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A Body Evolved: The UN Security Council and its Role in International Politics

By

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and

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I. Introduction

In 1945, the primary responsibility for maintaining peace and security in the international system was entrusted to the United Nations (UN) Security Council (SC) under Article 24 of the United Nations Charter. Parties to the Charter authorized the Security Council to act on their behalf on matters of security.¹ Since its first meeting in 1946, the Security Council has valiantly attempted to live up to that defining responsibility; however, the Security Council has partially failed to do so, and in the process has evolved into the primary legitimizing body for the actions and objectives of the U.N. member states and goals of the member states in the international arena. Although the Security Council was created to operate under a system of collective security, the system never came to fruition owing to a number of institutional incapacities and a general lack of political will. Moreover, as the lofty goals of a collective security system soon withered, the Security Council shifted focus to operations involving peace-making, peace-building, and peace-keeping as a means of exercising its authority over the international community. Many of these efforts were ill-fated and often lacked sufficient support, resources, and troop contributions to achieve their stated UN mandates. Events such as those in Rwanda, Bosnia, and Somalia demonstrate the institutional paralysis that has often gripped the Security Council and prevented any significant form of action.

In what has been viewed as a continuously evolving response to these failures, the Security Council has moved to adopt a new role: it has become the legitimizing body for the policies and actions abroad of UN member states. Often, resolutions passed by the Security Council act to bestow political and operational legitimacy on member state actions or policies. In a similar vein, states seem to act as if it would be costly to proceed without the blessing of the

¹ <http://www.un.org/en/documents/charter/chapter5.shtml>, Accessed Feb. 13, 2010.

Security Council. By conferring said legitimacy, the Security Council draws upon its own institutionalized perception of legitimacy as afforded by member states.

The question then emerges: is the Security Council the legitimate body to confer legitimacy on the policies and actions of UN member states acting to carry out operations under Article VII of the UN Charter? The Security Council is currently comprised of fifteen member states; five members – the United States, the United Kingdom, the Russian Federation, China, and France -- hold a permanent seat on the Council (the P5). The founders of UN chose these states for permanent membership to the Council as a means of compromise in order to secure the support of the major allied powers after the conclusion of World War II. The ten non-permanent members are elected by the General Assembly for a term of two years and are not eligible for immediate re-election. The number of non-permanent members was increased in 1965 from six to ten by an amendment to the UN Charter. Each Council member has one vote; decisions on procedural matters are made by an affirmative vote of at least nine of the fifteen members, while decisions on substantive matters require nine votes, including the concurring votes of all five permanent members. Here, a permanent member state may veto a resolution by refusing to provide a concurring vote with the remaining members of the P5.

Owing to this configuration, critics of the Security Council argue that it ultimately lacks legitimacy for three primary reasons. First, the power wielded within the Council is largely non-democratic given the preponderance of the P5 over the non-permanent members on every major decision. Second, the membership of the Security Council fails to represent geographic regions of the world equally and often excludes those states found in the third world. Finally, even if a democratically constructed Council were not desirable, the current status of the P5 fails to reflect the modern power distribution in the international system. While France and the United

Kingdom have waned in international prominence since the conclusion of World War II, states such as Japan, Germany, and India have increasingly expanded their role on the international stage and yet lack official recognition as major powers.

II. Collective (*In*)Security and the Security Council

The notion of collective security has generated much scholarly debate since its inception following the World War I. The desire to mitigate the destruction and loss of life in future wars has led many states to adopt at least the theory of collective security in the hopes of promoting peace rather than perpetuating the constant cycle of aggression among states. It has competed for supremacy against other theories such as balance of power, and yet examples of its effective application are the exception rather than the norm.

A. Assumptions Behind Collective Security

Scholars have discovered that it is the assumptions within the collective security theory that need close scrutiny. According to Inis Claude, “the doctrine of collective security is a prescription for an institutionalized arrangement to maintain the security of all members of a system of states by guaranteeing that an attack by any member against another will engender the combined resistance of all the others whose contribution to the common defense may be needed.”² At the heart of collective security theory is the assumption that war and conflict are endemic within the international system of states; without war or at least the threat of violence the need to deter would-be aggressors is essentially eliminated along with the need for a system of collective security. This assumption certainly rings true if one were to consider the seemingly

² Inis L. Claude, *The Rejection of Collective Security* (University Press of America, 1986), p. 51.

endless number of micro wars in Africa alone. Furthermore, collective security assumes that states wish to maintain the status quo; that is, aggression (for whatever reason) is impermissible. From this perspective, the aggressor is automatically the “bad guy.” There is no place for neutrality or for those who may believe that aggression is, in some instances, necessary to ensure justice.

a. The International System is Composed of Aggressor and Peaceful States

This leads to yet another assumption that holds that under a system of collective security the world can be neatly divided into aggressor states and peaceful states. Stemming from this assumption is the notion that states will be able to agree on what constitutes aggression and will be willing to respond to any aggression anywhere regardless of alliances, treaties or customs. Yet, the reality within the consultations and meetings of the Security Council precludes the existence of any general consensus and ultimately flies in the face of collective security theory. The preponderance of power afforded the P5, in addition to the veto, thus ensure meager opportunities to build said consensus.

b. States will Behave in “Unnatural” Ways

Moreover, collective security essentially requires states to behave in a way in which they have never behaved. Thus, it is implied that states will and do behave, under normal circumstances, in ways that are likely to counter the fulfillment of collective security. The question then emerges: why do states act in a manner that undermines international peace? Acting in accordance with the theory would surely promote a stable international system. The answer to that question may be found in the fact that the theory of collective security stacks enormous obligations upon the states who subscribe to it.

c. Collective Security Strips a State of the Free Will to Judge the Aggressive Acts of Other States

Indeed, in order for collective security to operate effectively as a tool in the international system those states that subscribe to the theory of collective security must be willing to back up the *threat* of force with the actual *use* of force. Moreover, “all aggressors have to be treated the same. All threats to and breaches of the peace have to be firmly and automatically opposed.”³ Based on this argument states are expected to commit to the opposition of aggression in *all* instances regardless of the circumstances surrounding the conflict. Therein lies the first crippling aspect of the theory of collective security: it assumes that states will always have the capacity and furthermore the will to act automatically in opposition to any form of aggression on the international stage. The theory of collective security does not allow states to make choices about which instances of aggression to oppose and which to support or respond to neutrally. It allows states no independent assessment of the situation and no autonomous judgment regarding the legitimacy of the claim of the aggressive state.

Claude has elaborated on this concept by arguing that, within the UN collective security arrangements, there appears to be a “lack of moral self-confidence.”⁴ What Claude intends to imply here is that collective security takes for granted the fact that states are willing to defend the international system, thus preserving the status quo as mentioned earlier. The issue here arises when states do not view the current state of affairs to be worth defending. In just such a case, a

³ Thomas G. Weiss, et al, *The Theory of UN Collective Security* (Westview Press, 2007), p. 5.

⁴ Claude, *The Rejection Of*, p.60.

state will rather opt to allow the aggression to continue in the hope of establishing some better position within the international “pecking order” when the dust settles.

What of a state’s national interests, though? Collective security fails completely if only a few member states refuse to act based on what they perceive as their national self-interests. Thomas Weiss has argued, “States have numerous narrow national interests that they are reluctant to see overridden in the name of peace or justice. They therefore tend to defect from inconvenient collective security efforts.”⁵ It seems, then, that operational collective security is a “zero-sum game” of sorts; refusal by a few ultimately leads to the paralysis of the many.

d. The Status Quo is Always Preferable to Aggression and Must be Defended

The notion that states wish to maintain the status quo of the international system has received much scholarly attention. This view essentially flies in the face of the realities of international politics of the last sixty years. It upholds the idea that collective security requires states to block the legitimate acts of sovereign states when those acts seek to change the status quo in order to ensure justice. History has shown that states can be aggressive, whether the conflict is over scarce resources, territorial claims, perceived threats, or simply national honor. States will – and do – go to war regularly to bring about, in their view, justice. In fact, according to the United Nations website, in the years ranging from 1948 to 2009, there have been more than 60 UN peacekeeping operations in warring and collapsing states with at least 15 of those operations categorized as ongoing in regions ranging from southwest Asia to central Africa.⁶ Additionally, conservative estimates count approximately 50 traditional inter-state wars (excluding internal or civil wars) during that same time frame. The fact of the matter is that

⁵ *Ibid.*, p. 6.

