

International Relations

<http://ire.sagepub.com/>

The Reform of the UN Security Council

Mark Imber

International Relations 2006 20: 328

DOI: 10.1177/0047117806066710

The online version of this article can be found at:

<http://ire.sagepub.com/content/20/3/328>

Published by:



<http://www.sagepublications.com>

On behalf of:

David Davies Memorial Institute for International Studies

Additional services and information for *International Relations* can be found at:

Email Alerts: <http://ire.sagepub.com/cgi/alerts>

Subscriptions: <http://ire.sagepub.com/subscriptions>

Reprints: <http://www.sagepub.com/journalsReprints.nav>

Permissions: <http://www.sagepub.com/journalsPermissions.nav>

The Reform of the UN Security Council

Mark Imber, *University of St Andrews, UK*

Abstract

This article focuses on the United Nations' reform debates, particularly those surrounding changes to the Security Council. These debates are largely about rules, both formal and informal, that shape the roles of the veto powers and the ways in which other member-states can attain a seat on the Council. In order to implement the largely rule-governed system of collective security, it is necessary to have a Security Council that reflects a legitimate structure of authority. As the current debate demonstrates, however, the rules governing the powers of the Security Council raise numerous questions of legitimacy and authority, questions that are at the heart of a rule-governed order.

Keywords: *institutions, Security Council reform, United Nations*

The rules that determine membership of the United Nations Security Council, (UNSC) were originally determined in 1945 and have not changed since 1965. Despite numerous challenges to its relevance and competence, the Council retains an extraordinary capacity to dramatize and polarize attitudes to those rules on the use of force which govern our expectations of state behaviour. Although certain major powers may act without its support, all seek to justify their behaviour by reference to some superior rule, or interpretation of other UN Charter rules, such as claims to be acting in self-defence.

This article will discuss some of the contemporary debates about reform of the Security Council which came to dominate the September 2005 World Summit. Five permanent members with veto powers sit with ten other member-states which are elected by a regional formula for a two-year term.¹ These arrangements have been subject to demands for change for many years. They were given renewed focus by the 2003 disputes in the Council over Iraq. During 2005 Secretary General Annan insisted on including debate on the membership issue in preparations for the September World Summit, originally called to debate the Millennium Development Goals.² Some critics focused on the regional imbalances which historically advantage North over South. Others focused upon the exclusion from permanent member status of several leading regional powers. More radically, some have sought to limit the concept of veto powers as inappropriate in a post-Cold War era. Opponents of reform cited the pre-eminent need for effective decision-making over representative principles.³

Why should this matter? Most obviously because the Council is charged by the UN's 191 members with 'primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility



the Council acts on their behalf'.⁴ These rules therefore confer effective decision-making power on a small minority of the member-states, partly elected and partly self-selected. The Charter reinforces the point by requiring that the members 'agree to carry out the decisions of the Security Council in accordance with the present Charter'.⁵

The importance of these rules of selection is fundamental to legitimating the idea that the use of force between states might be subject to rules. This is after all one of the most enduring, and perhaps endearing, projects of the liberal view of international relations. There is a domestic analogy to the rule of law. Wilsonian principles of collective security attempt to create, for all states, an expectation that the sovereignty and independence of each is essential to the security of the whole. Collective security seeks to overcome the individual insecurity of states by replicating at the international level a version of domestic 'freedom under the law'. The Concert of Europe of the period 1815–1914 attempted to manage potential conflict by elaborate consultation between the plurality of major powers during the long peace between the Napoleonic Wars and the First World War. Wars still occurred between the European powers, such as the Crimean War of 1854 and the Franco-Prussian War of 1871, but these were not general or systemic wars in the manner of the eighteenth or twentieth centuries.⁶ The twentieth century saw two formal institutional attempts to regulate war by law, and to deter aggressive behaviour through commitment to the doctrine of collective security: the League of Nations, which operated between 1919 and 1946, and the United Nations created in 1945.

The failures of the League are well known. The governing League Council included two revisionist powers, Japan and Italy, victors in 1919 but still unsatisfied in their claims. Britain and France, two status-quo powers, were both committed to appease rather than resist aggression. However, certain major powers were not present. The USA never joined; the USSR was excluded for many years and then expelled. The appeasement by Britain and France of Japan, Italy and Germany in the period 1931–8 disenchanting an entire generation. The earlier successes of the League, in the 1920s in Vilnius, Mosul, Corfu and the Aland Islands, are, quite literally, footnotes in history.

