

A Critical Overview of the Reform of the United Nations Security Council (UNSC) and its Obstacles

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Abstract

A great deal has happened in the world since the end of World War II. However, there is no world state, global government, or even a super-national body that determines states' behaviour. Thus, the United Nations (UN) was created in 1945 and the Security Council (SC) in 1946. The Security Council (SC) continues to be the only body from which an order can be issued competently, legitimately, and completely, for universal implementation and mandatory at least for the 193 sovereign states that comprise the United Nations. Today, the SC is made up of 15 states with sovereign equality but with different levels of participation. Five are permanent (the UK, US, Russia, China, and France), all with veto power, and 10 are non-permanent members elected using criteria of regional representation for a period of two years without the possibility of consecutive re-election. As a result, the Council continues to be a model for doing international law. But its actions and operations are always limited by the UN Charter itself and international law. The fact remains that the council's structure is still largely the same as its initial structure of 1946, and hence does not reflect the current world power distribution and geopolitical situation. The critics are still skeptical about the veto power of the permanent members. It is accused of being superfluous, anachronistic, and an impediment to the fulfilment of the mandate of the SC and the UN at large. This research work, therefore, critically reviews the Security Council reform proposal and its obstacles therein. Derived method of analysis was employed. Findings from the study revealed that the veto power of the five permanent members of the Security Council and the disagreements between the SC and other UN member states have been responsible for the lack of action on the major SC reform proposals, thereby resulting in the UN's failure to maintain international peace and security.

Keywords: Reform, Security Council, United Nations, International Law

Introduction

The end of the Second World War, brought about the existence of the United Nations (UN) in 1945, and Security Council (SC) in 1946, under whose auspices the Veto Power System, exists. Note the, SC is not an independent body, but of members, which come into play in negotiation, vote and decision making processes inside the organisation, confronting each other, coinciding or superimposing on one another. Thus, SC is seen as a body in constant movement, as a function of the International interest and diplomatic strategies that come with the representatives of the states seated around the table. Due to its inadequacies, incredibility and exclusive nature, the SC usage has become detrimental to the non-veto power countries, and consequently marginalised regions and states, especially the third World States. Advocacy groups, such as Human Rights and Civil Rights activists are objectively, lending their voices against the application of Veto Power, by a few privileged and influential countries during conflicts and wars. (Iyase, 2017)

Note further that when politics serves as a power tool, the body controlling the norms often exempt itself from their applications. The broad political immunity enjoyed by the members of many national legislations, provides a very good example. Apparently the sponsors of the UN Charter agreed with the maxim. At the end of World War II, they used their advantaged position to eternalise the status quo of 1945 in the UN Charter. The sponsoring government also ensured their permanent voting privilege in the SC through Articles 108 and 110, paragraph 3. They made the acceptance of the proposed amendment of Charter depends upon their concurring votes as Permanent Members of the SC. (Hans, K. (1991) Therefore, the Security Council Reform becomes one of the perennial debates that have been discussed for at least decades. Some even say, this issue is as old as the council itself. Because, all of the UNSC flaws, different debates and proposals on the reform of the council have emerged. (Sahar, 2011).

It was further revealed that after the end of the Cold War, when the council became more efficient and more engaged in International matters and peacekeeping operations, the calls for reform, paradoxically increased. One of the explanation provided in this regards is that, perhaps after the end of the Cold War, the UN member states have regained part of their lost faith in the council and therefore stated to try harder to make its structure capable with the current realities of the World. The council's structure is still largely the same as its initial structure in 1946 and does not reflect the current World Power distribution and geopolitical situation. (Sahar, 2011).

Note, what the end of the Cold War brings to the International system and the kind of reflections they had on the UN and on the SC in particular, are very significant, considering how they were before Cold War. Thus, it is argued that the global scene in 1990s was considerable different from that of 1940s, and the SC for instance, did not reflect the realities of the International political system anymore. The UN system itself is now operating in a World of much greater complexity and danger than when the UN was founded". The campaign for the reform of the SC therefore becomes inevitable and needs more attention due to its exclusive, secrete and uninvolved nature of this body (Security Council). (Feyzullah, 2007).