⁶ *United Nations Peacekeeping*. The United Nations, n.d. Web. 28 November 2009.

states go to war for a variety of reasons. Collective security thus demands the complete divorce of aggression from the proverbial “tool-box” of international politics.

e. States Will Agree on What Constitutes Aggression

Another assumption behind the collective security theory requires examination: the notion that aggression, itself, can be concretely and unanimously defined by the states of the international system. Who is to say what specifically constitutes an act of aggression by one state against another? Under the collective security scheme, the UN community is expected to act in a single, massive stroke to put down all aggressive states. By implication, then, it seems that collective security views the issue of defining aggression as clear and noncontroversial. While the UN Charter offers a definition of aggression, scholars have continued to argue the meaning of particular terms and debate how certain phrases are to be interpreted. In order for an act to be considered “aggression” must it involve the use of military force, e.g. - invasion? In fact, the literature points to a grey area between acts clearly defined as aggression, e.g.-invasion, and acts that perhaps do not include the use of military force, e.g.- economic sanctions. Does the theory require only that a majority of states agree that a particular instance is aggression, and those who subscribe to another view must shut up and support the collective security action? States have generally been unwilling to fall in line. Collective security theory paints a rosy picture with states “coloring inside the lines” as it were, when in reality states tend to “color” where they want and when they want as afforded by their national preferences, perspectives, interests, and allies. Pinning down a concrete definition of aggression in an ever-evolving

international system thus poses an enormous obstacle to the fulfillment of collective security and has marred numerous Security Council attempts to implement a stable collective security regime.

Most scholars tend to agree that collective security looks great on paper: powerful states at the head of the Security Council will take the lead and, with the aid of the other member states, will come to the aid of the weak. Indeed, the international community will band together and stand in solidarity against the injustice of any and all aggression and blood-shed thus saving the lives of millions of potential casualties in future wars. Yet the reality of the obligations collective security places on states, and the complex nature of international politics find collective security frequently abandoned for more convenient, pragmatic, or rational (from the perspective of various states) courses of action.

B. Collective Security and its Three Requirements: Consensus, Commitment, and Organization

Thomas Weiss has said that “successful collective security operations much depend upon three central factors: consensus, commitment, and organization.”⁷ The first of these factors stands out as perhaps the most crippling obstacle in many attempts to use collective security. Here, consensus refers to the recognition by members that a threat to international peace and security exists.⁸ If states are unable to succeed in reaching that consensus, the collective security process is rendered impotent. Efforts to reach consensus in the United Nations, undoubtedly the world’s largest international organization constituting 192 member states, have failed repeatedly. Within several Security Council resolutions regarding the genocide in Rwanda (although this is

⁷ Weiss, *Theory of UN*, p. 7.

⁸ *Ibid.*, p. 7.

not an example of inter-state conflict), the representatives of member states fell into complex arguments regarding whether the actions of the government in Rwanda constituted genocide.⁹

Ultimately, the international community (under the auspices of the UN Security Council), at least in Rwanda's case, did reach a consensus of sorts: the potential costs of a commitment to intervene, the states conceded, far outweighed the rather abstract benefits of trying to maintain peace -- and ultimately justice -- abroad. Furthermore, the Rwanda genocide provided a blatant example of states agreeing to refrain from intervention because the victims of aggression, in this case, were simply not important enough to gain sympathy and response from the UN community. Collective security, then, assumes that states will respond in the same way to an attack on Germany or Spain as to an attack with a country such as Togo, the Sudan, or Somalia.¹⁰ In fact, however, a certain "pecking order" if you will, based on power, economic resources, and prestige shapes the kinds of responses that the UN ultimately delivers. States tend to ignore and refuse to defend individuals in a state that plays little-to-no significant role in the international community and would ultimately burden the UN member states with very high financial and political costs if they were to act. Such marginal states and the factions within them are often expected to maintain and defend their own interests free of interference from the UN community. This is most strikingly evident in the war-torn history of many African states. It is, ultimately, as Charles Darwin once penned it: survival of the fittest. States established neither the consensus nor the commitment necessary to intervene.

The reality of what the theory of collective security demands often results in a rather abrupt about-face for states making decisions on international policy. It is not that states refuse

⁹ The nature of the arguments resulted in language within Security Council resolutions 912, 918, and 929 that touched on the systematic slaughter of a specific ethnic group without ever using the term – genocide.

¹⁰ *Ibid.*, p. 6.

to obey the laws against aggression, but rather that states reject the duty to uphold that law [and balk at the notion of being policemen.]¹¹ As Inis Claude argues, “the hardness of approach makes them [states] play with the idea of collective security... [it is] an artificial mood.”¹² By utilizing the soft approach to international politics states hope to avoid needless and protracted wars. Collective security, however, demands a steadfast commitment to the *hard* line approach and disregards the natural tendency of states towards *soft* measures in coping with conflict abroad. Claude sums this notion up: “Commitment to the repression of aggression is far more attractive as an abstract principle than as a working policy.”¹³ States have generally remained unwilling to organize and act together when their theory is tested. Through the course of its peacekeeping operations over the past 60 years, the Security Council has come to understand precisely Claude’s insightful perspective.

C. Collective Security as an Aggressive (War) Approach

The very instrument upon which collective security relies for the defense of order is the same as that which disrupts order in the first place: military force.¹⁴ States thus face accusations, when responding to aggression with force, that their actions are no less ignoble than those of the original belligerent. As a result of these perennial accusations, states must have the moral confidence to commit fully and wholly to collective security, even when it creates further violence and additional forms of aggression. This returns us to the three criteria necessary for peacekeeping operations: consensus, commitment, and organization. Without solid commitment to the purpose at hand by the participating states, an operation will end before it has the chance

¹¹ Claude, p. 54.

¹² *Ibid.*, p. 57.

¹³ *Ibid.*, p. 59.

¹⁴ *Ibid.*, p. 62.

to begin. Yet again collective security demands far more from the international community than it is willing to concede. States clearly have a tendency of lacking said confidence in *every* policy they undertake to implement, and yet collective security demands that states act otherwise.

D. Collective Security has its Successes

In two instances since 1947 collective security has proven to be an effective policy: the 1991 Persian Gulf War which saw the rollback of Iraqi troops from bordering Kuwait, and a military coup in Haiti which saw its operations cut short by a UN Coalition Task Force. And, in both instances the number of states that actually participated in the UN multinational force constituted far less than a quarter of the member states available. This is to say that the perception of legitimacy conferred on forceful actions taken under Chapter VII is directly proportional to the scope of participation therein. Moreover, these two instances prove to be exceptional cases to the norm of “every state for itself” and illustrate that while it is *possible* to succeed, the complexities and dynamics of the international community eventually see the theory of collective security mired in symbolic political gesturing rather than its swift and effective application. “If states were able to act as collective security requires them . . . the international system would be harmonious, not conflictual. In that case . . . collective security would rarely be needed.” In theory that statement bears out; assuming collective security truly were the norm and potential aggressors knew beyond any doubt that action on their part would be met automatically with the use of swift, heavy-handed, collective force by the international community, those would-be aggressors would see no benefit in attempting to disrupt the international order. As a result, the actual use of force in the name of collective security would

dwindle thus allowing a stable international system to flourish and releasing the Security Council of the responsibility of countless operations across the globe.

