better," *The Washington Quarterly* no 3, vol. 32, July 2009.
- ⁹ Thalif Deen, "UN Security Council Under Fire for Back-Room Dealing," Inter Press Service, April 28, 2010.