THE ROLE OF THE UNITED NATIONS SECURITY COUNCIL IN MAINTAINING GLOBAL PEACE AND SECURITY

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ABSTRACT

The Security Council is one of six bodies that make up the United Nations. The Security Council was assigned the responsibility of maintaining international peace and security by the United Nations Charter.

Using qualitative analysis, this dissertation looks at the context of the establishment of the United Nations and the Security Council, outlining the structure of the Security Council by examining its composition, theory, and practice.

There has always been debate around the theory of the Security Council and whether the drafters of the United Nations Charter intended the Council to be a system of collective security. Moreover, there have been new developments in the practice of the Security Council, like the use of new principles such as the Responsibility to Protect (R2P) in the drafting of the resolutions and the Protection of Civilians (PoC) as the main principle and task for the United Nations Peacekeeping Operations, which have seen an increase in importance as well as innovations for their implementation.[1]

The dissertation discusses the critical resolutions and mechanisms of the Security Council, like sanctions, which are one of the most important mechanisms to coerce states to comply with the resolutions against threats to international peace and security. As well as the theory of global governance and its developments, its relation to the Security Council, and the role of the Security Council in the issues of disarmament and nuclear proliferation.

The dissertation also qualitatively examines three case studies, which are the most recent examples of wars in the twenty-first century and they are Iraq, Syria, and Ukraine, and how the Security Council addressed those conflicts.

The reform of the Security Council is a long-discussed topic with many calls and proposals. There are no doubt implications, whether the Council is reformed or remains in the same structure. Currently, calls for reform and restructuring are at an all-time high as the world sees major developments.

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[1] S.G. Hauck, R. Kunz & M. Milas, *Public International Law* (2024), https://doi.org/10.4324/9781003451327

INTRODUCTION

The United Nations is a unique organization, embodying a system of global governance and multilateralism that addresses all aspects of international relations. The Security Council was established as the exclusive entity responsible for maintaining international peace and security, as outlined in Chapter VII of the United Nations Charter.

The Security Council operates under the authority granted by the United Nations Charter, which emphasizes state sovereignty as its foundational principle. This framework positions the United Nations as a minimally interventionist organization. However, the concept of state sovereignty has evolved significantly since 1945, becoming increasingly complex and decentralized. Concurrently, the Security Council is empowered to "take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security."

The five permanent members of the Security Council, collectively referred to as the P5, represent the most distinctive aspect of the Council, as their veto power necessitates the concurrence of these members for any resolution to pass. If a permanent member abstains, this does not constitute a negative vote. The primary obligation of the Security Council, as stipulated in Article 24 and Chapter VII of the UN Charter, is to maintain international peace and security. Nevertheless, legal scholars contend that political paralysis, often stemming from the misuse of veto powers, frequently impedes the Council's ability to act effectively. This raises legal concerns regarding compliance with jus cogens norms and the principle of erga omnes obligations under customary international law. In its role as a non-permanent member, India has underscored the necessity for more equitable representation and adherence to international legal principles in decision-making.[2]

The Security Council was not designed to function as a politically neutral organization; rather, it was intended to establish a balance of power and consensus on issues related to the maintenance of international peace and security. The drafters of the United Nations Charter learned from the failures of its predecessor, the League of Nations, which is why the Council comprises both permanent and non-permanent members, with the permanent members possessing veto rights. The Security Council was established as an institution comprised of member states, particularly superpowers, yet it was intended to operate with a sufficient margin of consensus to act collectively. Whether this intended functionality has been realized remains a subject of debate.

THE ROLE OF THE UNITED NATIONS SECURITY COUNCIL IN ADVANCING THE PRINCIPLE OF THE RESPONSIBILITY TO PROTECT (R2P)

The Responsibility to Protect (R2P) is defined as an international norm aimed at ensuring that the global community does not again fail to prevent mass atrocity crimes, including genocide, war crimes, ethnic cleansing, and crimes against humanity. This principle highlights the tension between state sovereignty, which encompasses a state's control over its internal affairs, and its obligations to protect its citizens as well as its responsibilities within the international framework established by the United Nations. The concept emerged in response to the international community's inadequate response to mass atrocities that occurred in Rwanda and the former Yugoslavia during the 1990s.

At the United Nations Millennium Assembly in September 2000, Canadian Prime Minister Jean Chrétien announced the formation of an independent International Commission on Intervention and State Sovereignty (ICISS). This initiative was a direct response to Secretary-General Kofi Annan's call for a renewed international consensus on the appropriate actions to take in the face of significant violations of human rights and international

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[2] *Realizing Utopia: The Future of International Law (Antonio Cassese ed., Oxford Univ. Press 2012).*

humanitarian law.[3]

In 2001, the International Committee on Intervention and State Sovereignty, established by the Canadian government, articulated the principle of R2P in its report titled "The Responsibility to Protect." This document, commonly referred to as the ICISS report, underscores the fundamental obligation of sovereign governments to protect their populations from mass murder, widespread loss of life, sexual violence, and other forms of violence. The ICISS report further asserts that when states are either unwilling or unable to safeguard their citizens, the responsibility for preventing genocide must be assumed collectively by the international community.