There is nothing negative in hoping for a more peaceful and stable international system; yet, to ignore the reality of how states operate and the motivating factors that lead to acting in such a way is nothing short of ill-advised. As Thomas Weiss concludes, “World politics often [make] it impossible to act collectively, and states often choose to disobey or ignore the prohibitions and restrictions on the use of force to pursue *raison d'état*.”¹⁵ Likewise, Inis Claude has concluded that collective security’s great weakness “is that it makes demands upon international civic virtue that cannot be met . . . neither the political elites nor the ordinary people who constitute the states of the world are prepared to accept the obligations of a collective security system.”¹⁶

III. Peacekeeping: An Alternative to Collective Security

With the sun setting on the theory and practice of collective security, and the rise in instances of collapsing states, peacekeeping emerged as a popular *alternative* in the 1980s and 1990s in an attempt to grapple with this emerging trend in the international community. Because collective security had largely failed in every major attempt at its utilization, the UN turned to the idea of peacekeeping. Broadly defined, peacekeeping abstains from the use of force. Rather, it is designed to bring about a peaceful resolution in a conflict by interposing neutral peacekeepers between the belligerents. Key aspects of this approach to conflict resolution inherently undermine the very goal which it seeks to attain: peace. Before peacekeepers can take a single step within a state, they must first be granted permission to do so by that state’s

¹⁵ Weiss, *Theory of UN*, p. 23

¹⁶ Claude, *The Rejection of*, p. 66-67.

government. Furthermore, all parties to the conflict must agree to the presence of the peacekeeping force. If said agreement is withheld, the peacekeeping force has no authority to enter the state unless the Security Council proceeds under Article VII of the UN Charter, which stipulates that the conflict represents a threat to international peace and security. Peacekeeping relies on the willingness of belligerents to come to the table. Although it does not involve the use of force to achieve its aims, peacekeeping provides an open forum in which warring parties may agree to a cessation of hostilities in the pursuit of a more lasting peace resolution. Yet, peacekeeping has confronted many of the same obstacles as its predecessor: collective security. Lack of consensus between belligerents as well as within the international community, lack of commitment by contributing member states to stay involved in a region for the long haul, and lack of organization within the mandates and operations themselves all culminate to place peacekeeping at a distinct disadvantage.

A. Rwanda . . . A Failed Attempt at Peacekeeping

Owing to the lack of an international civic virtue as described by Claude there have been a series of botched Security Council peacekeeping operations in recent years. Of those operations, Rwanda offers clear and alarming insights as to the institutional paralysis that has so frequently strangled the UN and its Security Council leadership. On April 6th, 1994, a plane carrying the Rwandan and Burundian Presidents was shot down. The two leaders had just concluded a visit to Tanzania during which they had signed the Arusha Peace Agreement. Shortly after the assassination of both leaders, the Presidential Guard, the Rwandan armed forces (FAR), and extremist militias (*Interahamwe and Impuzamugambi*) set up roadblocks throughout

Rwanda and began the organized slaughter of nearly one million Rwandans.¹⁷¹⁸ Chief among the issues faced by the Security Council was the tendency of member states to allow their discussions to become bogged down in the technical or legal definitions of words like “civil war,” “genocide,” and “sovereignty” in the early stages of the crisis. Here again, lack of consensus among the member states of the Security Council plays a significant role in the events which follow soon after. As a result of this “tunnel vision,” the Security Council lost sight of its primary objective in international politics: the maintenance of peace and the protection of hundreds of thousands of lives. To be sure, members of the Council (particularly the P5) understood that to label the events playing out in Rwanda as genocide inherently carried the additional weight of a moral obligation to act. Indeed, international legal scholars widely agreed that the 1948 UN Genocide Convention would have added a legal obligation for the Security Council to act if the actions in Rwanda were determined to be genocide.

While the Security Council wrestled with semantics, other officials within the UN made clear their understanding of the situation. Under-Secretary General Ibrahim Gambari stated unequivocally that, in his opinion, “all the facts that were necessary to make judgments were fairly well known . . . they [P5] were not prepared to take the necessary steps.”¹⁹ Owing to this, the P5 demonstrated, with excruciating clarity, that Rwanda was not a high priority state in the grand scheme of world politics. Moreover, this debacle sent a message to the international

¹⁷ The exact number of casualties has never truly been verified and conflicting reports range from 800,000 to around 1,000,000.

¹⁸ Ferroggiaro, W. (2001). The US and the Genocide in Rwanda 1994: Evidence of Inaction. Retrieved April 10, 2008, from The National Security Archive

¹⁹ Piiparinen, T. (2006). Beyond the Mystery of the Rwanda ‘Black Box’: Political Will and Early Warning. *International Peacekeeping*, 13 (3), 334-347.

community that the Security Council would seriously consider action only in matters that were viewed to be of significant strategic or economic significance for the P5. Strangely, although the Council was unwilling to act throughout the 100 days of genocide it remained *actively seized of the matter* which prevented the General Assembly from utilizing the “Uniting for Peace” clause to supersede the Council. Indeed, had the Council disengaged from the conflict once it became apparent no purposive action would be taken, the General Assembly would have been authorized to act thus rendering the Council impervious to international criticism.

Beginning in October of 1993, the Security Council passed resolution # 872 which established the United Nations Assistance Mission In Rwanda (hereinafter UNAMIR) a full seven months before the full-scale genocide began. The mandate approved by the Council granted UNAMIR the responsibility and authority only to observe and monitor Rwanda’s transition from a 20-year dictatorship, to a power-sharing democracy as agreed upon in the Arusha Peace Agreement.²⁰ To that point, the Security Council had been examining the situation from the context of an internal civil war, which had been initiated in 1990 between the government of Rwanda and the Rwanda Patriotic Front.²¹ It was in that context that the Security Council concluded that no duty to intervene in the mass killings existed.

It is important to note that on the date of the attack on the presidential flight, there were approximately 2,539 UNAMIR troops in the Rwandan capital of Kigali, yet the UN operation was sluggish, under-prepared for the situation on the ground, and under-funded; UNAMIR’s mandate fell far short of what the Arusha Accords called for.²² In that agreement it was stated

²⁰ Melvern, L. (2006). Rwanda and Darfur: The Media and the Security Council. *International Relations*, 20, 93.

²¹ Melvern, 93.

²² Lyon, A. (2005). Beyond Rwanda and Kosovo: The Interactive Dynamics of International Peacekeeping and Ethnic Mobilisation. *Global Society*, 19(3), 267-288.

the UN would guarantee overall security . . . assist in the tracking of arms caches and neutralization of armed gangs throughout the country . . . [and] assist in the recovery of all weapons distributed to, or illegally acquired by, the civilians. Clearly there was a severe disconnection between the goals envisioned by the UN and the level of commitment the Security Council states were willing to proffer.

During the genocide, the UN Force Commander, General Dallaire, repeatedly beseeched the UN DPKO (Department of Peacekeeping Operations) to broaden the scope of UNAMIR's mandate in order to allow his force of UN peacekeepers to pursue the numerous documented arms caches which were being utilized by roving death squads.²³ This was a reasonable request given the responsibilities detailed under the Arusha Agreement and the ever-growing consensus among ground personnel that they were witnessing the largest and most efficient wave of genocide since the Nazi extermination of Jews during World War Two. Yet, each time General Dallaire proposed to take proactive steps he was, with unaccustomed speed, told by the DPKO to stand down unless expressly permitted by the mandate of UNAMIR.²⁴

For the purposes of illustrating the lack of will within the Security Council, this excerpt, taken from Security Council Resolution # 918 on May 17th, 1994 several weeks after the genocide began and after the withdrawal of UN peacekeepers, illustrates the paralysis:

²³ United Nations Department of Peacekeeping Operations: In accordance with the purposes and principles enshrined in the Charter of the United Nations, the Department of Peacekeeping Operations (DPKO) is dedicated to assisting the Member States and the Secretary-General in their efforts to maintain international peace and security. The Department's mission is to plan, prepare, manage and direct UN peacekeeping operations, so that they can effectively fulfill their mandates under the overall authority of the Security Council and General Assembly, and under the command vested in the Secretary-General. Retrieved on April 15th, 2008, from the United Nations Web site: <http://www.un.org/Depts/dpko/dpko/info/page3.htm>

²⁴ Berdal, M. (2005). The United Nations, Peacebuilding, and the Genocide in Rwanda. *Global Governance*, 11, 115-130.

expressing once again its *alarm* at the continued report of systematic, widespread and flagrant violations of international humanitarian law in Rwanda, as well as other violations of the rights to life and property, *demand*s that all parties to the conflict immediately cease hostilities, agree to a cease-fire, and bring an end to the mindless violence and carnage engulfing Rwanda (emphasis added).²⁵

The killing of ten Belgian UN peacekeepers on April 7th, 1994 indicated that strong intervention in Rwanda could potentially lead to another Somalia which would further collapse UN credibility abroad.²⁶ This directly resulted in the only and perhaps most damaging action taken by the UN: Security Council Resolution # 912. Within this resolution it was decided that the bulk of UNAMIR peacekeeping forces would be pulled out of operations, leaving only a token force of some 450 peacekeepers and military personnel. In an attempt to detract from any bad press which would result from this decision, the Security Council sent Human Rights Monitors to Rwanda to show the international community that they were concerned with the situation and were still willing to put somebody – anybody – on the ground.