The Charter of the UN had its origins in Churchill and Roosevelt's planning for the post-war settlement, and can trace elements as far back as the Atlantic Charter of 1941. The Charter was negotiated during 1944–5 at Dumbarton Oaks, not a leafy glade near Glasgow, but a mansion-house in Washington DC. Its prime architects – the US, the UK and the USSR – were joined by De Gaulle and Chiang Kai-shek. Its provisions reflect this: one great liberal, one sentimental imperialist, one murderous dictator, an exile and a losing civil-war faction crafted the text. Given these antecedents it is perhaps curious that subsequent generations have looked to the Charter to provide legitimation as opposed to an expedient rationale for the use, or non-use, of force. It is a testament to the enduring and flexible language of the Charter that a document with such diverse origins has attained this transcendent status. The United Nations reconstructed the League's unworkable unanimity procedures around a more vigorous recognition and deference to the

great powers' roles. The five powers which wrote the Charter not only granted themselves permanent seats with veto powers, they also granted themselves a veto over the amendment of the Charter, a process which initially requires a two-thirds majority vote in the General Assembly.⁷ Only one amendment has disturbed these 61-year-old provisions. Although the UN has adopted numerous informal and administrative changes in its conduct, the only change to its written Charter was a one-off enlargement of the Security Council from 11 to 15 by the addition of four non-permanent seats in 1965. The Charter is explicit in its insistence on individual states renouncing not only aggression but also intimidation. 'States shall refrain in their international relations from the threat or use of force against the territorial integrity or the political independence of other states.'⁸

Collective security is not a pacifist doctrine, but a deterrent system; it offers the threat of overwhelming military retaliation against any member-state that breaches the peace: 'effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression'.⁹ These include both economic sanctions and military force.¹⁰ Chapter VII of the Charter empowers the Security Council to determine just which acts do and do not constitute a threat to international peace and security. Article 39 allows the Security Council to operate in self-justification. Any action not subject to UNSC condemnation goes unremarked. The provisions of the veto in Article 27 therefore confer upon any one of the five permanent members the right to deny that a violation of the Charter has occurred. One member can overrule the views of the other 14. The political significance of membership of the Security Council is startlingly clear: the opportunity to confer or to withhold approval of acts of violence, including one's own and those of one's allies.¹¹

The subsequent ideological division of the world system into two hostile blocs from 1950 to 1990 paralysed the ability of the UN to apply its comprehensive economic sanctions and formidable collective security provisions. Only limited peacekeeping missions, developed ad hoc and having no basis in the Charter, were effected in the period between the Korean War and 1990. After a 40-year hiatus, the end of the Cold War suggested that an opportunity for comprehensive institutional reform was opportune. The consensus reached on the prosecution of the war to restore Kuwait's sovereignty in 1990 presented a near textbook example of the great powers working through all the stages outlined in Chapter VII of the Charter to reach the final ultimatum on the use of force against Iraq. Thereafter the extraordinary extension of UN peacekeeping mandates and activities in the period 1990–5 from El Salvador to Cambodia created hard evidence of a revived utility for the UNSC.

After 1994 this record of Security Council cohesion faltered. The selectivity of the members' actions was revealed by their inaction in Rwanda. Controversial errors in a series of high-profile peacekeeping missions and humanitarian interventions from Somalia to Bosnia foundered in grandiloquent claims to have created 'safe havens', one of which, Srebrenica, was the site in 1995 of the worst act of genocide in Europe since 1945.¹² At the close of the century the prosecution of NATO's war against Serbia and Montenegro in March–June 1999 was only possible because the

USA, the UK, Germany and France expressly *avoided* the Council for authorization, in advance knowledge of the imminent Russian and Chinese vetoes.

In March 2003 the US and the UK, with the support of Spain and Italy and other minor powers, launched a second war upon Iraq, on the ostensible grounds of Saddam's continuing non-compliance with 12 years of UN weapons inspections in search of WMD, the most recent example being the unanimously agreed Resolution 1441 of the previous November. Dispute centred on whether 1441 itself authorized force, as argued by the US and the UK, or whether it required a so-called second resolution, as argued by France, Germany and Russia.¹³

As Berdal puts it, 'the great illusion of the late 1980s and early 1990s was that the end of the Cold War would automatically translate into an effective' UN.¹⁴ Kosovo and Iraq had both confronted the UN membership with situations in which the Security Council could not act in concert due to fundamental differences in attitudes to the use of force by its permanent members. For those wanting support for an extended mandate to use force, the Charter proved too restrictive. For those members opposed to force, the Charter did not constrain those willing to act outside it. The question of *who* makes the rules had returned to centre stage.