Statement of the Problem

There is a consensus on the need to reform the UNSC, because it does not reflect the intent of its establishment. The fundamental flaws of this organ have led to many calls for reform from majority of UN member states. Besides, the relationship between the SC and the General Assembly (GA), is strained and it is just because, the council is an exclusive club of fifteen members, with Permanent members as another club within the club and it does not necessarily act according to the best interest of the majority of the UN members' states. Thus, the fact that this club is able to pass binding resolution whilst the resolution of the GA with 193 members are not legally binding, the belief of many UN members is that the UNSC is increasingly expanding its mandate notwithstanding other contributory factors to this uncomfortable relationship. It should be noted that the number of UN member states grew from 51 in 1945 to 113 in 1963. Call for reform of the SC have been bellowed throughout the ages with the earliest and only reform, taking place as a result of GA resolution 1991 which called for the additional four new non – permanent members to the SC in 1965.

Research Question

- I. Whether the United Nations Security Council (UNSC) deserves to be reformed?
- II. Whether all the reform proposals on the United Nations Security Council have yielded positive result?

Literature Review

The United Nations Established in 1945, celebrated its 74 years' anniversary in the year (2019) and gave rise to additional literature in the study area This International organisation has large influence around the World with 193 signatory members. It has recorded tremendous successes in many areas. But due to the Veto Power of the Five Permanent Members of the SC, it has rendered the UN inefficient and ineffective. (Kujee, 2017). Despite the success of the UN, many critics, politicians and scholars are critical of the UN, and hold views that, the International Organisation, because of its SC is inefficient, uninvolved and has fallen into disrepute as a result of its archaic and anachronistic functioning method. The majority of the criticisms are directed at the UNSC which is the central mechanism in the UN structure, and is the Organ, which assumes the most power. To be précised, the criticisms are directed at the Veto Power of the Permanent Members, which are accused of being superfluous, anachronistic and an impediment to the fulfilment of the mandate of maintenance of International Peace and Security, as the permanent members exercise of the veto in the modern age, does not reflect the intentions of the drafters of the UN Charter (Kujee, 2017). Thus, the Permanent members (P5) are accused of self-indulgent, exercise of their veto power for the purpose of securing their own national interest and the interest

of their allies at the expense of the interest of UN member states and the mandate of the SC.(Kujee, 2017).

Regardless of reasons for exercises of the veto, the veto power has been seen as a political tool, wielded to assert differences in conflict resolution strategies among the Permanent Members, at the expense of the lives of millions of people and indeed the SC mandate.(Kujee, 2017). For all these reasons, the Permanent members decline to the reform of the SC. Thus, according to Cuba at 10484 General Assembly, referred to these Five Permanent members as “a minority group of countries that had no interest in reforming the council because, they benefited from the status quo.

Thus, the first and only reform of the council happened in 1965 when the number of non – permanent members increased to 10 members' states.(Sahar,2011). The push from decolonised countries for better representation on the council, both in numbers and in interest was a key driver of the decision to reform the council in 1963. Countries from Africa, Asia, and Latin America, worked together and drafted the resolution that ultimately expanded the council and came to force on 31st of August 1965. (Kujee, 2017). Therefore, due to the increased so vastly in the UN membership, the SC membership of the time could not reflect adequate geographical representation and thus, rendering the council less effective in meeting its mandate. (Richard and Nora, 2012): Since that reform, the number of the UN member states have increased substantial again especially because after the fall of the Soviet Union, many members joined the UN. Today, the UN has 193 members. The imbalance between the members of the GA. and that of the SC members had made UNSC very exclusive and has formed one of the main flaws of this council. The size of the council is not reflective of the UN’s growing membership and it is odds with the content of Article 2 of the Charter, namely; the principle of the sovereign equality of all... Members”. This is why many countries are advocating for an increase in the numbers of the UNSC Permanent and Non-permanent members. The regional representation of the council has also attracted much criticism as well.(Sahar, 2011).

Note further that demand for the reform of Security Council revolves round three issues: it’s operating method; the limitation or abolition of the veto power and the issue of equitable representation. Thus, the question of equitable representation and the number of SC members were put on the GA agenda in 1979 at the request of some countries including India and Nigeria, but was not considered until 1992. It is belief that the then Secretary General Boutros–Gale’s “Agenda for peace” published in January 1992, was influenced in directing attention to the issue of council’s reform..(Sahar, 2011).

Proposals Submitted and Discussed at the UN

The Razali plan (1996 - 1997).

Note that several proposal reform plans were submitted and discussed at the UN. Among these was the Razali plan, by Ambassador Ismail Razali, the then President of the UNGA between

1996 and 1997 and the chairman of the open – ended working Group. Other proposals are as follows: (Richard and Nora, 2012)

Kofi Anna High Level Panel.