It is important to note that collective security was meant to be used only for battles and conflicts between states. Rwanda was an internal issue centered on a civil war – historically not the type of conflict that the UN would get involved in owing to the fact that it represents a violation of the Charter unless taken under Article VII. As mentioned previously, in order for peacekeepers to go in, there had to be some sort of ceasefire or expressed agreement on the part of all sides that UN peacekeepers come in. And although the peacekeepers were ultimately

²⁵ (1994). *Resolution # 918*. Retrieved April 16, 2008, from United Nations

Web site : <http://daccessdds.un.org/doc/UNDOC/GEN/N94/218/36/PDF/N9421836.pdf?OpenElement>

²⁶ The incident mentioned involved a small contingent of Belgian Peacekeepers assigned to protect Agathe Uwilingiyimana, a moderate Hutu, who was named Minister of Education. When she proposed ending the quota system that restricted Tutsi access to higher education, she was attacked in her home by twenty armed men. She and her Belgian bodyguards were slaughtered. Belgium would promptly recall its contingent of troops as a result of this attack.

allowed to enter Rwanda, the warring factions had no intent to halt their activities to abide by UN protocols.

The representatives appeared positively baffled because the fighting in Rwanda would not stop, even after the above statement. And, of course, it only got worse once the UN withdrew what was already a severely handicapped peacekeeping operation. Furthermore, the fact that the Security Council felt their “demands” and sense of “alarm” actually had bearing on the events playing out in Rwanda only further illustrates how aloof the Council had become in its appraisal of the situation. Moreover, when they [Hutu militias] saw they could get away with that kind of violence in Kigali with no reaction from the UN troops stationed there, it encouraged them to go ahead and expand their operations secure in the knowledge that the UN [and more specifically the SC] could do, or rather, would do, absolutely nothing.²⁷

The Security Council defended its actions and protocols in handling the Rwandan genocide by stating that the situation was beyond the point of effective proactive intervention. Yet there were, at the peak of UNAMIR deployment, 2,539 troops available in addition to some 1,550 Belgian, French, and U.S. troops stationed in nearby African countries. This combined troop strength, had it been properly mandated, outfitted, and funded could have easily confronted the poorly armed Hutu militias, whose primary weapons consisted of machetes.

The failure of the Security Council and the UN in this operation was the result of a myriad of problems. The ever-recurring theme of a general lack of consensus, commitment, and organization insured that the genocide would continue unabated. States failed to form a consensus on how to categorize the events taking place in Rwanda, failed to maintain their

²⁷ Lyon, 276.

commitment to keeping peacekeepers on the ground, and failed to properly organize and mandate the operation which was eventually undertaken by UN peacekeepers. A primary factor that led to the failure was the emergence of a chain reaction which started with very poor reporting from the field by UNAMIR observers. This was owed to the fact that UNAMIR forces were restricted to the capital city of Kigali, and therefore lacked the resources and mandate to observe the planning, preparation, and implementation of the nation-wide killing campaign.²⁸ Not only was the force under-trained and under-equipped, it was both geographically and politically restrained from the very actions which were necessary to fulfill the responsibilities under the Arusha Peace Agreement. Continuing down the chain reaction, the poor reporting from the field led the Secretariat to underestimate the sheer scope of the killing in the early phases of the genocide. It was generally assumed that the situation on the ground couldn't be that dire and, if it were, it would quickly be detected by the agencies employed by the permanent members of the Security Council.

Furthermore the Secretariat, with flawed intelligence and numerous conflicting reports in hand, would deliver its briefing to the Security Council along with recommendations on the situation thus leading the non-permanent members, without their own intelligence-gathering capabilities, to fully rely upon the information that was provided to them. It is clear to see that although the Security Council functioned within the established norms and protocols of international law, it was unable to fulfill its responsibility to the international community. Beleaguered and cumbersome, the Security Council made a faint gesture to stop the killings for the purposes of perception on the international stage. Yet, this statement must be tempered with a consideration for the fact that the Council never truly occupied a position from which it could

²⁸ Piiparinen, 11.

actively take control of the situation. As noted earlier, the Council required either a ceasefire to take effect or the approval of the sitting government before it could take any form of action on the matter. By selecting the peacekeeping approach to conflict resolution as its tool of choice, the Security Council unintentionally tied its own hands with the regulations of the UN Charter and the customs of international law. Fearful of the potential costs associated with following through on their annual battle cry of “Never Again,” the Security Council withdrew peacekeeping forces and continued to *demand* a cease to all hostilities through a grand total of twelve resolutions dating from October of 1993 to November of 1994. What was staggering, aside from the efficiency with which the Hutu genocidal plan came into effect, in regard to the UN personnel, is that such a huge collection of capable, intelligent people, from dozens of different countries being paid quite enormous salaries, could collectively get it so wrong.²⁹ Indeed, although it can be argued the Council did not fully perform its duty in the case of Rwanda, it is crucial to remember that the dispute was of domestic origin and was not conducive to a peacekeeping operation. It ultimately fell beyond the jurisdiction of the Council as articulated in the UN Charter.

B. Bosnia: Peacekeeping Misses the Mark

Important parallels exist between the factors that led to the inability or unwillingness of the international community to respond to the genocide in Rwanda and those that led to the extended Yugoslav war. As James Gow states, “there can be no doubt that the handling of the Yugoslav war was uneven and did not produce either immediate or complete success.”³⁰ The conflict in Bosnia is generally clustered with the conflicts of Slovenia and Croatia as part of one

²⁹ Totten, 7.

³⁰ Gow, J. (1997). *Triumph of the Lack of Will*, New York: Columbia University Press. Pg 3.

war originating with the dissolution of the Yugoslav state.³¹ The end of the Cold War saw the proliferation of states as ethnic minorities broke away from their states and sought national self-determination and sovereign status. Such fragmentation triggered state responses that often led to war across the globe. Indeed, as Elinor Sloan has posited, the rise of ethnic nationalism, as seen in the relations between ethnic Albanians and Serb and Muslim minorities, ultimately ignited the Yugoslav powder keg. Indeed, in response to the fierce nationalism with which Slobodan Milosevic had galvanized Serbia, Croatia responded by electing an equally nationalist President Franjo Tudjman. Bosnia thus found itself attempting to establish a camp somewhere in the proverbial “middle ground” between Serbia on one side and Slovenia and Croatia on the other.³² In the course of events that ensued, the recognition by the international community of Slovenia and Croatia’s independence thus set the Serbs and the Muslims on a collision course in Bosnia.³³ After the Muslim-dominated Bosnian government declared independence on April 2, 1992, and the international community recognized Bosnia four days later, compounding tensions exploded into civil war.³⁴

The Security Council began to take action against Serbia as it became increasingly apparent the Serbian leadership was primarily responsible for the violence that had erupted in Bosnia. Security Council Resolution 743 demanded the complete withdrawal of the Yugoslav army from Bosnia; yet, the Serbian leaders ignored the resolution and created a new Yugoslav Federation with Montenegro. This new federation continued to provide support to the Army of the Serbian Republic (VRS), which consisted almost entirely of Bosnian Serbs. As a result, the Security Council opted to impose economic sanctions on Serbia and Montenegro with UNSCR

³¹ *Ibid.*, Pg. 4.