The ICISS report introduces the concept of the "right of humanitarian intervention," addressing the circumstances under which it may be appropriate for states to undertake coercive, particularly military, actions against another state in order to protect vulnerable populations. The ICISS acknowledges the inherent dilemma between state sovereignty and the potential for justified intervention in the affairs of another state.[4]

During the UN World Summit in 2005, the largest gathering of Heads of State and Government in history, the Responsibility to Protect (R2P) was overwhelmingly endorsed. The leaders reaffirmed their commitment to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, as articulated in paragraphs 138 and 139 of the World Summit Outcome Document. They also accepted a collective responsibility to support one another in upholding this commitment, in accordance with the United Nations Charter and in collaboration with relevant regional organizations, particularly when national authorities fail to protect their citizens.

Article 2(4) of the UN Charter stipulates that "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations." [5]This provision indicates that the drafters of the Charter viewed state authority and sovereignty as paramount, aligning closely with the Westphalian concept of state sovereignty.

WHAT IS GLOBAL GOVERNANCE?

Global governance is frequently characterized as "the manner in which global affairs are managed." It is often misconstrued that global governance necessitates a singular global government; rather, it encompasses a diverse array of stakeholders, including national governments, regional entities, and international organizations. Each of these organizations specializes in specific issues; for example, the World Trade Organization (WTO) addresses trade-related matters, while the Security Council is tasked with leading, or at least should be leading, efforts concerning international peace and security[6].

Global Challenges posits that global governance serves to unite various actors in order to facilitate collective action on a global scale. The primary objective of global governance is to deliver global public goods, particularly in areas such as peace and security, justice, conflict resolution institutions, functional markets, and standardized regulations for international commerce. Furthermore, Global Challenges asserts that the United Nations has emerged as the foremost organization responsible for global governance, exemplified by the Sustainable Development Goals established in 2015, which set shared objectives for the future of the planet.

In the twentieth century, prior to World War I, the global landscape was already governed by a

[3] Kofi Annan, Gareth Evans & Mohamed Sahnoun, The Responsibility to Protect: A CFP Condensed Introduction to the Report of the International Commission on Intervention and State Sovereignty, *Canadian Foreign Policy J.*, 2002.

[4] Wills, S. (2004). Military interventions on behalf of vulnerable populations: The legal responsibilities of states and international organizations engaged in peace support operations. *Journal of conflict and security law*, *9*(3), 387-418.

[5] T. Ruys, The Meaning of "Force" and the Boundaries of the Jus Ad Bellum: Are "Minimal" Uses of Force Excluded from UN Charter Article 2(4)?, *Am. J. Int'l L.*, 108(2), 159-210 (2014).

[6] B.M. Hoekman & P.C. Mavroidis, *World Trade Organization (WTO): Law, Economics, and Politics* (2015), Routledge.

limited network of both public and private international organizations, which connected the industrial nations of predominantly European empires that had recently conquered and partitioned the globe. In contrast, the contemporary world is characterized by a largely decentralized structure comprised of extensive networks of relationships, organizations, and enterprises, which can be challenging to delineate, particularly within post-industrial economies.

The innovation of the term global governance is attributed to the definition provided by James Rosenau and Ernst Czempiel, who described it as "Governance without Government[7]," indicating that various forms of authority and both formal and informal mechanisms can exercise governance independently, concurrently, or in concert.

There exists a degree of confusion surrounding the term global governance, as governance is typically associated with "governing" or political authority, institutions, and ultimately control. In this context, governance refers to formal political entities that aim to coordinate and manage interdependent societal relationships and possess the authority to enforce decisions. However, in recent years, scholars such as James Rosenau have employed the term "governance" to describe the management of interdependent relationships in the absence of overarching political control, as exemplified by the international system.

THE ISSUES OF NUCLEAR PROLIFERATION AND DISARMAMENT

Nuclear non-proliferation and disarmament represent significant challenges to the effectiveness of arms control regimes. In the absence of a concurrent commitment to disarmament, the objectives of nuclear non-proliferation are likely to be unattainable. During the Fiftieth Anniversary of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), UN Secretary-General António Guterres articulated

the following:

"The Nuclear Non-Proliferation Treaty is a fundamental pillar of international peace and security, serving as the core of the nuclear disarmament and non-proliferation framework. Its unique status is derived from its near-universal membership, legally binding obligations concerning disarmament, a verifiable non-proliferation safeguards regime, and a commitment to the peaceful utilization of nuclear energy."

