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United Nations Security Council Reform: Collected Proposals and Possible Consequences

Brian Cox
UNITED NATIONS SECURITY COUNCIL REFORM: COLLECTED PROPOSALS AND POSSIBLE CONSEQUENCES

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“We cannot continue to run the world based on countries that won a war 60 years ago. It’s either destructive competition or cooperation. We live in an interdependent world and the only way to move forward is to cooperate.”

On January 30, 2009, the United Nations (UN) once again took up Koffi Annan’s call and began plodding the slow march towards reform of the United Nations Security Council. While these steps are but the groundwork rules for future negotiations, they are an important indication that, despite enormous obstacles, the desire for change is at least still alive and may ever so gently be gathering momentum.

Where will this momentum carry the world, or rather the states of the world? To answer this question we must look forward to the possible consequences of changing the Council, the foundation of modern peace. Any look forward should first be informed by a look back to the motivations underlying the establishment of the Council.

For this article’s purpose, history can be split into halves at the moment the United Nations Charter was signed and the Security

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Council created.\footnote{Compare Thucydides, The Peloponnesian War 350-56 (Richard Crawly trans., T.E. Wick ed., New York: Modern Library 1982) (wherein the Athenians frankly explain to the Melians that there is no right or wrong in the Athenian decision to make war upon the Melians, and the decision is based simply on strategy and strength) and Hugo Grotius, The Rights of War and Peace 31-34, 36 (Archibald C. Campbell trans. 1901), available at http://books.google.com/books?id=bOwuAAAAMAAJ&dq=hugo+grotius+rights+of+war&printsec=frontcover&source=bl&ots=1tcsYXWuXi&sig=XdCIxhORxt6ieND2bvn92jNPeE&hl=en&ei=ZRmSbvlLoWjtge8h4SYAg&sa=X&oi=book_result&ct=result&resnum=4#PPP16,M1 (arguing that war, even war in order to acquire necessary and useful things, is a natural principle and not a crime as long as the agreed upon formalities are observed) with U.N. Charter art. 2 \textit{and} the Agreement Between The United States of America and the French Republic, the United Kingdom of Great Britain, and Northern Ireland, and the Union of Soviet Socialist Republics Respecting the Prosecution and Punishment of the Major War Criminals of the European Axis, Aug. 8, 1945, 59 Stat. 1544, Art 6 (laying personal responsibility for waging wars of aggression on leaders of nations).} Prior to 1945, the world was an arena of total sovereigns, each wielding a legitimate right to solve conflict with aggressive warfare; after 1945, those sovereigns, by a mutual agreement, began surrendering that right-- if not for principled reasons of law and humanity, then for practical security reasons. World War II painfully demonstrated civilization's power for self-destruction through the unrestrained use of force.\footnote{Dorothy V. Jones, Sober Expectations: The United Nations and a "Sensible Machinery" for Peace, in The Dumbarton Oaks Conversations and the United Nations 1944 -- 1994, at, 11 (Ernest R. May \& Angeliki E. Laiou eds., Harvard Univ. Press, 1998) ("This time they would be 'sensible.' They would learn from the past. They would build power into an international structure, and that power would enable the organization to keep the peace. The League of Nations had failed . . . [the Allied powers] would not -- they dared not -- fail again."). Albert Einstein is credited with saying: "I don't know what weapons will be used in World War III, but World War IV will be fought with sticks and stones."} In 1945, a restraint was created in the form of the Security Council. Caution demands that any proposed changes to the form of this restraint should be scrutinized closely. This article collects and examines the various proposals for reform circulated in recent years.

Part I focuses on the purpose of the Security Council. This part examines the terms of the Charter, the motivations behind the author of these terms, and how these terms are executed by the Council with regard to its most important power: the authorization of the use of force. In particular, Part I looks at the difference between the Council's
intended function of \textit{peace enforcement} and its current more dominant mode of \textit{peacekeeping}.

Part II lays out the proposals to reform the Council, concentrating on plans that are or were actually before the United Nations, including the Razali plan, the Model A and B plans, the new G-4 plan, the United for Consensus plan, the Ezulwini Consensus plan, the S5 plan, and the Overarching Process plan. Part II also examines minor plans which have already been rejected and a few scholarly suggestions.

In Part III, the article measures the proposed changes against the purported goals of the reform and the original purpose of the Security Council. This part examines the benefits and detriments of each change and whether, if the reform is implemented, the primary peace enforcement concern of the Council would be affected.

I. THE CURRENT SECURITY COUNCIL

A. THE TERMS OF THE CHARTER

The primary purpose of the United Nations is to “maintain international peace and security [using] collective measures for the prevention and removal of the threats to the peace, and for the suppression of acts of aggression or other breaches of the peace . . . .”\textsuperscript{7} The Security Council is the principal organ charged with this mission.\textsuperscript{8} As such, the Charter delivers express powers to the Council for fulfillment of this duty. Those powers include the right to investigate situations to determine if a threat to international security exists;\textsuperscript{9} the right to suggest appropriate terms for peaceful settlements to disputes;\textsuperscript{10} the right to declare “the existence of a threat to the peace or act of aggression”; and the right to propose solutions to a threat, including

\textsuperscript{7} U.N. Charter art. 1, para. 1.
\textsuperscript{8} The General Assembly has a fall back responsibility according to the “Uniting for Peace” theory. Under this process, if the Security Council fails to act due to a veto, the General Assembly is free to exercise their secondary responsibility to authorize some action less than those specifically given to the Council. Peacekeeping, for example, can originate in the General Assembly. \textit{See NORRIE MACQUEEN, THE UNITED NATIONS SINCE 1945: PEACEKEEPING AND THE COLD WAR} 17-19, 24-25 (Addison Wesley Longman Limited 1999).
\textsuperscript{9} U.N. Charter art. 34.
\textsuperscript{10} U.N. Charter art. 37, para. 2.
economic sanctions, "measures not involving ... armed force," and military action.\textsuperscript{12}

The Council seats fifteen members.\textsuperscript{13} Five of these members—the United States, the United Kingdom, France, China, and the Russian Federation—are permanent members empowered with a veto.\textsuperscript{14} The remaining members are elected from particular regions laid out according to an "equitable geographical distribution."\textsuperscript{15} Traditionally, these seats are distributed as follows: two to Asia, three to Africa, two to Latin America and the Caribbean, two to Western Europe and others, and one to Eastern Europe. The non-permanent members hold their seats for two years and cannot be immediately re-elected.\textsuperscript{16} Every member gets one vote.\textsuperscript{17} Any action taken or authorized by the Council must receive nine votes, but substantive matters, as opposed to procedural matters, must pass without a permanent member exercising its veto.\textsuperscript{18} An abstention by a permanent member does not constitute a veto.\textsuperscript{19}

\textsuperscript{11} U.N. Charter art. 39.
\textsuperscript{12} U.N. Charter art. 42. The Security Council has at least ten duties and powers expressed in the Charter. The powers mentioned in the text deal with peace enforcement duties, the others are more organizational in nature. See U.N. Charter art. 26 (creating an armaments regulation system); U.N. Charter art. 4 (regarding the induction of new States); U.N. Charter art. 6 (regarding the expulsion of States for constant violations of the Charter); U.N. Charter art. 83 (regarding operation of the UN's duties as a trustee over "strategic areas"); U.N. Charter art. 97 (regarding procedures on how to suggest to the General Assembly the selection of the Secretary-General); Statute of the International Court of Justice art. 4. (explaining procedures surrounding the election of the Judges of the International Court of Justice in conjunction with the General Assembly).
\textsuperscript{14} U.N. Charter arts. 23, para. 1& 27.
\textsuperscript{15} U.N. Charter art. 23, para. 1
\textsuperscript{16} Id.
\textsuperscript{17} U.N. Charter art. 27.
\textsuperscript{18} See id.
Procedural matters seem to include at least those matters that touch the administration and conduct of the Security Council, such as setting a schedule or determining how business shall be conducted, while substantive matters concern, at a minimum, the application of powers or responsibilities vested by the Charter. Deciding whether any matter falling between these minimums is "procedural" or "substantive" is itself considered a substantive question. Amendments to the Charter must be approved by a two-thirds majority of all member states, including all five permanent members of the Council.

B. THE NEGOTIATIONS

The Charter is a product of hard bargaining between the United States, the United Kingdom, and the former Soviet Union. The three states crafted a delicate balance that protected each party's particular interests while leaving mostly uncompromised the ultimate goal of establishing an organization capable of enforcing world peace. The resulting treaty was open for any nation willing to join, but only on the condition that the joining state sacrifice to the drafting powers its sovereign right to make war. The philosophical foundation of the United Nations is therefore based on the bargain offered by the Allied

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24 U.N. Charter art. 4, para. 1.

25 See U.N. Charter art. 2, paras. 3-4.

26 See U.N. Charter Pmbl. ("We the People of the United Nations Determined/to save the succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind . . . /AND FOR THESE ENDS/to practice tolerance and live together in peace with one another"
powers to the world: Give sole authority over the use of force to a single body and that body will give you a world secure from world war.²⁷

That responsible body is the Security Council. Originally, the negotiating powers had very different ideas of what form the Council would take. By examining the motivations, worries, and thought processes of these powers, we can better understand the reasoning behind the current Council structure and the impact of any changes imposed thereon.