³² Sloan, Elinor C. (1998). *Bosnia and the New Collective Security*. Westport: Praeger. Pg. 12.

³³ *Ibid.*, Pg. 16.

³⁴ *Ibid.*, Pg. 16.

757. It is important to note that a UN peacekeeping force had previously been deployed in Croatia (UNPROFOR) and had been subsequently expanded to address the escalation of hostilities in Bosnia. Yet, the Security Council fell victim to the same broad lack of consensus and general risk aversion which would come to haunt and doom the peacekeeping operations in Bosnia and later in Rwanda. This fact is borne out in light of the Security Council's decision to expand UNPROFOR into Bosnia and yet limit its mandate to the Sarajevo airport. Once again, squabbling within the international community concerning the use of force to address the "Bosnian question" retarded and hindered the effective implementation of collective international pressure. Various members of the Security Council simply did not view the conflict in the same light. Indeed, neither China nor Russia supported peacekeeping of any kind on this particular matter.

UNPROFOR experienced a plethora of issues which prevented the effective implementation of its UNSC mandate. First, UN peacekeeping requires an invitation by the acting government or an agreement that the warring parties accept its presence. Yet, humanitarian aid convoys were routinely blocked by Bosnian Serb forces, confident that UN peacekeepers lacked the necessary resources to push the convoys through. The addition of the 'Safe-Haven' mandate to UNPROFOR's original mandate served only to exacerbate existing incapacities for the UN presence in Bosnia. Indeed, Sloan states,

"The problems with the safe-haven mandate were similar to those of the humanitarian aid mandate, but even more pronounced. First, UNPROFOR's safe-haven mandate and rules of engagement were incompatible with its resources. The commander of UNPROFOR had estimated that in order to ensure full respect for the safe areas, the force would need approximately 34,000 additional troops to obtain deterrence through strength" (Pg. 29).

In contrast to the sizeable appraisal by the UNPROFOR commander, the Security Council approved a token force of 7,500 troops in UNSCR 844. However, even this number was difficult to procure from contributing states owing to the general deterioration of the situation on the ground. By designating cities such as Srebrenica, Sarajevo, and Gorazde as ‘safe-havens’ for Bosnian refugees, it was hoped that the warring parties would continue to view UN action as impartial. Failure to provide adequate heavy weaponry to deter attacks by Bosnian Serb forces further served to illustrate the growing gap between UN objectives in the region and the international will to see those objectives met. Although the Security Council made repeated gestures to bring the atrocities in Bosnia to a halt, conflict and dissention within the UN bodies regarding the authorized use of force in addition to competing NATO and U.S. interests in the conflict resulted in a slow, disjointed, and incremental response that ultimately failed to protect the citizens of Bosnia. Yet again blame cannot be placed squarely on the shoulders of the Security Council. The fact of the matter was that few states wanted to get involved in this internal issue as it would require huge sacrifice on their part. Furthermore, the warring parties in Bosnia did not want them [peacekeepers or the UN in any form] there and would not support them. And as states took different sides in the conflict, the possibility of creating consensus to jointly address the situation quickly eroded. Thus, the foray into Bosnia represents more of a failure of the UN generally than the complete failure of the Security Council alone.

C. Somalia: Another Lesson in Peacekeeping

The specter of the Somali UN peacekeeping operations still lingers within the collective memory of the Security Council. To quote a UN publication on Somalia: “mounted in 1992 in

conditions of exceptional complexity, in a country where all organs of government had collapsed, the operation in Somalia was called upon to deal with a devastating famine and a brutal multi-sided civil war which, collectively, claimed the lives of at least 300,000 people.”³⁵ As with any conflict, the Council could not arbitrarily send peacekeepers into Somalia without either an invitation by the acting government or the agreement of the warring parties; yet under Article VII of the UN Charter, the Council could legitimately authorize the forceful insertion of peacekeeping forces if the conflict was viewed to be a threat to international peace and security.

In the late 1970s and 1980s, political, economic and social conditions began to degrade the stability of the national government in addition to societal institutions. The descent of the nation into civil war in 1988 saw the upheaval of 500,000 people and the destruction of an already feeble economy which only compounded growing food shortages throughout that state. Rival interests between Siad Barre’s government in Mogadishu and a growing number of smaller alliances such as the United Somali Congress (USC), the Somali Patriotic Movement (SPM), the Somali Salvation Democratic Front (SSDF), and the Somali National Movement (SNM) ultimately led to a state of emergency with Siad Barre fleeing the capitol. This resulted in large weapons caches falling into the hands of varied rival movements. “Throughout 1991, Somalia was torn apart by battles among the factions’ militias and by widespread looting and banditry. With no central Government, the country fragmented, as rival militias seized or fought over different regions and towns.”³⁶ In addition to the ever-expanding hostilities, widespread famine also came to grip Somalia and its inhabitants as many of the population’s farmers were forced to flee their lands. The combination of these factors created what was, to that point, the most

³⁵ No author. *The United Nations and Somalia: 1992-1996*. New York: Department of Public Information. Pg. 3.

³⁶ *Ibid.*, Pg. 12

sophisticated and complex international humanitarian crisis the Security Council and the UN had ever grappled with.

On 24 April 1992, the Security Council unanimously adopted UNSCR 751 which authorized the creation of the United Nations Operation in Somalia (UNOSOM I).³⁷ Within this resolution it was mandated that 50 military observers would be deployed to monitor a tentative cessation of hostilities in addition to a small contingent of lightly armed peacekeepers to protect humanitarian relief efforts. It is important to note that while UNOSOM I was partially able to relieve the suffering of famine and disease, there remained significant obstacles to its full implementation. To quote a UN publication, “UNOSOM I was conceived as a peacekeeping mission. Peacekeeping, in contrast with peace enforcement, is not intended to achieve its objectives through the use of force. When peacekeepers are deployed, they make every effort, by peaceful persuasion, to stop the fighting between warring parties or to carry out other aspects of their mandates; they do not force belligerents to cease their hostilities.”³⁸ Indeed, the publication goes further when it states that peacekeeping operations can succeed *only* when the parties to the conflict wish to avoid hostilities. When rivals are intent on making war, the potential effectiveness of peacekeeping can be undermined.³⁹

In its efforts to maintain international peace, the Security Council often has a broad array of tools in the proverbial “tool box” of international relations. Whether an operation sanctioned by the Council succeeds often depends on the tool used. Selecting from the advantages and

³⁷ UNOSOM is typically differentiated from the later, expanded and more broadly mandated operation of UNOSOM

II

³⁸ *Ibid.*, Pg. 24

³⁹ *Ibid.*, Pg. 24 [emphasis added]

disadvantages offered by peacekeeping, peace building, or peace enforcement thus determines the course of events for a particular operation.

To clarify, peace building involves the additional creation of, and support for, institutions that allow for the peaceful resolution of future conflicts. Former UN Secretary-General Boutros-Ghali defined peace building as “action to identify and support structures which will tend to strengthen and solidify peace in order to avoid a relapse into conflict” in his *Agenda for Peace*.⁴⁰ Contrary to this, peace enforcement involves the use of armed force to separate combatants and to create a cease-fire that did not previously exist independent of outside intervention.⁴¹ Operations charged with a peace enforcement mandate thus do not require the consent of the belligerents or the national government to forcefully take action within a given state.