Kofi Annan spoke of a stark choice for the UN between reform and irrelevance as a 'fork in the road'.¹⁵ The High Level Panel (HLP) report of December 2004 was adapted by Annan to produce his own reform agenda, *In Larger Freedom (ILF)*, published in March 2005. Both were novel in explicitly linking two sets of demands into one comprehensive analysis. This not only promoted the long-standing issue of the enlargement of the Security Council by an expanded and more equitable regional representation, but also attempted to confront the Charter's inadequacies in respect to self-defence, terrorism, domestic human rights abuses and a variety of threats without borders such as HIV/AIDS and other pandemic diseases. Annan, aware of the need to balance simple representational arguments with efficiency and effectiveness stated: 'those that contribute most to the organization financially, militarily and diplomatically should participate more in Council decision-making'.¹⁶ His conviction was that the UNSC could not act effectively unless its decisions 'command world-wide respect'.¹⁷ Annan curiously suggested a timetable during 2005 to tackle the question of UNSC enlargement first, prior to the September Summit. This high-risk strategy set deadlines that are always false in the UN system, and raised expectations on the part of reformists that were unrealistic. It was much more than 'the game of tiddly-winks' that some suggested.¹⁸

Annan's *In Larger Freedom* offered a choice between two models, dubbed A and B, which shadowed the claims of the G4 major regional powers and G11 minor powers respectively, with additional African representation. Model A suggested six additional permanent seats, two for Africa, two for the Asia/Pacific region, and one each for Latin America and Europe, with a further three non-permanent seats creating a Council of 24. Model B proposed to add eight non-permanent seats with a four-year term, each renewable, and just one additional two-year seat, also creating a Council of 24.¹⁹ *ILF* suggested three criteria of effectiveness by which to judge the potential candidates' credentials: the top three regional contributors to

each of three categories – the assessed budget, voluntary contributions to the UN and troop contributions to peacekeeping.²⁰ The report also suggested that amongst developed country candidates, their progress towards implementing the 0.7 per cent GDP target for Overseas Development Aid (ODA) should also be a consideration.²¹ The HLP also recommended that no decisions implemented on the UNSC should be regarded as final, but should be reviewed again in 2020.²²

Both the Charter and *In Larger Freedom* emphasized the Charter's connection between admission to the Council and the 'contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical representation'.²³ Whilst the first two conditions may be interpreted qualitatively, they clearly imply a willingness to undertake enforcement measures. They may also be measured against financial contributions, most clearly in the German and Japanese cases for permanent seats. Each currently contributes very nearly 9 per cent and 19 per cent respectively of the assessed budget contributions.²⁴ Among non-permanent members the OPEC members, large less-developed countries and newly industrializing countries have the scope to make enlarged financial contributions. Of the permanent members China and Russia are embarrassingly under-assessed for their status, at 2 per cent and 1 per cent respectively, making further grounds for their discomfort. In the words of the former Foreign Secretary, Douglas Hurd, the UK seeks, by 'punching above its weight' in the UN, to legitimate its privileged position within the Security Council.²⁵ The UK's support for the G4, Brazil, India, Germany and Japan, also reflects a preference for dependable and predictable relations. It allows the practice of overlapping or interlocking multilaterally, as these countries also operate in existing, familiar groupings: Germany and Japan in the G8, Germany in the EU, India in the Commonwealth.

Japan and Germany have the most obvious claims. Both countries are large and still growing contributors to the assessed budget of the UN. Japan is currently assessed at 18.8 per cent and Germany at 8.36 per cent.²⁶ They also make their payments in full and on time, and have not used debate or blocking in the Diet and Bundestag to achieve UN or UN-related reform goals. However, both Germany and Japan have very substantial but almost wholly unused defence capabilities. Both electorates harbour major reservations concerning the use of that potential. Both were constitutionally barred from contributing to military operations abroad, including peacekeeping, until the mid-1990s. Extensive domestic debates concerning the German contribution to UNPROFOR in Bosnia, and in Japan on Cambodia, were necessary.²⁷ Japan's case was challenged in 2005 by China's evocation of still unresolved public atonement by Japan for conduct in the occupation of China in the 1930s.²⁸

Despite much adverse publicity for US Ambassador Bolton's hostility to the September Summit draft document, the US did not have to use or even threaten its veto on the membership issue. Bolton's preferred deletions from the Summit draft included references to nuclear disarmament, the 0.7 per cent aid target and 'corporate responsibility', and favourable references to the International Criminal

Court.²⁹ Later the US eased their position, relenting on references to Kyoto, the ICC and the aid target on the simple grounds that the US has never ratified these agreements in their original form and could not be bound by this declaration.³⁰ The US did not need to use the stick on the membership issue because the aspirants and claimants among the membership managed to self-destruct.