1. THE AMERICAN POSITION

The United States envisioned a Security Council not unlike the current one. President Roosevelt espoused the idea of the “Four Policeman,” the United States, the United Kingdom, the Soviet Union, and China, making up a separate body within the United Nations that would have “exclusive authority to decide on the use of force.”²⁸ This council’s sole responsibility would be peace enforcement.²⁹ A separate Executive Council, composed of the Policemen and six or seven representatives chosen according to region, would deal with non-military matters.³⁰ Both councils would be separate from the General Assembly.³¹ Roosevelt’s view was a reiteration of Wilson’s League of Nations philosophy reinforced by a heavy dose of strong-arm as good neighbors, and/to unite our strength to maintain international peace and security, and/to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest . . . /HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS.”)

²⁷ See Jones, supra note 6, at 12 (describing the “power-based expectations” of the drafting powers embodied in the proposals presented to the lesser powers and how, though these powers pushed for the addition of more rules to “guide state behavior,” they could not affect the membership or power of the Security Council; Townsend Hoopes & Douglas Brinkley, FDR and the Creation of the United Nations 207 (Yale Univ. Press 1997) (small States “viewed the U.N. as a means of strengthening their collective influence and security. . .”).

²⁸ Hoopes, supra note 27, at 100.

²⁹ Id. This enforcement body, under Roosevelt’s view, was to have total authority on the use of force. The State Department however, viewed the body as “being subject to the guidance, recommendations, and general supervision of the Executive Council.” Id.

³⁰ Id.

³¹ Id.
practicality. President Roosevelt maintained a firm belief that peace could be held only by the willingness to use "overwhelming military power[,]" and so the "Big Four – primarily or exclusively – would hold and wield the military power to prevent or punish future aggression; the peace would necessarily be based on Big Four primacy, which [Roosevelt] argued would be benign." This view specifically conflicts with the modern, popular conceit that the United Nations is, in all aspects, "based on sovereign equality and must permit the smaller nations a meaningful role." However, while President Roosevelt routinely expressed that "small nations should not be allowed to complicate the supreme task of keeping the peace," he also believed that the Big Four should champion the rights of those states. Thus, the American position was a compromise between those two poles: equality of sovereign nations under the principles of the Charter in everything, on the one hand, and the use of force, which Roosevelt saw as the guarantor of the other principles of Charter, on the other.

2. THE BRITISH POSITION

The British negotiators originally wanted three regional councils, one each for Europe, Asia, and the Americas, charged with enforcing regional security and collective responsibility as a Supreme United Nations Council. This tiered system would allow the regional councils to enforce peace locally and "avoid having ‘every nation poking its finger into every other nation’s business . . .’" Later the British goals shifted to balancing European power against the Soviet Union and to protecting the British Empire from being dissolved by independence and self-determination at the end of

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32 See id. at 9 (reflecting that the root of his ideas stemmed from his time arguing in support of the League of Nations but in terms of "practical necessity").
33 Id. at 108-09.
34 Id.
35 Id. at 100.
37 Id.; HILDEBRAND, supra note 22, at 55 (called by Churchill a “tripod of world peace”).
38 HILDEBRAND, supra note 22, at 55 (quoting Churchill).
the war.\textsuperscript{39} The British ultimately viewed the Security Council and the United Nations less as a new system of international relations and more as an added tool in traditional diplomacy.\textsuperscript{40}

3. THE SOVIET POSITION

Originally, the Soviets “favored a straight military alliance with the United States and Britain” rather than a United Nations that “would ‘assume the right to decide the fate of all other peoples.’”\textsuperscript{41} Indeed, to the Soviets the earliest proposals may have looked like an institutionalization of the war-time alliance cloaked in “democratic trappings.”\textsuperscript{42} As long as the final form of the United Nations did not endanger the security or hegemonic ambition of a newly strong Soviet Union, Stalin was willing to join the organization.\textsuperscript{43} However, the Soviets maintained an absolute, insoluble position on maintaining an unrestricted power of the veto. The Soviets were willing to compromise on almost all points except the unanimity principle.\textsuperscript{44}

4. DETERMINING THE PERMANENT MEMBERS

The three principal powers haggled long and hard over the inclusion of additional permanent members.\textsuperscript{45} The United States lobbied hard for China and, initially, for Brazil,\textsuperscript{46} while France owes its place to the efforts of Britain.\textsuperscript{47} The Soviets were leery about the addition of any other powers.\textsuperscript{48}

The United States believed Brazil belonged on the Security Council due to its size, resources, and its contribution of troops to

\textsuperscript{39} Zhongyun, supra note 36; Hildebrand, supra note 22, at 135; Henry Kissinger, Diplomacy 414 (Touchstone 1995).
\textsuperscript{40} Hoopes, supra note 27, at 207.
\textsuperscript{41} Id. at 102 (quoting Sumner Welles, Seven Decisions That Shaped History 172 (Harper & Brothers 1951)).
\textsuperscript{42} Id. at 102.
\textsuperscript{43} Id. at 207.
\textsuperscript{45} See Hildebrand, supra note 23, at 123; Hoopes, supra note 27, at 100; Kissinger, supra note 39, at 414, 421.
\textsuperscript{46} See Hildebrand, supra note 23, at 123; Hoopes, supra note 27, at 100.
\textsuperscript{47} See Hildebrand, supra note 23, at 122-23.
\textsuperscript{48} Id. at 122, 125.
World War II combat. However, the British and Soviets pushed back on the idea. The United States did not press the issue for two reasons: First, a driving reason for Brazil's inclusion was equitable geographic representation, and the United States, after pushing so hard for the "Four Policemen" idea, did not want to "reopen the question of regionalism in general." Second, Brazil was simply far below the rank of "Great Power" economically, politically, and militarily.

However, at the time, the same faults underlaid the inclusion of China and France. China was hardly a country at the time, and France was a shell of its former power. Britain, conscious of the balance of European power, wanted France as a bulwark on the continent against Soviet expansion. Roosevelt wanted China included because Chinese forces were actively fighting Japan. Britain objected

49 See HILDEBRAND, supra note 23, at 124. The US also wanted Latin America represented, but it was doubtful that Portuguese-speaking Brazil would have been accepted as a representative of mostly Spanish-speaking South America. Id. at 125-27.
50 Id. at 125. There was a fear that revisiting the issue would result in Britain and the Soviets weakening the Council by pushing for other "lesser states" in response. Id.
51 Id.
52 "China" did not necessarily mean the People's Republic of China of today, founded by Mao Zedong. Most American involvement during the war was with the Nationalist China of Chiang Kai-shek, which would later be pushed to Formosa, modern-day Taiwan. See DAVID HALBERSTAM, THE COLDEST WINTER 223-29 (Hyperion 2007) (discussing the "illusory" pro-American China led by Kai-shek and their Communist counterparts).
53 See HILDEBRAND, supra note 23, at 126. "A study by the Joint Chiefs of Staff indicated that China could not become a Great Power in the foreseeable future and ranked France below Great Britain in future war-making potential, except in a land war on the European Continent. The Joint Chiefs did not bother to analyze Brazil." Id.
54 See HALBERSTAM, supra note 53 (describing the ongoing conflict between a weak Nationalist government and an emerging Communist force both during World War II and after the war until the Nationalist collapse).
55 See HILDEBRAND, supra note 23, at 122. "France... had contributed too little to the war effort to prove themselves worthy of so lofty a position... [After the war] France would be, in Stalin's view, a 'charming but weak' country...." Id. (citing Account by Dr. Bowman, 15 Apr. 1944, U3316/180/70, FO 371).
56 Zhongyun, supra note 36, at 56.
57 Id. at 55. It was also a nod to awakening nationalism in Asia. The United States wanted to dispel rumblings that the West intended sole authority over the world. Id.
to China because it believed China would be a permanent friendly vote for the United States, and the Soviets objected because doing otherwise may have infringed on its neutrality treaty with Japan.\(^{59}\) In the end, each country withdrew its objection.\(^{60}\)

5. THE VETO

The veto power has been controversial from the beginning.\(^{61}\) The main dispute, fought between the consistently pro-veto Soviet Union and the less certain British and Americans, raged over whether the veto should be absolute or denied to a Great Power involved in the controversy before the Security Council.\(^{62}\) The dispute reflects the key tension underlying the organization itself that exists even today: power versus principle.

The “power” argument against restricting the veto proceeds thusly: First, in order to succeed, any act by the UN must be unanimous to enlist the resources and, more importantly, the will of all the Great Powers. If every Great Power is not on the same side, the possibility exists that a Power will join an opposing side, thereby creating the very “world war the United Nations was designed to prevent.”\(^{63}\) Furthermore, the value of a restricted veto in policing a Great Power was illusory: no judgment could successfully be enforced against it.\(^{64}\) Any action against the Great Powers would have to take place “outside of the framework” of the United Nations.\(^{65}\) Second, “limiting the veto would put the power of decision in the hands of the majority of smaller nations on the Security Council – nations that do not have the resources required for enforcement.”\(^{66}\) This would upend the basic principle that those who are risking the most should decide which risks to take.\(^{67}\)

The “principle” camp, in favor of restricting the veto, responded: If a Great Power can veto any action against itself, then the United

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\(^{59}\) Id.