Because of the growing frustration of the humanitarian effort in Somalia, the Security Council reconvened to examine a new option for the region: the Unified Task Force (UNITAF) led by the U.S. Under resolution 794 the Council determined that the conflict in Somalia did indeed constitute a threat to international peace and security and decided that action under Chapter VII of the UN Charter should be taken in order to establish a secure environment for humanitarian relief operations.⁴² As a UN publication states,

“It is clear that UNITAF was conceived as a temporary exercise in peace enforcement. However, events in Somalia in the first months of 1993 made it increasingly clear that the follow-up mission would also need the authority to use force. The Security Council thus established UNOSOM II as the first peace enforcement operation explicitly authorized under Chapter VII of the Charter that was both organized and commanded by the UN.”⁴³

⁴⁰ <http://www.un.org/Docs/SG/agpeace.html>. Accessed March 1, 2010.

⁴¹ http://www.globalsecurity.org/military/library/report/call/call_93-8_chap3.htm Accessed March 10, 2010.

⁴² *Ibid.*, Pg. 32

⁴³ *Ibid.*, Pg. 40

The transition from UNITAF to UNOSOM II saw the expansion of the original UNOSOM mandate to a peace enforcement operation. However, a botched U.S. raid on a suspected meeting between USC/SNA militia leaders resulted in the deaths of 18 U.S. soldiers, the capture of one U.S. helicopter pilot, and images seen around the world of dead U.S. Army Rangers being dragged through the streets of southern Mogadishu. This tragic event led to President Bill Clinton's decision to reevaluate the situation in Somalia and the commitment the U.S. was willing to continue to make. On October 7, 1993, President Clinton announced that the United States would withdraw all its combat forces from Somalia the end of March the following year. Here, it is evident that democracy plays a significant role in President Clinton's appraisal of the situation. As in any democracy, the political leadership must answer to the voting public for the policies and actions their state adopts. Waning public support for a particular action can often factor just as heavily in political calculations as a deteriorating situation on the ground where forces are committed.

Owing to this abrupt withdrawal of forces by the U.S., the Security Council saw large numbers of its remaining contingent of international troops for UNOSOM II dwindle. Without the strength and leadership of the U.S., many states felt far too exposed to the unstable situation in Somalia and quickly mirrored the U.S. decision to withdraw. In the absence of the American and European contingents warfare soon erupted once again and the Security Council, faced with little other option, resolved to terminate the UNOSOM mandate in 1995. To quote the UN publication, "the withdrawal of UNOSOM II marked the end of a major phase of the efforts of

the international community to facilitate the search for peace and reconciliation and to deliver humanitarian assistance.”⁴⁴

The Security Council did play a significant role in preventing continued starvation throughout Somalia. This particular success can be attributed to the concerted efforts of the international community at large. And while there were other small victories for the Council, many elements of the operations had committed grossly similar mistakes as seen in the past. The Security Council failed, yet again, to provide clear mandates for its operations and, when it did manage to do so, failed to provide or ensure the additional means to implement them.

However, there are also a number of other problems that have nothing to do with the Council. First, states are often unwilling to commit to operations in dangerous internal conflicts on the other side of the world in a state that represents no strategic interests. Second, states often don't agree on whether internal enforcement is warranted at all; thus, lack of consensus beyond the Council may have a profound impact on the Council and its operations. Third, warring sides don't want peacekeepers in their countries and will attempt to block their entry. Even when peacekeepers are eventually allowed to enter a country, the belligerents can opt to keep their heads down and wait out the peacekeeping force only to resume the conflict once the peacekeepers have left. Fourth, the situations presented to the Council are difficult to alter by nature. The complexities of peacekeeping operations stem from the complexities of the conflicts themselves; thus, to alter the situation requires a broad understanding of the factors at work and the players involved. Small, incremental escalations in Security Council operations abroad ostensibly inherit key traits that ultimately contribute to their inevitable failure. It is clear, through the examination of these three Security Council operations, that the international

⁴⁴ *Ibid.*, Pg. 77

community, as embodied by the Council, lacks the sufficient resources and, furthermore, the will to commit to extended forays within the borders of collapsing states. A new role for the council has thus evolved.

IV. Rebirth of the Council: Legitimizing State Actions

It has been shown that the Security Council is widely regarded as a legitimate source of authority in the international community. Yet many scholars disagree as to why the Council has been the recipient of such widespread, albeit tacit, approval. Cronin and Hurd state that as recently as 2003, with the U.S.-led invasion of Iraq, several states sympathetic to the U.S. said they would support American action only if it was first approved by the UN Security Council, and the U.S. approached the Council seeking to have its preferred policy endorsed.⁴⁵ It should be noted, however, that ultimately the United States proceeded without the Security Council approval it so adamantly sought; many scholars argue this example clearly illustrates yet another in a long line of failures by the Council to prevent the unilateral use of force.

I contend, however, the fact the United States expended such a great deal of effort to achieve Council approval reinforces this notion of the perceived legitimacy of the Security Council. This is only a single recent example of a larger growing trend within the realm of *intra*-state actions. The preponderance of authority and legitimacy bestowed upon the Council by no means ensures compliance; yet, states continue to act based on the assumed primacy of the

⁴⁵ Cronin, Bruce & Hurd, Ian. *The UN Security Council and the Politics of International Authority*. Pg. 31.

Security Council in matters relating to war and peace. Ultimately, the U.S. moved ahead because it believed doing so was the right course. But it would have preferred to have Security Council approval.

Inis Claude has suggested that, “the world organization has come to be regarded and used, as a dispenser of politically significant approval and disapproval of the claims, policies, and actions of states.”⁴⁶ Indeed, he stipulates further that collective legitimization has emerged as one of its [Security Council’s] major political functions. The question then emerges: why has collective legitimization moved to the forefront of Security Council policy?

In answering that question, Claude observes that rulers seek legitimization not only to satisfy their consciences but also to buttress their positions. Thus, by providing said legitimization, the Security Council acts to fulfill a basic need in the “market” of international relations. As a result, rulers (and the states they represent) find themselves adopting a lobbying role of sorts in order to ensure that their state does not become the subject of widespread international criticism for a particular action or policy. At this point, it is crucial to understand the term legitimacy as it is used in this section of discourse. Erik Voeten has argued that, “given its lack of enforcement capabilities, the SC’s leverage resides almost entirely in the perceived legitimacy its decisions grant to forceful actions.”⁴⁷ Claude promulgates two fundamental concepts which figure prominently in the history of political legitimacy: law and morality. To be sure, the term is based on the notion of legality; yet, moralists tend to treat legitimacy as an issue of moral justification. Suffice it to say that while law and morality may reinforce one another in

⁴⁶ Claude, I. (1966) *Collective Legitimization as a Political Function of the United Nations*. International Organizations, Vol. 20, No. 3, pp. 367-379

⁴⁷ Voeten, Erik. *The Political Origins of the UN Security Council’s Ability to Legitimize the Use of Force*. International Organization. Vol. 59, No 3 (Summer, 2005), pp. 527-557

one instance, in another they may just as easily conflict. Claude asserts, “the process of legitimization is ultimately a political phenomenon, a crystallization of judgment that may be influenced but is unlikely to be wholly determined by legal norms and moral principles.”⁴⁸

Claude’s assertion meshes well with the political realities of today’s globalized political arena. Although international legal norms and prevailing moral mentalities may figure into Council decision making, the Council is by no means a slave to them. Indeed, the record of the Security Council is spotty at best when attempting to apply consistently such moral or legalistic principles. Often, issues on the Security Council agenda necessitate contradictory decisions owing to developments in the ever-evolving realm of regional and international organizations.

At its core, the Security Council (and more specifically the P5) represents a power concert consisting of the world’s most powerful and affluent states. Yet, “with its nearly universal membership, the UN enjoys an unparalleled comparative advantage in providing a forum for achieving the broadest possible international acceptance for state action taken.”⁴⁹ It is important to consider that the Security Council was not conceived with an intrinsic authority to legitimize state actions. Rather, as Cronin and Hurd stipulate, “through ongoing and often contentious efforts to deal with discrete problems, the Council has been able to expand its authority on a case-by-case basis precisely because the UN membership believed that it was following proper procedures in making these decisions.”⁵⁰ Thus, it is through the institutional authority of international organizations (IOs) that subsequent decisions may be granted the weight of bearing recognized authority.