No package was agreed either before or subsequent to the September 2005 Summit. Annan's attempts to resolve the issue in advance of the September 2005 Summit were doomed. In practice all such negotiating deadlines in the UN are false. The G4 brought Western supporters on board by dropping the veto requirement. The 53 Africans for their part still wanted two permanent seats, bringing the total Council membership to 26, and the Africans also wanted to retain the veto. Both earlier concessions by the G4 to gain Western support would have been undone by reinstating these African demands. Finally, the Africans could not agree among themselves on which of them would take these two seats. South Africa, Nigeria, Egypt, Libya and Senegal each advanced claims. Annan's vocabulary of 'reform or irrelevance' was always exaggerated. Since the debacle on Iraq the resumed cohesion of the Security Council has been clearly demonstrated on the creation and expansion of massive peacekeeping initiatives in Liberia, Haiti and Sierra Leone. Also, the Council endorsed arrangements for transitional government and elections in Iraq itself.

Formally, the members are committed to continue to seek accommodation on this issue. The final text of the World Summit outcome, adopted on 20 September 2005, attempted to summarize the position thus:

We support early reform of the Security Council as an essential element of our overall effort to reform the United Nations in order to make it more broadly representative, efficient and transparent and thus to further enhance its effectiveness and the legitimacy and implementation of its decisions.³¹

However, the division between the G4 and G11 camps runs deep and symbolizes the tension between regional powers' interests and representative principles in international organization. Even if those parties in competition for new Council seats were able to compromise on this, and establish the two-thirds majority vote necessary in the General Assembly, at least two of the veto-holding permanent members have signalled their displeasure during 2005. Thus rule-making, or more precisely who gets to make the rules, is in this instance clearly a political not a legal process.

Notes

- 1 China, France, the Russian Federation, the UK and the USA sit with five members elected from a combined African and Asian group, two members from Latin America, two from Western Europe and one East European member. UN Charter, Article 23.

- 2 The particular stimulus was provided by the publication of the final report of the Secretary General's High Level Panel on Threats, Challenges and Change, entitled, *A More Secure World: Our Shared Responsibility* (New York: United Nations Publications, 2004). The key recommendations of this report were consolidated in Secretary General Annan's follow-up: Kofi Annan, *In Larger Freedom* (New York: United Nations Publications, 2005).
- 3 The debates are summarized in Mats Berdal, 'The UN after Iraq', *Survival*, 46(3), 2004, pp. 83–102. Also 'The UN Security Council: Ineffective but Indispensable', *Survival*, 45(2), 2003, pp. 7–30. Also Gwynn Prins, 'Lord Castlereagh's Return: The Significance of Kofi Annan's High Level Panel on Threats, Challenges and Change', *International Affairs*, 81(2), 2005, pp. 373–92. Also Mark Imber, *Security Council Reform: From Here To Eternity?* (London: Foreign Policy Centre, 2005), pp. 1–17.
- 4 UN Charter, Article 24.
- 5 UN Charter, Article 25.
- 6 Ian Clark, *The Hierarchy of States* (Cambridge: Cambridge University Press, 1981).
- 7 UN Charter, Articles 108–9.
- 8 UN Charter, Article 2, 4.
- 9 UN Charter, Article 1, 1.
- 10 UN Charter, Articles, 41 and 42.
- 11 UN Charter, Article 27, 3 requires members of the Security Council not to vote on disputes in which they are involved. This provision has never been enforced.
- 12 On Rwanda see L. Polman, *We Did Nothing* (London: Viking, 2000). On Bosnia see David Rohde, *A Safe Area* (London: Simon and Schuster, 1997).
- 13 See Barry Buzan and Ana Gonzalez-Palaez, 'International Community After Iraq', *International Affairs*, 81(1), 2005, pp. 46–7.
- 14 Berdal, 'The UN after Iraq', p. 9.
- 15 UN Press Office, 24 September 2003.
- 16 *ILF*, para. 169.
- 17 *ILF*, para. 167.
- 18 Prins, 'Lord Castlereagh's Return', p. 373.
- 19 HLP, A/59/565 paras 252–3.
- 20 *ILF*, para. 169.
- 21 *ILF*, para. 169.
- 22 UN, A59/565, para. 255.
- 23 UN Charter, Article 23.
- 24 See Global Policy Forum, 'Assessed Contributions to Regular Budget of the 15 Largest Assessed Contributors', March 2004, available at <http://www.globalpolicy.org> (accessed 12 January 2006).
- 25 Remark attributed to Douglas Hurd, Royal Institute of International Affairs, London 1993.
- 26 Global Policy Forum, 'Assessed Contributions'.
- 27 See L. Varma (ed.), *The UN in a Changing World* (London: Sangam Books, 1997).
- 28 Rioting and attacks on Japanese property in China were reported in April 2005 in response to the publication of a school text in Japan, which, it was claimed, failed to fully account for Japanese actions in the occupation of Nanking. *The Scotsman*, 13 April 2005.
- 29 Julian Berger, *The Guardian*, 27 August 2005.
- 30 *The Economist*, 10 September 2005, p. 29.
- 31 UN, A/60/L.1 World Summit Outcome, 20 September 2005, para. 153.