\(^{60}\) Id. The Soviets only acquiesced when the US threatened to divert its wartime aid to China rather than to the Soviets. Id.

\(^{61}\) See HILDEBRAND, supra note 23, at 183.

\(^{62}\) Id. at 183-84.

\(^{63}\) Id. at 184.

\(^{64}\) Id.

\(^{65}\) Id.

\(^{66}\) Id. at 185.

\(^{67}\) Id.
Nations would have no more effect than the League of Nations. If only the lesser powers are subject to action, then the whole organization becomes nothing more than an "alliance of the Great Powers to maintain the status quo." Second, a limit on the veto would create for the United Nations the wide-spread moral authority among the smaller nations that would be vital to many of its functions. Third, if no action could be enforced against a Great Power regardless, then it had little to lose by being outvoted. The very "Power" that makes the nation "Great" would provide protection if the United Nations were unfairly turned against it. If World War III were to result from execution of the Council's duty, then at least the observing world would clearly know "which side was supported by right and morality."

In the end, the dispute was not settled by internal debate. Both the British and the United States capitulated to the adamant Soviets for a number of reasons. First, the United Nations simply would not work without the growing power of the Soviets. Second, the Soviets absolutely refused to compromise. Finally, it was later argued that the worst result of an unrestricted veto would only be to allow a power to prevent possibly unwise action, whereas a limited veto could allow foolish, fractious uses of power.

C. THE USE OF FORCE

The United Nations deploys armed force in two very different manners: peacekeeping and peace enforcement. "[T]he use of force should not be confused with peace enforcement, as

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68 Id. at 184.
69 Id. at 184-85.
70 Id. at 185.
71 Id.
72 Id. at 184-85.
73 Id. at 184.
74 Trofimenko, supra note 44, at 45.
75 Id.
76 Id. at 42-43. "At the worst the principle of unanimity will only have the effect of a veto, of preventing action where it may be wise or even necessary . . . . Where the people are drunk with newly-won power, it may not be so bad a thing to have a brake like unanimity." Id. (quoting US Department of State, Foreign Relations of the United States: Diplomatic Papers, 1944, 2 vols. (Washington, D.C.: Government Printing Office, 1966), 1:837-38)
envisaged under Chapter VII of the Charter.\textsuperscript{77} The former only allows minimal use of force “at the tactical level” and only after the nation or nations that are parties to the dispute have invited the introduction of the peacekeeping force.\textsuperscript{78} The latter more closely resembles classical warfare. No consent by parties is required, and the actions taken “may involve the use of military force at the strategic or international level, which is normally prohibited for Member States . . . unless authorized by the Security Council.”\textsuperscript{79}

Peacekeeping is by far the more common deployment of force by the Security Council.\textsuperscript{80} The peacekeeping power is not expressly written in the Charter, but the authority is implied.\textsuperscript{81} A mission is formed by the call for forces from member states or by the adoption of a non-UN mission that is already in operation.\textsuperscript{82} Peacekeeping involves more diplomacy than actual use of force. Operations are designed “to preserve the peace, however fragile, where fighting has been halted, and to assist in implementing agreements achieved by the peacemakers.”\textsuperscript{83} Missions require the consent of the parties, impartiality of the personnel, and severe limits on the use of force.\textsuperscript{84}


\textsuperscript{78} See id.

\textsuperscript{79} Id. at 34-35.

\textsuperscript{80} There have been 63 peacekeeping operations since 1948, as opposed to only two peace enforcement operations (Korea and Kuwait). U.N. Dep’t of Public Info. [DPI], Peace & Sec. Section, \textit{Background Note: United Nations Peacekeeping Operations}, DPI/1634/Rev.99 (July 31, 2009), http://www.un.org/Depts/dpko/dpko/bnote.htm. See HOOPES, supra note 27, at 217. However, peacekeeping missions do not have to originate in the Security Council. The first operation recognized as “peacekeeping” originated in the General Assembly in response to the Suez Canal Crisis. When the Security Council failed to act on the seizure of the Canal by Israeli, French, and British forces, the General Assembly, under the “Uniting for Peace” procedure, created a force of middle power troops to observe a withdrawal. MACQUEEN, supra note 8, at 22-25.

\textsuperscript{81} Peacekeeping, supra note 77, at 13-14.


\textsuperscript{83} Peacekeeping, supra note 77, at 18.

\textsuperscript{84} Id. at 31.
Force can only be used in self-defense or to resist the forceful prevention of the completion of the mission.\textsuperscript{85}

Eighteen peacekeeping operations are currently ongoing\textsuperscript{86} and have enjoyed significant success in brokering the trust between disputing parties necessary to stabilize situations.\textsuperscript{87} As of March 2008, the largest contributors of uniformed personnel to peacekeeping missions were, from highest to lowest, Pakistan, Bangladesh, India, Nigeria, Nepal, Ghana, Jordan, Rwanda, Italy, Uruguay, Senegal, China, France, Ethiopia, South Africa, Morocco, Benin, Brazil, Spain, and Egypt.\textsuperscript{88} The largest financial contributors were the United States, Japan, Germany, the United Kingdom, France, Italy, China, Canada, Spain, South Korea, the Netherlands, Australia, Russia, Switzerland, Belgium, Sweden, Austria, Norway, Denmark, and Greece.\textsuperscript{89} More often than not, peacekeeping missions revolve around the developing post-colonial world.\textsuperscript{90}

In contrast, peace enforcement involves “combat operations . . . to defeat aggression; it means taking sides, waging war and accepting casualties as well as unexpected financial costs.”\textsuperscript{91} Only two examples of enforcement exist in the history of the United Nations: the Korean War and the First Iraq War.\textsuperscript{92} A United Nations command, however, conducted neither operation.\textsuperscript{93} Instead, the Security Council only authorized the action; member states, particularly the United States, Great Britain, and France, directly conducted the actual operations.\textsuperscript{94}

\textsuperscript{85} Id. at 34.
\textsuperscript{87} See, e.g., \textit{Hoopes, supra} note 27, at 217.
\textsuperscript{88} \textit{Fact Sheet}, 1, \textit{supra} note 86.
\textsuperscript{89} Id.
\textsuperscript{90} See Walid Khalidi, \textit{UN Peacekeeping during the Cold War: Middle East and Third World Perspectives, in The Dumbarton Oaks Conversations and the United Nations 1944-1994}, 79, 79-80 (Ernest R. May & Angeliki E. Laiou eds., Harvard Univ. Press 1998) (reflecting that the United Nations “has found itself engrossed to this day” with the consequences of decolonization after World War II).
\textsuperscript{91} \textit{Hoopes, supra} note 27, at 217.
\textsuperscript{92} \textit{Hoopes, supra} note 27, at 217. Regarding the enforcement actions in Korea, the absence of the Soviet vote was critical to UN action. Had they vetoed this issue, it is likely the US would have continued without UN approval and the UN may have withered away, split between the US the UK and France on one hand and the Soviets on the other. Khalidi, \textit{supra} note 90, at 83.
\textsuperscript{93} See Id.
\textsuperscript{94} Id.
Without the active participation of these Great Powers, peace enforcement is generally “beyond the means” of the United Nations because of the lack of will of member states to risk their troops in combat operations.\(^9\)

II. REFORM PROPOSALS

Today’s desire for reform is not the first effort in that direction. Members previously reformed the Council by the ratification of a 1963 resolution expanding the number of non-permanent members from six to ten.\(^9\) The resolution stated that, because the United Nations had swelled in numbers since its founding, a “more adequate geographical representation” was necessary to make the organ more “effective.”\(^9\)

Representation has been the main focus of reformers.\(^9\) However, reformers have focused on many other issues including effectiveness, procedural workings, openness of the Council, and scope of the veto because it is a source of non-action,\(^9\) particularly in cases of genocide.\(^10\)

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\(^9\) Hoopes, supra note 27, at 218-19 (quoting former Secretary-General Boutros Boutros Ghali, remarking on UN failures in Somalia and Bosnia before U.S. involvement); “U.N. provided an important framework . . . but the U.S. was required to do the heavy lifting . . . [N]o other nation or combination of nations possesses anything approaching the power and mobility – the global reach – of U.S. air, sea, and ground forces, supported by sealift, airlift, fixed wing and helicopter air cover, satellite reconnaissance, and other forms of intelligence gathering. Without U.S. leadership and participation, there can be no effective response to serious aggression or other serious threats to general peace.” Id. at 220-21; See also Khalidi, supra note 90, at 83.


\(^9\) Id.


The new phase of reform began in 1992 with General Assembly (GA) Resolution 47/62, which invited members to submit "written comments on a possible review of the membership of the Security Council."\(^{101}\) The invitation generated so many proposals that GA Resolution 48/26 was passed.\(^{102}\) This resolution, highlighting the growth in membership of developing countries and the end of the Cold War, called for the creation of a working group to generate reform proposals based on the ideas of increased efficiency and the "sovereign equality of all Members of the United Nations."\(^{103}\) This "Open-ended Working Group" was intended to provide a platform for any nation to submit proposals and discuss plans for reforming the Security Council.\(^{104}\) Its work is ongoing.