⁴⁸ Claude, pp. 369

⁴⁹ Prantl, J. *Informal Groups of States*, pp. 565

⁵⁰ Cronin, B. & Ian Hurd, *The UN Security Council and the Politics of International Authority*, pp. 8

There is a current trend within international relations whereby states view, with increasing significance, the role that international law and the emerging body of *trans*-national law plays in providing the foundation of international legitimization. Owing to its actions and, indeed, its very foundation in the expanding body of international law, the Security Council occupies a unique position that emphasizes the rule of international law as a reflection of the international community's focus on the application of collectively prescribed norms and practices. To be sure, Cronin and Hurd state that, "in its declarative, interpretive, promotion, and enforcement functions, the Council has shaped international law. Most of these functions are not enumerated in the UN Charter and yet have come to be seen as falling within the ambit of its authority."⁵¹ With this central focus upon international law comes the inherent notion that states acting unilaterally, and forcefully against others, merit reprisal by the Security Council. Indeed, the Security Council has adopted countless resolutions condemning various states for a plethora of reasons ultimately tied to the reasons enumerated above. This supports the claim made by Inis Claude that, "for whatever reasons of whatever validity, statesmen exhibit a definite preference for a political rather than a legal process of legitimization."⁵² If purely legal legitimization were preferred, this thesis would be examining the International Court of Justice rather than the Security Council.

Former Secretary-General of the United Nations, Kofi Annan once shrewdly observed that, "when states decide to use force . . . there is no substitute for the unique legitimacy provided by the United Nations Security Council."⁵³ Many scholars have come to believe that this unique legitimacy springs from the sociological aspect of international authority; in other words, "authority exists when actors believe that a rule or hierarchy is legitimate and thereby it

⁵¹ Cronin & Hurd, pp. 82

⁵² Claude, pp. 84

⁵³ Cronin & Hurd, pp. 31

contributes to their perceptions of their interests.”⁵⁴ Thus, the Council is only able to fulfill its role of legitimizing state action if the actors within the international community buy into the perception that they need external political reassurance. Moreover, Voeten asserts that this idea contrasts with the conception that legitimacy properly signifies an evaluation on normative grounds. In this view, if an institution fails to meet a set of specified standards it is illegitimate, regardless of how individual actors perceive the institution.”⁵⁵ In support of this notion, Cronin and Hurd contend that, “there is indeed a great deal of effort by the states at the Council to justify their positions in international law . . . [and that] it would seem to signal that actors see some advantage from finding support at the Council for their policies.”⁵⁶ Owing to this, it seems reasonable to argue that the Security Council truly has taken up the mantle of collectively legitimizing state actions; for, if states did not value such legitimization they would not seek to justify their actions. Consider, for example, the increasing number of states that have adopted laws pertaining to participation in UN military operations. States such as Japan and India have made it clear that troop contributions will be proffered only once Security Council approval is first granted. Erik Voeten claims that this suggests that Security Council approval may facilitate foreign leaders to participate in military actions [albeit in a reserved fashion].⁵⁷

The increased significance of Security Council approval underscores what Claude describes as the growing trend for international political organizations to be conferred with the function of legitimization.⁵⁸ Yet, as Cronin and Hurd assert, “to maintain its authority, the Council needs to engage in a trade-off: it must maintain some meaningful level of restraint on unilateral uses of force by the powerful while preserving the incentives for cooperation from

⁵⁴ *Ibid*, pp. 27

⁵⁵ Voeten, pp. 534

⁵⁶ *Ibid*, pp. 35

⁵⁷ Voeten, pp. 532

⁵⁸ Claude, pp. 83

those same powerful states, especially the U.S.”⁵⁹ Indeed, to some scholars, this reinterpreted role of the Security Council supports the claim that Council authorization [for the use of force] has the ability to raise the costs of unilateral action even in cases where it cannot prevent it. Yet, Claude asserts, “collective legitimization is an aspect of the verbal rather than the executive functioning of the United Nations, and in some sense it is a result of the organization’s incapacity for decisive intervention in and control of international relations.”⁶⁰ This fact mirrors the failed peacekeeping operations examined earlier. Rather than continue to attempt to control an increasingly fragmented international system, the Security Council has collectively shifted its energies in order to account for the fact that it has been largely unsuccessful in asserting its authority otherwise. Collective legitimization thus illustrates, with promising clarity, the fact that the Council is able to respond to the realities of the international political environment in which it must operate. The inability to do so would see the Security Council face a crisis of authority which could diminish its role and prestige in the international community and that of the UN more generally.

In addition to states seeking this collective legitimization to pursue *raison d'état*, Voeten proposes that UN-authorized interventions may provide a measure of stability and security that benefits all nations. I argue, however, that this idea must be taken with a grain of salt given the ever-increasing level of strife and violence in numerous countries that have been recipients of Security Council intervention forces. Yet, I can agree with Voeten that this emerging norm of collective legitimization serves as a mechanism whereby the Security Council facilitates the pooling of resources among states. This creates a “bandwagon effect” of sorts whereby Council approval stimulates the rapid addition of other states joined by a common interest in a particular

⁵⁹ Cronin & Hurd, pp. 50

⁶⁰ Claude, pp. 88

policy or action. This supports Claude's view that "statesmen take collective legitimacy seriously as a factor in international politics."⁶¹

Another aspect of collective legitimization deserves mention: the signal it provides to the international public about the estimated ramifications of various actions. Indeed the presence or absence of Security Council approval, by its intrinsic quality, signals to states the potential backlash they may encounter from the international community. Along that vein, Voeten states that, Security Council authorization indicates that no costly challenges will result from the action."⁶² This is to say that a state would not feel the need to worry about potential economic or trade sanctions by the other actors in the international arena if collective legitimization has taken place through Security Council approval. Indeed, by virtue of its very name, collective legitimization suggests or implies, rather, that states may reasonably expect some level of cooperation from the international community in that particular endeavor. Although, as Voeten points out, some states such as Germany, Japan, and India regularly criticize the Security Council, they insist (with equal fervor) upon Security Council authorization for uses of force.⁶³

Collective legitimization carries with it an intrinsic deficiency in accountability. Ultimately, there exists no explicit power by the Security Council over any individual state. Therefore, actions approved by the Council are still actions to be taken by a particular state or group of states, not the Security Council itself. Owing to this, there is no means (formally, legally, institutionally or otherwise) that have emerged or been created by which the greater membership of the United Nations (i.e.- the General Assembly) may hold the Security Council accountable for the actions and policies it condones in the international arena of political affairs. This suggests that the Council operates on a theory of delegation and, furthermore, that the

⁶¹ *Ibid*, pp. 93

⁶² Voeten, pp. 543

⁶³ *Ibid*, pp. 544

international community accepts that delegation. Thus, the Council is forced to rely on the very states it *lords* over in order to see any form of action taken. The efficacy of Security Council resolutions ultimately depends on the willingness of international actors to abide by them. The Security Council thus has little power outside the legitimacy conferred upon it by states. And yet, the Security Council can also confer upon these same states legitimacy of their actions.

In order to put a face to what has, to this point, remained an amorphously general idea, consider the following example. First and foremost, the United Nations grants a form of collective legitimization once it has agreed to seat the representative of a new state. Claude stipulates that, “admission to, or seating in, the organization has tended to take on the political meaning, if not the legal implication, of collective recognition.”⁶⁴ Thus, states feel that their existence has been vindicated and upheld by the international community once UN membership has been granted. To quote Claude at length,

“The United Nations was used to characterize as aggression North Korea’s attack upon South Korea in 1950, and, subsequently, Communist China’s collaboration in the assault; conversely, the United States sought and won endorsement of a collective military response and gave convincing evidence throughout the Korean War of its high valuation of the United Nations stamp of legitimacy. In the Congo crisis of 1960, the function of collective legitimization was performed, negatively with respect to Belgian intervention, Kantangese secessionist efforts, and unilateral Soviet intrusions, and positively with respect to interventions organized under United Nations auspices.”⁶⁵

These instances in United Nations history illustrate the fact that collective legitimization may be applied to a broad field of issues and that, furthermore, it has become a staple in the political calculations of states in the international system.