The then UN secretary General Kofi Anna, appointed a high – level panel on threats, challenges and changes to report on different aspect of the United Nations including the SC. The panel recommended two models regarding the enlargement of the UNSC. The Model “A” and “B”. (Kujee, 2017).

The Group of Four (G4 - Brazil, Germany, Japan and India) reform plan.

Uniting for Consensus (UFC) proposal (presented by; Argentina, Canada, Columbia, Costa Rica, Italy, Malta, Mexico, Pakistan, Republic of Korea, Submarine, Spain and Turkey). Ezulwini plan: (African Union Proposal (AUP)). It represents the African position. Small five (S5) proposal. It concerns on the working method of the council). Overreaching Process Plan: (As a solution to the G4, Uniting for Consensus and the Ezulwini reform proposals). Model X plan: (Contribution by the scholars in the field of International law) and 2010 council of foreign affairs report, on the reform proposal

It should be noted that all the proposals listed above do not constitute an exclusive list of proposals. Rather they are in fact only the major proposals that have been brought forward and debated before the UN throughout recent years. But what common in all are what we have listed above; geographical representation (with the exception of the S5 plan which concerns on the working method of the council) the operating methods of the UNSC and the limitation or abolishment of the veto power. . (Richard and Nora, 2012)

Obstacles to the Reform of the Security Council

Note, the current events have fuelled member states mounting frustration over the lack of progress on SC reform, since a working group was set up to address the issue over two decades ago. Thus, the obstacles hindering the success of the reform of the SC are as follows;

The Permanent Members (P5) attitude

The first and foremost significant is the P5 attitude towards the reform process. The Russia, U.S and China appear sceptical, and the US interest declining since the matter received some attention in 2009 – 2010. (Kujee, 2017). Note, any fundamental reform, to the number of the SC has to be inscribed into the Charter. On the other hand, Articles 108 and 109 of the UN Charter give Veto (double veto) Power to the Permanent members over any amendment to the Charter. Thus, no-reform can materialise without the consent of the Permanent Members. For example, China as a veto holding member of the council, is strongly against the addition of permanent members. (Sahar, 2011).

Loss of momentum by the UN members

The negotiations on SC reform at the UN have begun to lose momentum due to lack of progress on the reform debate. (Richard and Nora, 2012).

Disagreement on the reform proposals

What happened during the debates on the reform is the disagreement of countries on the details of the preferred reform proposal. The fact that countries cannot reach an agreement on the number of additional seats, the types of those seats (permanent or non- permanent), possible candidate and the extension of the veto power or its abolition, as well as the fact that each country is still advocating its own old proposal without much compromise, are impediments to the progress of reform debates..(Sahar, 2011).

Lack of coordination among the member states

Non-African member states grouping, have not successfully managed to coordinate with African enough to gain full support of the African group on any joint model of or approach to reform. Although, some convergences have occurred in recent years. Meanwhile, continued lack of African unity on the issue of SC reform has impeded progress on the reform.

With 54 member states represented in one grouping making up 42% of the 129 votes needed to pass a General Assembly resolution, expanding the council, to revisit the common African position will reveal if there is potential for a shift in African position.. (Richard, G. and Nora, G (2012):

Suggestions

- The complete reform of the S.C is needed, in order to resolve its systematic problem. If the Permanent members of the S.C could support this reform crusade, it will garner the system. Particularly the support of Russia, US and China will give positive result.
- There is also need for compromise on the reform of SC. If an acceptable compromise is not reached on the reform proposal, S.C. may suffer a diminished role in the International

arena. As such, many issues may be transferred or referred to another compromised Regional body, and the International community will not be pleased with this situation.