A. THE OLD PROPOSALS

1. THE RAZALI PLAN

The Razali plan was the first comprehensive reform plan produced by the working group.\(^{105}\) The plan proposed an expansion in Council membership and operating methods, noting that "the effectiveness, credibility[,] and legitimacy of the work of the Security Council depend on its representative character, on its ability to discharge its primary responsibility and in carrying out its duties on behalf of all members."\(^{106}\) The plan proposed the addition of five permanent and four non-permanent seats.\(^{107}\) One "developing" state from each of Africa, Asia, and Latin America would get a new permanent seat.\(^{108}\) The other two permanent seats would be filled by two "industrialized states."\(^{109}\) The four non-permanent seats were to be

\(^{102}\) Freieslben, supra note 98, at 4.
\(^{104}\) See id.
\(^{106}\) Id.
\(^{107}\) Id. at ¶ 1(a).
\(^{108}\) Id. at ¶ 1(b).
\(^{109}\) Id.
filled with countries from each of Africa, Asia, Eastern Europe, and Latin America and the Caribbean.\textsuperscript{10}

The Razali plan also reflected that most of the member states considered the Council’s veto power to be anachronistic and undemocratic.\textsuperscript{11} As such, the veto would not extend to the new permanent seats, and current permanent members were urged to refrain from using their vetoes.\textsuperscript{12}

Finally, the Razali plan originated the often-repeated calls for regularly-scheduled, open meetings allowing direct expression of opinions by concerned states and organizations; regular consultations between the Council, the other organs, and “affected” countries; regular briefings to all member states; open debates to orient the Council before taking decisions; clear delineations on what matters are “procedural” and not subject to a veto; greater use of the International Court of Justice for advisory opinions; and more consultations with regional actors under Chapter VIII of the UN Charter.\textsuperscript{13} While this proposal was unsuccessful, it “led to resolution A/RES/53/30 passed on 23 November 1998 by the General Assembly ... stipulat[ing] that any future resolutions on expanding the Security Council would need at least a two-thirds majority to pass.”\textsuperscript{14}

2. HIGH LEVEL PANEL REPORT

In 2003, United Nations Secretary-General Koffi Annan renewed the push for reform. His report “attempt[ed] to strike a balance . . . between two major considerations that . . . should govern the composition of the Council: “contribution to the Organization (financial, military, and diplomatic), on the one hand, and overall ‘representativeness[,]’ on the other hand.”\textsuperscript{15} The report consisted of two proposals, Model A and Model B, both of which focused on a regional distribution of seats.

Model A proposed three new non-permanent seats and six new permanent, veto-less seats.\textsuperscript{16} Two permanent seats were designated

\textsuperscript{10} Id. at ¶ 1.
\textsuperscript{11} Id. at ¶ 4.
\textsuperscript{12} Id.
\textsuperscript{13} Id. at ¶ 9.
\textsuperscript{14} Freieslben, supra note 98, at 4–5.
\textsuperscript{15} Blum, supra note 19, at 632, 634 (2005).
\textsuperscript{16} High Level Panel Report, supra note 100, at ¶ 252. However, those “permanent” seats may not be regarded as truly permanent until after a
for Africa; two for Asia and the Pacific; one for Europe; and one for the Americas.\textsuperscript{117} Model B, on the other hand, created a completely new category of seats instead of merely adding permanent seats. These new seats would have held office for four years instead of two, and the incumbent state would have been immediately available for re-election.\textsuperscript{118} Two four-year seats would have been reserved for Africa, Asia and the Pacific, Europe and the Americas.\textsuperscript{119} Each plan would have increased the Council to twenty-four members.\textsuperscript{120}

Annan’s report encouraged, but did not mandate, that seats on the Council be filled by member states “among the top three financial contributors” or “the top three troop contributors from their regional area to United Nations peacekeeping missions.”\textsuperscript{121} Finally, the report proposed an “indicative voting” procedure whereby an action would have a first vote with no effect or veto and a second formal vote under the usual practice, which it was believed would increase accountability of the veto function.\textsuperscript{122}

\textbf{B. CURRENT MAJOR STATE-SPONSORED PROPOSALS}

1. G4 PLAN

The G4 plan\textsuperscript{123} is largely a fusion of the Model A plan with the underlying philosophy of the Razali plan. It marries Model A’s focus


\textsuperscript{118} \textit{High Level Panel Report, supra} note 100, at \S 253.

\textsuperscript{119} Id.

\textsuperscript{120} Id. at \S\S 252-53.

\textsuperscript{121} Id. at \S 254.

\textsuperscript{122} Id. at \S 257.

\textsuperscript{123} Proposed by Afghanistan, Belgium, Bhutan, Brazil, Czech Republic, Denmark, Fiji, France, Georgia, Germany, Greece, Haiti, Honduras, Iceland, India, Japan, Kiribati, Latvia, Maldives, Nauru, Palau, Paraguay, Poland, Portugal, Solomon Islands, Tuvalu and Ukraine. G4 Draft Res., U.N. Doc. A/59/L.64 (July 6, 2005).
on enhancing "effectiveness, credibility and legitimacy" of the Security Council by improving its "representative character" with the Razali concern for developing nations.\textsuperscript{124} The G4 plan also subtly broadens the meaning of "security" under the Charter by claiming that "security and development are intertwined and mutually reinforcing and that development is an indispensable foundation of collective security."\textsuperscript{125} Therefore, the G4 plan claims to adequately identify and address the security issues of "contemporary world realities" and that the Security Council needs "the expansion of the members" to "enhance... responsiveness to the views and needs of all Member States, in particular developing countries..."\textsuperscript{126}

To achieve this responsiveness, the G4 plan would increase the Council from fifteen to twenty-five members by adding six permanent members and four non-permanent members.\textsuperscript{127} The new seats would more evenly diversify representation and widen the perspective of the Council by reserving the new permanent seats to certain groups: two from Africa, two from Asia, one from Latin America and the Caribbean, and one from Western Europe and other states.\textsuperscript{128} The new non-permanent seats would seat one member from each of Africa, Asia, Eastern Europe, and Latin America and the Caribbean.\textsuperscript{129} The G4 plan would not extend the veto to the new permanent members until a review of the entire plan as implemented fifteen years after such implementation.\textsuperscript{130} The plan also "urges" the Council to work more transparently by reiterating many of the working reforms suggested in the Razali plan.\textsuperscript{131}

2. UNITING FOR CONSENSUS

The Uniting for Consensus\textsuperscript{132} plan is essentially a reaction against the alleged efforts of certain G4 plan proponents to become

\textsuperscript{124} Id. at pmbl.
\textsuperscript{125} Id.
\textsuperscript{126} Id.
\textsuperscript{127} Id. at ¶ 1.
\textsuperscript{128} Id.
\textsuperscript{129} Id.
\textsuperscript{130} Id. at ¶¶ 5, 7.
\textsuperscript{131} Id. at ¶ 8.
\textsuperscript{132} Proposed by Canada, Italy, Colombia and Pakistan, Argentina, Costa Rica, Malta, Mexico, Republic of Korea, San Marino, Spain and Turkey. Uniting for Consensus Draft Res., U.N. Doc. A/59/L.68 (July 21, 2005).
permanent members of the Council.\textsuperscript{133} Supporters of the Uniting for Consensus plan favor a variant Model B proposal which they believe is flexible and more representative.\textsuperscript{134} Representation seems again the primary driving force for reform. The plan describes the Security Council as "inequitable and unbalanced" and asserts that any expansion "should make it more democratic, more equitably representative, more transparent, more effective and more accountable."\textsuperscript{135} Accordingly, the plan pushes for an expansion of non-permanent seats through a regular election process, which would be "the strongest means to promote real accountability, [by] allow[ing] for frequent rotation and fair and equitable representation . . . ."\textsuperscript{136}

The plan also calls for increasing the number of Council members from fifteen to twenty-five.\textsuperscript{137} The five permanent seats would remain unchanged; the twenty non-permanent seats would be held for two years and would be redistributed along these lines: "six from African States; five from Asian States; four from Latin American and Caribbean States; three from Western European and other States; [and] two from Eastern European States."\textsuperscript{138} The non-permanent members would be available for immediate re-election if approved by their respective regional groups.\textsuperscript{139}

This plan echoes the preceding calls for working method reforms, particularly the call for "transparency in decision-making" of the Council and "fairer opportunities [for] participation of Member

\textsuperscript{133} See Press Release, Uniting for Consensus Group, Uniting for Consensus Group of States Introduces Text on Security Council Reform, U.N. Doc. GA/10371 (July 26, 2005) (claiming the G4 plan would benefit only a "happy few"). India, Brazil, Germany, and Japan are all favorites under the G4 plan. Pakistan, the regional rival to G4 supporter, India, points out that the G4 plan would not increase representation as "[p]ermanent members [do] not represent their region, only themselves. The G4 countries were seeking permanent membership for themselves, not for their regions." \textit{Id.}