The purpose of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is to prevent the dissemination of nuclear weapons and related technologies, to promote cooperation in the peaceful applications of nuclear energy, and to further the objectives of nuclear disarmament and comprehensive disarmament. The NPT is the only multilateral agreement that includes a legally enforceable obligation for nuclear-armed states to pursue disarmament.

The Treaty was opened for signature in 1968 and became effective in 1970. Since its implementation, the NPT has been the cornerstone of the global nuclear non-proliferation framework. A total of 191 States Parties, including the five recognized nuclear-weapon states, have acceded to the Treaty, making the NPT the most widely supported multilateral disarmament agreement.

In contrast to nuclear weapons, biological and chemical weapons have been universally prohibited under international treaties. The Biological Weapons Convention (BWC), which was opened for signature in 1972 and entered into force in 1975, prohibits the development, production, stockpiling, acquisition, and retention of biological and toxin weapons.

The Chemical Weapons Convention (CWC), ratified in 1997 after being signed in 1993, is the first multilateral agreement to prohibit an entire category of Weapons of Mass Destruction (WMDs). It facilitates international verification of the destruction of such weapons and the

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[7] J.N. Rosenau, Governance in the Twenty-First Century, in *Palgrave Advances in Global Governance* 7-40 (2009), Palgrave Macmillan UK.

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conversion of their production facilities to civilian use, while also incorporating the global chemical sector into the verification regime. Furthermore, the CWC encourages international collaboration in the peaceful use of chemicals and offers assistance and protection to signatories who face threats from chemical weapons. The principles of universality, equality, and non-discrimination have ensured that the CWC enjoys near-universal adherence, with 98 percent of the world's population and chemical industry represented by governments that are parties to the treaty.

CASE STUDY OF IRAQ

The Iraq situation highlights not only the operational mechanisms of the UN Security Council but also raises a doctrinal analysis of jus ad bellum (the legal framework regarding the justification for war) and jus in bello (the legal principles governing behavior during warfare). The Gulf War of 1990–91 and its subsequent developments challenged the effectiveness of the collective security framework established by the UN Charter, particularly Chapter VII and Article 39, which empowers the Security Council to identify threats to peace and decide on appropriate responses.

Scholars have often revisited Resolution 678 (1990), specifically examining the "all necessary means" provision and its alignment with customary international law's principles of proportionality and necessity. The ambiguous nature of these terms led to various interpretations, mainly during the period leading to the 2003 invasion. Advocates of the war claimed that earlier resolutions implicitly permitted further actions, while opponents argued that a new and explicit authorization from the Council was necessary to meet the legality criteria under the Charter.

The absence of a unified Council stance in 2003 reignited discussions regarding the validity of unilateral humanitarian interventions and preemptive self-defense, both of which lack clear legal support under Article 51. The concept of "anticipatory self-defense" used by coalition states did not receive widespread acceptance in international law and was notably opposed by key Council members, such as France, Russia, and China, reinforcing the idea that unilateral military actions without an imminent threat or Security Council endorsement violate international standards**.**

CONCLUSION

The United Nations Security Council (UNSC) occupies a unique position in the framework of global governance, authorized by the UN Charter to uphold international peace and security. It is the sole entity within the international legal structure that can enact binding resolutions, sanction military action, and impose penalties. This authority is primarily derived from Chapters VI and VII of the UN Charter and is recognized by all 193 UN member countries.

Despite its pivotal role, the UNSC has faced increasing criticism for being largely non-interventive and outdated in its structure. The principle of state sovereignty, which is a core tenet of the UN Charter, has frequently constrained the Council's ability to engage proactively, even amidst severe human rights abuses and humanitarian emergencies. While mechanisms like targeted sanctions, Peacekeeping Operations, and the Responsibility to Protect (R2P) have been introduced, there remain significant gaps in their execution.

A key point of critique relates to the Council's composition and structure. The five permanent members (P5) with veto authority—the United States, the United Kingdom, France, Russia, and China—mirror the geopolitical situation of 1945 rather than that of the 21st century. Their dominance often hampers unified action, particularly when their national interests are involved. The UNSC's failure to promptly address crises like those in Iraq (2003), Syria (from 2014), and Ukraine (2022) highlights its structural weaknesses and raises doubts about its efficacy and relevance.

The rise of regional partnerships and forums such as BRICS, the Shanghai Cooperation Organization (SCO), and NATO symbolizes a growing discontent with the multilateral framework offered by the UNSC. While these organizations do not replace the UN system, they increasingly act as alternative platforms for dialogue and collaborative efforts. This trend poses a risk of sidelining the UN system unless significant reforms occur within the Security Council.

India, alongside Germany, Japan, Brazil, and South Africa (collectively known as the G4), has long championed for a Security Council that is expanded and more representative. India's involvement in UN peacekeeping operations, its steadfast dedication to multilateralism, and its strategic position in the region make it a strong contender for permanent membership. Incorporating such countries would not only bolster the legitimacy of the Council but also align its composition with current geopolitical contexts.