- It is suggested that if S.C is to be reformed, it should be based on the continental representation. Three states should represent each continent, two of which will be permanent members and the remaining ones should form non-permanent members, with no automatic re-election, if the first two years' tenure expires.
- The role of Regional Groups is very essential in other to achieve potential reform goal. Groups like European Union (E.U) and African Union (AU) are needed. AU has 54 countries, covering at least 42% of the total number of the General Assembly, needed to amend the Charter. So AU can take a significant role in the reform.
- The Civil society and the academia are needed too. Thus, the greater national civil society and International community interests in the issue, at least will change everything. Linking with the academia was promoting widespread awareness and generating fresh ideas.
- In accordance with the transformation of the International system, the demand to the UN's most visible organ to the outside World, and the SC, are highly inevitable so as to bringing both (UN and SC) in line with the new realities of the twenty first century. Thus, the reform has to be intensified otherwise, the council might lose its authority and credibility in the world.
- Thus, major shift in approach, including incremental steps towards a long term vision for reform is a mere realistic path to UNSC reform. There is need to co-organizing a seminars and call for outreach, from government of the UN member states and the UN to raise awareness about the issue of UNSC reform. These will have the potential for helping the issue to gain more traction exchanges about UNSC reform between civil society groups from different countries and regions and all these are also widely regarded as helpful for reform.
- Engaging youth on the issue would also help build interest within future generation and there is also need for political will. Without political will necessary from member states, reform remains out of reach. There is no magic formula for solving this complex puzzle in a way that will garner support from the entire membership. This is why it is useful to look at the short term ways that could set the stage to facilitate reform in the medium to long – term. It should be noted that no immediate prospect for reform, unless unexpectedly, a political tsunami occurs.

Methodology

Derived method of analysis was employed for this study. Derived research technique is a mode of experimental behaviour linked to the conditions of urban society: a technique of rapid passage through varied ambiances. This is done through view of other related studies that provides information on the study area.

Analysis and Findings

There is necessity for significant reform in the UN in general and in the SC in particular, as regard to its size, veto, regional representation, categories of membership, and even working methods, in order to meet up and adapt to the changes that occurred in the transformation of the structures of the global system. Today, Germany and Japan had appeared as the World's second and third largest economies after the Cold War, and they were still considered in the same position within the UN as Cape Verde. Besides Germany and Japan, some developing countries such as India, Brazil, and Nigeria were also complaining about the structure of both the UN and the SC, and looking for a Permanent Seat in the SC. Furthermore, the rise of European Union (EU), as a new, "United" Global economic and political actor was also one of the important changes for the Post-Cold war era. Thus, process of decolonisation and admission of a large number of newly independent states to UN, together with the fall of the Berlin wall and the collapse of the Soviet Union, brought a dramatic shift in the distribution of power in the International economic and political order. Such event, of course, put the UN in general and the SC in particular, in a totally different position from that they had previously acted.

However, the scholars of International relation have again and again stated that "a functioning United Nation is possible only with a basic unity among the Permanent Members of the SC. Many experts also argue that, when this harmony exist, issues of power politics rarely arise and the veto privilege is unnecessary". (Hans K. (1991). They further argue that "even its power is essentially neutralised". (Hans K. (1991). Thus, in the present situation after the end of the Cold War and as a result of the crumbling of the bipolar World order that has prevailed since World War II, many proclaim a new age of cooperation and of the rule of law which assigns the UN the role intended by its founders, which so far has not emerged because of the pervasive rivalry between East and West. This effective expansion of the council is not happening to the detriment of the Charter, nor does it lead to violation of International law, since it rest on the principle of legitimacy and authority self-contained in the council. But, the same Charter has made the prospect of the veto reform slim, if not impossible (Article 108 and 109 of the Charter). It is hard to expect that veto holder countries will support any reform of power that gives them the last say in one of the most important bodies of the United Nations.

As a result of the P5 Five secret club and the abuse of the use of veto power privilege, its ambiguous and incoherent nature of the system had been the major reason for global states and regional conflict escalation. Due to the pressures on the SC through different reform proposals, it has transformed itself and has become more efficient and effective than before. From 1945 to date.

The former UN Secretary General Kofi Anna observed on the UN reform as follows:

“...no reform of the United Nations will be complete without the Security Council. And indeed, so long as the council remains unreformed, the whole process of transforming governance in other parts of the system is handicapped by the perception of an inequitable distribution of power. The World has changed dramatically since 1945, and the Security Council must change as well.

Conclusion

This study has apparently revealed the need for the reconstitution of regional representation, categories of membership, and even working methods of the United Nation UN and the Security Council in particular, in order to meet up and adapt to the changes that occurred in the transformation of the structures of the global system. This is premised on the argument and eventual submission of scholars of International relation that “a functioning United Nation is possible only with a basic unity among the Permanent Members of the SC. To ensure the meaningful implementation of the objective of the UN amongst its member states, experts have argued that, when this harmony exist, issues of power politics rarely arise and the veto privilege is unnecessary and hence be discountenanced. The study concluded that the veto power of the five permanent members of the Security Council and the disagreements between the SC and other UN member states have been responsible for the lack of action on the major SC reform proposals, thereby resulting in the UN’s failure to maintain international peace and security.

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