\textsuperscript{134} \textit{Id.}

\textsuperscript{135} \textit{Id.}

\textsuperscript{136} \textit{Id.}

\textsuperscript{137} \textit{Id. at ¶ 4.}

\textsuperscript{138} \textit{Id. at ¶ 4, 5.} The plan \textit{[r]ecommends} that each of the five existing geographical groups, as identified in paragraph 4 above, shall decide on arrangements among its members for re-election or rotation of its members on the seats allotted to the Group; those arrangements shall also address, as appropriate, a fair subregional representation\textsuperscript{[.] \textit{Id. at ¶ 5.}
States.\textsuperscript{140} It also calls for "restrictions on the veto power with a view to its eventual elimination."\textsuperscript{141}

3. EZULWINI CONSENSUS

The Ezulwini Consensus\textsuperscript{142} is the group position of African states, which have argued that the Council is "undemocratic"\textsuperscript{143} and unable to guard lesser states against the major powers.\textsuperscript{144} The Consensus hopes that redressing the imbalance on the Council between the developing and the developed worlds will better secure "the three categories of freedom, namely, freedom from want, freedom from fear and freedom to live in dignity" that are "indispensable" for international peace and security.\textsuperscript{145} The Consensus further states that these freedoms can be won and safeguarded "only through an effective management of the current United Nations system."\textsuperscript{146} These statements by the African Union reflect a shifting interpretation of the role and purpose of the Security Council. Under this plan, the Council moves from an enforcement body concerned with defeating aggression to a guarantor of general, ill-defined freedoms. The role of the United Nations broadens under this plan from a convenient platform for collective action\textsuperscript{147} to the "only" means of protecting those freedoms.\textsuperscript{148}

\textsuperscript{140} Id. at ¶¶ 7, 8.
\textsuperscript{141} Id. at pmbl.
\textsuperscript{143} Most African states had no voice for their interest at the formation of the United Nations. "[A]s a result, Africa remains to this day the only continent without a permanent seat in the Council[.]" Id. The speaker is wrong. South America is not represented on the Council, though it was, at least, considered for a permanent seat. See HILDEBRAND, supra note 23, at 123-27.
\textsuperscript{146} Id.
\textsuperscript{147} UN Charter art. 1, paras. 3-4.
\textsuperscript{148} Ezulwini Consensus Draft Res., supra note 145.
The Ezulwini Consensus expands the Council to twenty-six members and seats the new members as follows: two permanent and two non-permanent states from Africa; two permanent and one non-permanent state from Asia; one non-permanent Eastern Europe state; one permanent and one non-permanent state from Latin America and the Caribbean; and one permanent seat from Western Europe and other states. The African Union itself would select the states for the African permanent seats. Though the issue is not mentioned in the plan, the other regions would also presumably select their own new permanent members. All new permanent members would receive full veto rights.

4. S5 PLAN

The S5 plan is a modest attempt at reforming the Council’s working methods. The plan suggests a number of improvements to “enhance the accountability, transparency and inclusiveness of its work, with a view to strengthening its legitimacy and effectiveness.” These administrative measures include institutionalizing regular, open exchanges between the Council members and affected member states; making regular reports to the General Assembly on topics and areas of concern; adding non-Council member states to subsidiary committees when those states have a strong interest or expertise in the particular subject; and establishing after-action review sessions to accurately account for the implementation of Council decisions.

More substantive suggestions are also expressed in the S5 plan. Permanent members are asked to voluntarily abstain from exercising the veto in any matter of “genocide, crimes against humanity and serious violations of international humanitarian law.” However, if a veto is cast in any matter, the Council “should explain the reason for doing so” and publish the explanation to the United Nations as a whole. Large troop contributors should be consulted more thoroughly and regularly in regards to the risks their uniformed

149 Id.
150 Shabazz, supra note 144.
151 Ezulwini Consensus Draft Res., supra note 145.
153 Id.
154 Id. at ¶ 1.
155 Id. at Annex ¶ 14.
156 Id. at Annex ¶ 13.
personnel will face while peacekeeping.\textsuperscript{157} The plan also encourages the Council to increase its effectiveness through closer coordination with regional groups, as contemplated under Chapter VIII of the Charter.\textsuperscript{158} Finally, the plan suggests formally incorporating the “best practices” of the Council directly into the rules of procedure and distributing these rules and practices to prospective members to eliminate the learning curve that hampers new non-permanent members.\textsuperscript{159}

5. OVERARCHING PROCESS

The Overarching Process is an attempt to break the impasse that had settled between G4, Uniting for Consensus, and Ezulwini Consensus. The attempt puts in firm terms only those reform measures that are common among the proposals and leaves all the major differences “open for negotiation.”\textsuperscript{160} In simple terms, the Overarching Process is an agreement to agree on the basic points from which negotiations will proceed and to leave “the ‘real tough talking and the dealing’ for the negotiations themselves.”\textsuperscript{161}

The Council tentatively grows to twenty-two, although the number is, like the other terms in the plan, negotiable.\textsuperscript{162} The seven new seats are distributed as follows: two seats to Africa; two seats to Asia; one seat to Latin America and Caribbean; one seat to Western Europe and others; and one seat to Eastern Europe.\textsuperscript{163} They would be elected through the normal General Assembly process.\textsuperscript{164} The length of the membership and type of seat are left to later negotiations with many options expressly left on the table. All new seats could be, for example, the same as current non-permanent members; more than two years but still term limited and non-renewable; term limited but renewable; permanent but subject to a “review” period; long-term but subject to a “challenge” from a regional competitor; or permanent with

\begin{footnotes}
\item[157] Id. at Annex ¶ 16.
\item[158] Id. at Annex ¶ 17.
\item[159] Id. at Annex ¶ 18.
\item[161] Id.
\item[163] Id.
\item[164] Id.
\end{footnotes}
or without a veto.\textsuperscript{165} The seats could also be of mixed types as long as half of a region’s seats remain normal two-year seats.\textsuperscript{166} The plan would leave implementation in any form subject to a probationary review period.\textsuperscript{167} Finally, most of the S5 working method reforms would be put into practice.\textsuperscript{168}

C. CURRENT MINOR STATE-SPONSORED PROPOSALS

1. ITALIAN PROPOSAL

The Italian proposal is unique in that the plan creates actual regional seats, not seats for individual states assigned by region. By embedding truly regional voices on the Council, wider collective interests may triumph over the more narrow interests of single states.\textsuperscript{169} The Italian proposal gives two additional permanent but veto-less seats to Africa, Asia, Western Europe and other groups, Latin America and the Caribbean, and Eastern Europe. “Each regional group would have the ‘operational management’ of the seats and . . . would define principles and mechanisms with appropriate checks and balances to prevent national occupation of the seats and ensure regional representation.”\textsuperscript{170}

2. PANAMA PROPOSAL

In 2007, Panama proposed a simple plan to increase member representation. Under its proposal the Security Council would seat an additional six members with five-year renewable terms.\textsuperscript{171} The seats

\textsuperscript{165} ReformtheUN.org, supra note 157. “Challenges could be made at specific intervals (the text suggests five years). (Option to remove the restriction that the challenge must be directed at a state from one’s own region.)” Id.

\textsuperscript{166} Id. “For example, if Latin America and the Caribbean gained two seats through reform, the region would have a total of four seats on the Council. Two of those would have to be two-year elected seats. The other two seats could be of a different length.” Id.

\textsuperscript{167} Overarching Process, supra note 159.

\textsuperscript{168} Id.


\textsuperscript{170} Id.

would be spread among the current regions: two for Asia, two for Africa, one for Latin America and the Caribbean, and one for Western Europe and other States. Any state elected "for four consecutive terms . . . would automatically become, and for this reason only, a permanent member" with no veto.

D. ACADEMIC PROPOSALS

1. MODEL C

Model C is a commentator’s variation on Models A and B which retains the old models’ focus on equitable representation through increased membership. Membership would be increased and distributed in the same manner as Model A or B, but would create a new Pacific Rim region. The Pacific Rim group would consist of the U.S., Canada, Japan, the Philippines, the states other than China along the East Asian coastline, Australia, New Zealand, and the Pacific Island States, while the Asian Group would consist of China plus south and southwest Asia. The model is designed to provide “greater recognition” to the large populations of Asian states.

Under Model C, the Council would seat twenty-five members in four different categories of seats. It would retain the original five permanent members but redistribute the ten two-year term seats members: three to Africa; two to Asia; one to Europe; two to the Pacific Rim; and two to Latin America and the Caribbean. The plan

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172 Id.
174 Ariyork, supra note 117, at 4. “Today the number of UN Member states has reached 191, and a further enlargement is clearly essential.” Id.
175 Id.
176 Id.
177 Id.
178 Id. at 4-5.
179 Prof. Hoffman provides the following example roster to help understand the concept:
A possible Model C for a 25 member Council might then look like this: Europe-three permanent members (UK, France, Russia), one eight-year term possibly shared initially by Germany and Italy, and one four year term, either Ukraine or Sweden, for the current top peace operation contributor. Pacific Rim-one permanent member
then creates one four-year renewable seat and one eight-year renewable seat for each region. The eight-year seats would be “dual-seated,” meaning that two nations would occupy the seat on a two-year rotation. The dual seat is meant to reduce “political rancor from the large states in each region which are not selected.” The four-year seats are reward seats. Each region selects the constituent nation that has contributed most to peacekeeping and other United Nations operations and that has met its financial obligations.

2. MODEL X

None of the proposals has yet gained widespread support. Model X is an attempt to make Model B more palatable to more member states. The plan sacrifices some equitable representation in favor of a smaller, more efficient Council of no more than twenty. However, the developing world is not neglected. Regional disputes are

(U.S.), one eight-year term, possibly shared initially by Japan and Australia; one four-year term for Canada, the current top peace operation contributor; and two two-year non-renewable seats. South and Southwest Asia—one permanent seat (China), one eight-year term, possibly shared initially by India and Indonesia; one four-year term for the current top peace operation contributor either Pakistan or Bangladesh; and two two-year non-renewable seats. Latin America & the Caribbean—no permanent member, one eight-year term possibly shared initially by Brazil and Mexico; one four-year term for the current top peace operation contributor, Uruguay; and two two-year non-renewable seats. Africa—no permanent member, one eight-year term, possibly shared initially by Nigeria and South Africa, (perhaps later by Egypt and Ethiopia); one four year term for the current top peace operation contributor, Ghana; and three two-year non-renewable seats. Id. at 5.

180 Id. at 4-5.
181 Id. at 4.
182 Id. at 5.
184 Id.
sidelined by proposing no new permanent seats. Finally, this plan rewards major contribution to the United Nations.

Model X adds “five four-year renewable term seats; two four-year renewable seats for Africa, two for Asia, and one for the Americas and the Pacific.” Each region would itself control whether a member was renewed or re-elected. Europe is denied a new seat, which somewhat redresses their overrepresentation among the permanent members.

3. A REGIONAL ECONOMIC PLAN

One commentator’s plan would build a new Council based on relative population and economic power. The plan is radical but arguably necessary because the current Council is “unrepresentative, illegitimate, and increasingly ineffective in dealing with crises . . . .”

The new Security Council would be comprised of ten new regional groups: Northern America, Latin America, Europe, Sub-Saharan Africa, Middle East, Northern Eurasia, Southern Asia, Eastern Asia, Southeastern Asia and The Pacific. Participation in a region would be limited to states with a population of at least four million or “a GDP(PPP) of at least 40 billion constant US dollars . . . .” The regional groupings attempt to equally distribute representation according to population and wealth, while separating nations with bad histories or who would always be outvoted. The ten groups would

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185 Id.
186 Id.
187 Id.
188 Id.
189 Id. “Model X has kept in mind the possibility that the European Union may claim a permanent seat in lieu of the United Kingdom and France.” Id.
191 Id. at 52.
192 Gross Domestic Product at purchasing power parity.
193 Id. at 52.
194 Id. at 58. For example, India and Pakistan would be separated into different regions because of their history. Also, Canada and Mexico would not be in the North America group because the US would always be the dominant anchor country because of its GDP. Id. at 58.
be headed by "an anchor country, or by co-anchor countries." A vote could only be cast by any region on a specific issue when backed by individual states "representing 60 percent of its population and 60 percent of its ... GDP(PPP)." The plan refers to this as the "60/60 rule," which governs all votes save those cast in emergency situations. In the case of an emergency, the anchors, or co-anchors, can vote their will. The wealthiest regions, those "with at least 18 percent of the combined GDP (PPP) of all Regions," would receive an additional two votes. This plan eliminates the veto because the gridlock and inaction caused by the veto could "severely damage[] the UN" as it did "during the Cold War."

### III. Comparing the Reforms to the Purpose of the Security Council

Recurring themes and shared concerns run through a majority of the proposals. Increased membership, the elimination or limitation of the veto, and improved working methods are common pleas. Some of these ideas cannot help but improve the Security Council. However, not all of these reforms are appropriate. Some risk the foundations of the modern era of peace. Other reforms, though possibly quite safe and even beneficial, create a structure that barely resembles the Council that the original signatories agreed upon.

#### A. Increased Membership

Increased membership is called for by every proposal except the S5 plan. The different plans offer a variety of reasons to increase membership. The Razali, G4, United for Consensus, REP, and Model C plans, in particular, argue that the Council's effectiveness, credibility, and legitimacy depend on a representative character that the current body lacks. The High Level Panel Report, G4, and Model C plans

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195 Id. at 44.
196 Id.
197 Id.
198 Id. A situation is declared an "emergency" by a procedural vote among the regions. Co-anchors only cast half a vote. Id. at 61.
199 Id. at 44.
200 Id. at 51.
201 See S5 Draft Res., supra note 152.
202 See Chairman of Open-Ended Working Grp., supra note 105; see United for Consensus Draft Res., supra note 135; see Hartwig, supra note 190; see Ariyoruk, supra note 117.
also add that a membership increase would create a Council better
conformed to the actual contribution of states. The Ezulwini
Consensus, on the other hand, argues for increased membership based
almost on essential fairness and egalitarian values. In calling for
increased membership, the plans all make valid points, but those plans
both ignore the original purpose of the Council and neglect the
functional complications that the changes may cause.

The Security Council, as we have seen in Part I, was never
intended to be totally “representative.” Rather, the Council is the
meritocratic core of great power that protects the liberal democratic
body of the United Nations. Therefore, arguments like that of the
African Union seem to be incomplete: while the absence of an African
state on the permanent Council is assuredly unfair in a geographical
sense, the absence is absolutely fair in a practical sense. No modern
African state has achieved great power status, and difficult to support is
that adding a developing state to the Council would contribute to the
Council’s core of protective power. However, many proposals argue
that a more geographically representative Council would, by virtue of
diversity, increase legitimacy, thereby making the Council more
effective. “Effective” here can be interpreted to imply different
problems. The reference could be to the Council’s failure to effectively
resolve situations like those in Rwanda, Bosnia, Somalia, Darfur and the
Congo. However, “effective” could also refer to the need to
recapture the Council’s image as a united body pursuing a collective
security purpose. Including different viewpoints on the Council would
undercut the world impression of the Council as a “self-appointed
oligarchy” or a tool for the advancement of Western interests. It is

203 See High Level Panel Report, supra note 100; see G4 Draft Res., supra
note 123; see Ariyork, supra note 117.
204 See Ezulwini Consensus Draft Res., supra note 145.
205 See HOOPES, supra note 27, at 100.
206 Id. at 108-09; Zhongyun, supra note 36.
207 See Toro, supra note 21; Associated Press, U.N. Chief: Rwanda to
(wherein Ban Ki-moon defends peacekeeping against criticisms). 
208 James Paul and Céline Nahory, Theses Towards a Democratic Reform
of the UN Security Council, GLOBAL POLICY FORUM, July 13, 2005,
Id=1626.
209 Brian D. Kreykes, A Case For Delegation: The U.N. Security Council,
Regional Conflicts, and Regional Organizations, 11 TOURO INT’L L. REV. 1
(2008); see Shabazz, supra note 144. “Angolan Ambassador Ismael A. Gaspar-
unclear, however, how any of the proposals pushing for wider membership would repair these effectiveness problems.

If the problem is gridlock or inactivity within the Security Council, increasing membership is probably not a solution.\(^{210}\) "[C]onsensus in political issues is extremely difficult to obtain when fifteen representatives are vying for their national interests, so what is the logic in expanding membership by another nine, ten, or eleven votes?\(^{211}\) In addition, the veto is the single largest obstacle to Security Council action.\(^{212}\) Any plan that creates new permanent members armed with the veto may exacerbate this obstacle.

If the problem is the lack of perspective on the Council, there is no guarantee that new members would actually widen the perspective.\(^{213}\) If self-interest governs the decision-making of current permanent members, why would it not also govern the new members?\(^{214}\) There is also a possibility that any expansion of permanent members would increase the number of privileged states rather than democratize the Council.\(^{215}\)

Membership increase is also argued in terms of the equitable representation of contribution rather than geography. This concern is

Martins argued it was time to redress the 'historical injustice' of the African continent not having permanent representation. African leaders have argued the current configuration of the Security Council is undemocratic. Some complain that the council has shown an inability to protect weaker states against the U.S. and other major powers."\(^{216}\) Id.

\(^{210}\) Blum, supra note 19, at 644. "Such an increase may well change the dynamics of the Council, its capacity to work expeditiously and to take firm decisions, as expected from it under Article 28 of the Charter. While it is impossible to devise precise arithmetical criteria to determine the point at which the enlargement of the Council may become counterproductive, such a point certainly exists and will have been reached when the increase in the Council's membership forms a critical mass that could make its decision-making process much more cumbersome."\(^{217}\) Id.

\(^{211}\) Toro, supra note 21.

\(^{212}\) See Jan Wouters & Tom Ruys, Security Council Reform: A New Veto for a New Century, in EGMONT PAPER 9 (Royal Inst. for Int'l Relations (IRRI-KIIB), Brussels) (2005), at 16, 17 (providing an overview of veto use to block U.N. operations).

\(^{213}\) Toro, supra note 21.

\(^{214}\) Id. "If one examines the majority of the proposals, it would be fair to say that nations partake in this reform process for one of two reasons: Either they want to join the Security Council on a permanent basis, or they want to impede their rival from joining the Security Council."\(^{218}\) Id.

\(^{215}\) See id.
more consistent with the original intent of the drafters, who weighed not only the capabilities of France, China, and Brazil but also their willingness to contribute to the execution of a war. The current arguments for a representative increase, however, are supported by the contributions of money and troops to peacekeeping operations. While these may be good criteria for electing non-permanent members, they are not necessarily good indicators of a nation’s ability to bear the weight of peace enforcement, the primary responsibility of permanent members. As explained in Part I, peacekeeping and peace enforcement are dissimilar operations that tax different capabilities. For example, Pakistan is the greatest contributor in sheer numbers to peacekeeping. In that role, Pakistan can rely on other participating United Nations states to help deploy and transport a small military force and to keep that force properly supplied for a predetermined amount of time. As a permanent member waging war on an aggressor state, however, Pakistan may be incapable of contributing on par with the United States, China, or even Britain or France, for a variety of reasons. A country having a weak, unstable government with poor internal security, a strong enemy on its border, and a deteriorating economy would be unable to project significant military power beyond its own borders. Other high contribution states—all likely permanent members under most of these proposals—would similarly lack this critical ability to project military power.

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216 See HILDEBRAND, supra note 23, at 123-25.
217 Fact Sheet, supra note 86.
While significant money contributions may support the qualification of a potential permanent member, economic power is generally difficult to bring to bear on potential security threats. Sanctions have proven less than effective over the years. In the modern world economy, economic warfare has the potential to damage parties beyond the target state and tends to work best in conjunction with military efforts. Of course, economic power can be converted domestically into military power, but the time necessary for conversion may limit the economic power's utility to an organization designed to respond swiftly to aggression.

Despite these criticisms, large contributions of troops and money to peacekeeping operations demonstrate some quantum of will that should be required of permanent members. Ultimately, the will of the members to meet and defeat a threat to international peace and security decides the success or failure of the Council.

B. THE VETO

No plan approves of the unrestricted veto. Only the Elzuwini Consensus would extend the power to new permanent members. The remaining proposals condemn the power as anachronistic and undesirable. The veto carries the most blame for the Council’s ineffectiveness. The frustration is understandable. The veto is often “used in order to protect countries with which [permanent members] have close cultural, economic and/or political ties,” most notoriously in


222 Helen Leigh-Phippard, Remaking the Security Council: The Options, in DOCUMENTS ON REFORM OF THE UNITED NATIONS 421 (Dartmouth Publ'g Co. 1997).

223 Kreykes, supra note 209.
situations of mass genocidal killings. Most of the reforms call for some form of restraint, if not outright elimination, of the veto.

Nevertheless, those who assume these positions misunderstand the purpose of the Council. The Council was never intended as a tool to deal with internal conflicts, to prevent violence, or arguably to prevent all war. The purpose of the Security Council is to “maintain international peace and security.” The veto is a cornerstone of this duty. It “guarantee[s] peaceful relations among the world’s main powers and [assures the United Nations] their support in order to make it sufficiently credible and vigorous” by “introducing a mechanism to safeguard the vital interests of the most important states.”

As an example of the necessity of the veto, consider this scenario: The Security Council motions to sanction Sudan for actions in Darfur by prohibiting exportation of oil from Sudan. China, which purchases large stocks of oil from Sudan, strongly opposes any trade sanctions. With the veto in place, China can exercise the veto right under the Charter and kill the motion. This results in no change to the situation in Darfur, which is a tragic consequence but not a major threat to international security. However, removing the veto results in China simply being outvoted. The sanction goes forward, but what is the effect? Would China abide by the sanction? Possibly not. What happens when China, a rising superpower and a permanent member of the Security Council, flouts a Council resolution?

224 Wouters, supra note 212, at 31.
225 HOOPES, supra note 27, at 101. Roosevelt, at least, thought so. “A minor threat might arise from . . . civil war in a small country, or a border dispute between small neighboring states[, but] this could be dealt with by . . . ‘quarantine’ measures.” Only major threats would be dealt with by direct intervention from the Security Council. Id.
226 See id. (FDR at least saw no threat worthy of the U.N. in limited “border disputes” between states); U.N. Charter art. 1, para. 1 & Preamble (referencing the two World Wars, rather than all war, in the language “to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind”).
227 U.N. Charter art. 1, para. 1.
228 Wouters, supra note 212, at 25.
229 The principles demonstrated in this scenario are drawn from the arguments between the American negotiators at Dumbarton Oaks. See HILDEBRAND, supra note 23, at 183-84.
231 See id.
The first possibility is that nothing happens. China is militarily and economically strong. Any punitive action by the Council against China would cost lives, money, or both, so there would be little support for action. The Security Council would be shown as weak and ineffectual, much like the League of Nations. Any credibility the Council gained by becoming fair and democratic would be countered by its suddenly revealed impotence.

On the other hand, the Security Council could act against China and break apart. If the Council acts through sanctions, the world may experience severe problems as one of the larger world economies becomes inaccessible. The chance also exists that some states would decide they cannot afford to cease trade with China and ignore the Council. If the Council takes military action, the major militaries and nuclear powers of the world go to war with each other across oceans and continents—the very thing the veto power is designed to prevent.\(^2\)

The veto power is not truly a power granted by the Charter, but rather the Charter's recognition of the fact of power. If major powers are robbed of the veto and are constantly outvoted by the institutions that rest on their effective power, for what reason would they continue to underwrite those institutions? Thus, removing the veto could ultimately result in the withdrawal of the United Nation's power base.\(^3\)

On the other hand, voluntary restriction of the veto would be a welcome, if unlikely, reform. The veto was only intended to be used to protect "matters of vital importance to a permanent member," not to "obstruct the operation of the Council."\(^4\) This is consistent with the intentions of the original drafters that the permanent members "keep their power of the veto to protect their national interests while adhering to the principles of saving 'succeeding generations from the scourge of war.'"\(^5\)

C. WORKING METHODS

Every plan agrees the Security Council should improve its working methods. Changes to the procedural aspects of the Council are the easiest to achieve because they are exempt from any veto. Regular briefings and consultations with affected groups of states would

\(^2\) See Hildebrand, supra note 23, at 183; see Khalidi, supra note 88, at 78.

\(^3\) Leigh-Phippard, supra note 222, at 423.

\(^4\) Wouters, supra note 212, at 29.

\(^5\) Toro, supra note 21 (quoting U.N. Charter Preamble).
provide non-permanent members with an opportunity for real participation and control in Council decisions without substantial infringement on permanent member rights and duties.\textsuperscript{236} Replacing secretive, informal decision-making sessions with more open hearings would prevent the exclusion of the non-permanent members and "limit[] the spread of rumors that offend the integrity of the United Nations."\textsuperscript{237}

Nevertheless, even procedural reforms have drawbacks. For example, extra meetings and briefings will inevitably slow what is already a lengthy, deliberative process. However, requiring a member to explain its use of a veto would be a minimal burden. The S5 plan suggests that every veto should be accompanied by a published justification.\textsuperscript{238} "Although this idea is based more on diplomatic courtesy and respect than precedence or Charters interpretation, it provides a logical process by which the great divide between [permanent members] and other member states can be at least slightly bridged."\textsuperscript{239} The concept of full disclosure is closely related to procedural reforms. Though not explicit in any plan, full transparency would require a representative to disclose any national interests in a question before acting thereon.\textsuperscript{240} This places reasoning in the open where it can be measured for fairness, and the state can be judged accordingly.

\section*{D. REGIONAL PLANS}

The Italian proposal and the Regional Economic Plan would create a Council with regional seats.\textsuperscript{241} The value of these plans is that they create an organization that better acts for the world as a whole. The narrowest self-interest could be defeated at the regional level before it could poison any global decisions.

However, while the Charter creates a niche for traditional regional organizations and alliances,\textsuperscript{242} the United Nations is intended

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\item \textsuperscript{236} International Peace Academy and the Stanley Foundation, \textit{Reform of the Security Council: Memorandum Submitted to the President of the UN General Assembly, in Documents on Reform of the United Nations} 439-40 (Dartmouth Publ'g Co. 1997) [hereinafter Peace Academy].
\item \textsuperscript{237} Toro, \textit{supra} note 21.
\item \textsuperscript{238} S5 Draft Res., \textit{supra} note 152, at Annex ¶ 13.
\item \textsuperscript{239} Toro, \textit{supra} note 21.
\item \textsuperscript{240} Peace Academy, \textit{supra} note 236, at 448.
\item \textsuperscript{241} See Ariyoruk, \textit{supra} note 117; see Hartwig, \textit{supra} note 190.
\item \textsuperscript{242} U.N. Charter art. 53, para. 1.
\end{enumerate}
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to be an organization of states. Regional plans would require such radical change to the organization that they would be as much a replacement of the Security Council as a reform. The Regional Economic Plan in particular is far more akin to setting up a world government than balancing a collective-action platform between states.

Putting either of these plans into action would also be a major undertaking. The Regional Economic Plan model of the Council is comparatively byzantine and would at least require a uniform body to vouch for accurate measures of national populations and GDPs used to calculate relative power. The Italian plan ignores the lack of “capacity [of most states] to manage a Security Council seat regionally.” While most of Europe could easily be managed through the European Union and parts of Africa through the African Union, not every state is represented in a comparable regional organization.

E. INCREASED USE OF REGIONAL ORGANIZATIONS

The S5 plan calls for more reliance on regional organizations. Closer coordination with regional organizations is completely within the power of the Council, and recent history has provided examples of such reliance. The North Atlantic Treaty Organization (NATO) acted under the United Nations flag in Bosnia. The African Union is acting as a stabilizing force in Africa. The European Union, meanwhile, is struggling to define the interrelation between itself and its member states on the world stage.

However, the convenience and effectiveness of increased reliance on regional organizations comes with a risk. The more the Security Council delegates its duties, the greater the chance that the

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243 Ariyoruk, supra note 117, at 3.
244 Id.
245 S5 Draft Res., supra note 152.
246 See U.N. Charter art. 53, para. 1.
247 See MACQUEEN, supra note 8, at 74.
purpose of the United Nations will be subsumed by the diverging purpose of the operating regional groups.\textsuperscript{250} For example, in Bosnia, NATO essentially acted in the United Nations' stead, but the two organizations interpreted differently the mission to remedy armed conflict there.\textsuperscript{251} NATO's more aggressive interpretation led to punitive airstrikes against Serb forces, going beyond the Security Council's authorization.\textsuperscript{252} Eventually, continuing tension between the two organizations led to the total displacement of UN peacekeeping interests as NATO began increased artillery and air strikes to force a treaty settlement.\textsuperscript{253} Likewise, deputizing a regional organization could harm the credibility of an operation and restrict member state participation. States that would eagerly aid the UN may be more ambivalent towards NATO or the EU.

\textbf{F. PANAMA PLAN AND THE OVERARCHING PROCESS}

While the Panama plan\textsuperscript{254} carries some of the detriments discussed under the "Increased Membership" section, the simplicity of the proposal mitigates the risk of sacrificing effectiveness for representativeness. The plan allows for increased representation, but only after a twenty year trial period in which the capabilities and selflessness of the candidate are tested and subjected to approval by popular acclaim.\textsuperscript{255}

However, if all the permanent seats were to be filled, the Council would have eleven permanent members to ten non-permanent members. The underprivileged class would be nearly useless against the privileged majority that could then outvote it as well as call upon a substantial veto power.\textsuperscript{256} Also, if a state were to obtain a permanent

\textsuperscript{250} See MacQueen, supra note 8, at 74.
\textsuperscript{251} Id.
\textsuperscript{252} Id.
\textsuperscript{253} Id. The operation underwent a major shift from peacekeeping and "safe havens" to peace enforcement. The UN later adopted the change, but what else could it do at that point? The Dayton Accords, that formally ended the conflict, had already been signed. See id.
\textsuperscript{254} See Five New Tracks, supra note 171.
\textsuperscript{255} See Update on the resumption of the discussions on Security Council Reform at the General Assembly, Center for UN Education Reform, Feb. 9, 2007, http://www.centerforunreform.org/node/239.
\textsuperscript{256} See Blum, supra note 19, at 644 (suggesting that because the dynamic of an increased counsel would be unclear "the delicate overall balance between the permanent, semipermanent, and nonpermanent members of the Council--
spot and become unaccountable in elections, the state would possibly become just as self-interested as the original permanent members.\textsuperscript{257}

The Overarching Process\textsuperscript{258} is less a plan and more an agreement to possibly agree on some form of plan in the future. While this may move the opening negotiations past the first impasse, it in no way promises actual reform and carries forward all the benefits and detriments of the plans previously discussed.

IV. CONCLUSION

The current round of United Nations reform is still in the early stages, and the proposals range from modest suggestions to severe rewriting of the Charter. However, none of the proposals advanced address the effects on the primary function of the Council. Instead, most speak of eliminating the veto and modifying the Council to increase “fairness” or “legitimacy” or “representation.” The working group should not neglect the original intentions behind the Security Council.

As he laid out the roots of the League of Nations before the United States Senate, Woodrow Wilson said that “there must be, not a balance of power, but a community of power; not organized rivalries, but [a]n organized peace.”\textsuperscript{259} He could just as well have been speaking about the Security Council; it should be a “community of power,” not a balance. As such, equitable geographical representation should not be sought in reforming the Council. Permanent regional seats, whether held by organizations or states for no reason other than geographical equity, skew the purpose of the council away from preventing world war.

Inevitably, the Council one day will not reflect the true “community of power” in the world. Reform is necessary. Therefore, potential great powers should have a method of being inducted and, though this is nowhere in the actual proposals before the UN, removed. Membership should be determined by the same criteria used at the formation of the Council: military capability, economic ability to

\textsuperscript{257} See Toro, supra note 21.

\textsuperscript{258} See Six Member States Submit New Proposal, supra note 160.

sustain peace enforcement, and the will to perform such a duty.\textsuperscript{260} The veto should, of course, be extended to any new member because it allows a member to do by words alone what would otherwise be done by force.

In the end, no reform can occur without surviving the veto of the permanent members.\textsuperscript{261} Therefore, the best plan would attempt to work the reforms of the S5 plan into the procedural rules of the Security Council. Those reforms would require only a majority vote by the members. In addition, any reform proposal should share both the support of permanent members and address the concerns shared by the above plans. Since the original permanent members are likely to jealously guard their interests, the proposal should not increase membership greatly. At most, only two potential powers, amicable to the current permanent members, should be considered for permanent membership. Brazil and Nigeria are good candidates\textsuperscript{262} India is too much a rival to China.\textsuperscript{263} Germany and Japan are both strongly

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\item From a purist perspective, the "same criteria" results in a very simple test: If the UN cannot function without a particular state, that state should be a permanent member on the council. It is not a standard that does much to resolve the ongoing debate, but it is an honest one. For example, if Brazil or India decided to withdraw from the UN unless it was placed on the Council, would their withdrawal trigger a crisis, pull the support from major plans, or endanger the Council's power to respond to a world threat? On the other hand, if the US or China decided to withdraw from the UN if India or Brazil were placed on the Council, that would be a different story. Suddenly, there would be an independent power outside the UN that, by virtue of its military (conventional and nuclear) and economic power, would be capable of stalemating the remains of Security Council. Of course, this is not a workable model as it invites crisis and feuding. Likewise, the world can't simply wait for another crisis of World War II proportions to come along and then arrange a new council accordingly.
\item See Mario Osava, supra note 219 ("But 'if the Council is expanded, the inclusion of Brazil is a given,' because 'it is the only country in the region with the vocation of being a global actor[]. . . . It is only natural for Brazil to play a regional leadership role due to the size of its economy, territory and population[]."]); \textit{Background Note: Nigeria}, US Department of State, http://www.state.gov/r/pa/ei/bgn/2836.htm ("[Nigeria] demonstrated its capability to mobilize, deploy, and sustain battalions in support of peacekeeping operations[]."]).
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opposed and do little to address inequities of representation. Brazil and Nigeria are southern hemisphere states with vast natural resources and secure borders, and Nigeria could still be considered a developing country. These natural resources may one day translate into major military and economic power. The addition of Nigeria places a developing world viewpoint on the Security Council's table. These reforms also increase geographical representation by ensuring that each of the traditional regional groupings and continents sits on the Council. These reforms also combine at least some element of each of the member states' plans. No proposal will succeed without addressing the concerns of all negotiating parties, particularly those of the founding parties.

occupation and suspicious of India's regional ambitions, is still holding out [against the membership of India and Japan]).

Id.; Matthias Nass and Thomas Kleine-Brockhoff, Should Germany Be
European power should become a permanent member is inexplicable.

... Germany cannot claim to be a big power of the future. ... Its economy
is stagnant. Its share of world trade is falling. Ditto the number of soldiers and
the number of citizens. Germany is a shrinking ... country with growing
ambitions. ... And Germany is openly opposed by Italy. ... Other countries do
not want to expose themselves, yet hope for a German failure. And that is in
Europe alone. Thus, Germany’s unilateral move jeopardizes a vital national
interest (European unity) in pursuit of a secondary interest (the Security
Council seat).”).

Background Note: Brazil, U.S. Department of State,
http://www.state.gov/r/pa/ei/bgn/35640.htm (“Brazil has one of the most
advanced industrial sectors in Latin America. Accounting for one-third of GDP,
Brazil’s diverse industries include automobiles and parts, machinery and
equipment, textiles, shoes, cement, computers, aircraft, and consumer durables.
Brazil continues to be a major world supplier of commodities and natural
resources, with significant operations in lumber, iron ore, tin, other minerals,
and petrochemicals. ... Brazil has traditionally been a leader in the inter-
American community and played an important role in collective security
efforts, as well as in economic cooperation in the Western Hemisphere.”);

Background Note: Nigeria, US Department of State,
http://www.state.gov/r/pa/ei/bgn/2836.htm (“In 2008, U.S. imports from
Nigeria were over $38 billion, consisting predominantly of oil. However,
rubber products, cocoa, gum arabic, cashews, coffee, and ginger constituted
over $70 million of U.S. imports from Nigeria in 2007. ... Nigeria has enjoyed
generally good relations with its immediate neighbors.”).

Nigeria, Country Specific Information, US Department of State,
http://travel.state.gov/travel/cis_pa_tw/cis/cis_987.html (last visited Aug. 25,
2009).