V. Emerging Theory: Security Council Reform

⁶⁴ Claude, pp. 95

⁶⁵ *Ibid*, pp. 99

The Security Council has succeeded in maintaining its prestige over the course of its history in international affairs; yet, as it continues to shift its activities toward the role of collective legitimization and away from its original mandate as set forth in the UN Charter, questions emerge as to whether it remains the *legitimate* body to provide such *legitimization*. The non-democratic nature of the Council's procedures coupled with its lack of adequate geographic representation and reflection of the current power distribution greatly diminish international perceptions of legitimacy and authority. Indeed, the call for Security Council reform has only amplified with each passing year and typically focuses on two central issues: expanding both permanent and non-permanent membership, and expanding or contracting the number of states with veto powers. As Cronin and Hurd state, "the Security Council's legitimacy is in peril unless the body can be reformed to account for recent changes in world politics."⁶⁶

Owing to this growing international consensus on the institutional incapacities of the Council, scholars and diplomats alike have postulated seemingly endless streams of reform proposals designed to rectify the inherent inequities associated with the representation and procedures of that body. To be sure, Thomas Weiss adds, "Most governments rhetorically support the mindless call for equity, specifically by increasing membership and eliminating the veto. Yet, no progress has been made on these numerical or procedural changes because absolutely no consensus exists about the exact shape of the Security Council or the elimination of the veto."⁶⁷

⁶⁶ Cronin & Hurd, pp. 212

⁶⁷ Weiss, T. *The Illusion of UN Security Council Reform*, The Washington Quarterly, (Autumn 2003), pp. 149

Expanding the existing membership within the Council is discussed at length in a book entitled *The United Nations and Changing World Politics*.⁶⁸ In this book, two models are put forth which focus on the equal distribution of regional representation. Model A would see the creation of six new permanent seats (naked of the veto power), and three new nonpermanent seats thus raising the total membership of the Council to twenty-four. Model B, although similar, would alternatively see the creation of a new category of eight seats on the Council with four-year renewable terms and one new nonpermanent seat with a nonrenewable two-year term.⁶⁹

Expanding Council membership seems to be a valid attempt at strengthening the representative nature of the Council at first glance. However, scholars who support this idea seem to ignore the fact that the Council was deliberately created as a restricted body charged with the maintenance of international peace and security, not as a purely democratic organ of global governance. Moreover, as Weiss points out, “a Security Council of 21 to 25 members would hardly improve effectiveness.”⁷⁰ This suggests the existence of two competing goals for UN Security Council reform: equity among members of the UN (proper process), and effective operation of the Council (results). This process-results dichotomy has retarded reform efforts as neither camp has been able to galvanize dominant support within the international community. Furthermore, the notion of expanding the membership of the Council from 15 to 21 or 25 fails to consider, as Weiss does, the fact that the group would be too large to conduct serious negotiations and yet still too small to represent the UN membership as a whole.⁷¹ It is important to note that the Security Council was never designed to be reflective of UN membership and thus

⁶⁸ Coate, R., et al. *The United Nations and Changing World Politics*, pp. 112-114

⁶⁹ Models discussed here were laid out on pg 113 of the preceding footnote.

⁷⁰ Weiss, pp. 149

⁷¹ *Ibid*, pp. 151

scores poorly under examination in that context. While expanding the membership of the Council would certainly buttress its legitimacy, it would also dilute the effective application of power to the suppression of aggressive flashpoints across the globe.

The issue of the veto has equally confounded international legal scholars and diplomats interested in reforming the Council. In his examination of the veto power, Weiss discusses the fact that Article 108 of the UN Charter effectively provides each permanent member with a trump card that can overrule any efforts to weaken its formal power. The veto has been and remains an obstacle to reform both because of the P5's vested interests in preserving power and because no provision in the Charter requires them to relinquish this right.⁷² Indeed, the veto establishes and maintains the preponderance of the P5 over the nonpermanent members of the Council. Furthermore, states endowed with this "ultimate tool" of the Council will be hard pressed to agree to the general UN membership revoking or altering the power therein. Owing to this, any significant formal restructuring of the Council or its powers is very unlikely. The Council was created to be, and remains, an organ focused on maintaining the status quo in the international community.

Surrounding this debate over reform is another issue which, to date, has received little concerted effort to remedy: the reliance of the Council upon the might of the United States armed forces to carry out its resolutions. Weiss explains that, "as the UN's coercive capacity is always on loan, UN-led or UN-approved military operations take place only when Washington signs on."⁷³ This suggests that a growing trend of the Council has involved attempting to either limit the unilateral use of American military force or channel it towards meaningful international,

⁷² *Ibid*, pp. 151

⁷³ *Ibid*, pp. 153

multilateral endeavors. In support of this notion, Cronin and Hurd state, “the most extensive UN authorizations of force were almost all in cases where the U.S. (and its allies) either implicitly or explicitly threatened to act outside the Council. This is certainly true for the first Gulf War, Somalia, Haiti, Bosnia, Kosovo, and Afghanistan.”⁷⁴ Again, Weiss states it most succinctly, “if the Security Council is to enforce its collective decisions, U.S. participation is, at present and for the foreseeable future, a *sine qua non*.”⁷⁵ Although this presents a picture of the Security Council acting as a pet to the preferences of American foreign policy, “policy-makers of the United States and other influential states are well aware that Council authority can boost the authority of their own states to engage in extensive intervention. Thus they have welcomed the extension of Council authority into peace building because it legitimates interventions by coalition of the willing states as interventions done on behalf of the global community.”⁷⁶ There is no way to escape or ignore the fact, however, that there exists no international mechanism to stop the U.S. from pursuing what it perceives to be its national security interests.

In response to the growing legitimacy gap and other issues enumerated above, “the processes of diplomatic problem solving and its collective legitimization have become increasingly decoupled. The former tends to be delegated to informal groups or coalitions of states, while the Council provides the latter.”⁷⁷ Indeed, it appears that nonmember states have constructed a tentative scaffold upon which they are able to serve as a safety valve of sorts. Owing to the increasing demands on the UN to adapt to the security environment of the post-bipolar world, the use of informal groups of states has proliferated according to Jochen Prantl. Moreover, Prantl stipulates that, “informal groups of states serve as a mechanism that allow for

⁷⁴ Cronin & Hurd, pp. 53

⁷⁵ Weiss, pp. 153

⁷⁶ Cronin & Hurd, pp. 167

⁷⁷ Prantl, *J. Informal Groups of States and the UN Security Council*, pp. 559

exit from structural constraints of the Security Council and voice for stakeholders in a conflict.”⁷⁸

Although the P5 are likely to stonewall any earnest efforts to reform formally the Security Council, informal groups of states have offered an innovative approach to overcoming the pitfalls of the Council without upsetting the *great powers* of the world. Prantl suggests, “these groups may be instrumental in incrementally adapting the Security Council to systemic change. At the same time, they may alleviate unanticipated effects. In consequence, ad hoc mechanisms may accommodate the potential to serve as a stabilizing element for international institutions in transition.”⁷⁹ Thus, by circumventing the formal process of seeking an amendment to the UN Charter, informal groups of states stand to relieve the Council of certain responsibilities that have compounded operational deficiencies over recent decades. In addition to addressing the issue of “Council overload,” informal groups of states allow for a more continuous approach to dealing with international disputes as members are not rotating off in two-year cycles. Prantl supports this idea when he states, “the very concept of nonpermanent membership is an impediment to any long-term commitment toward a conflict, especially a civil war.”⁸⁰ To be sure, it is difficult to imagine a remotely consistent approach towards particular disputes when states may face rotating off the Council in the midst of a critical situation. Additionally, informal groups of states ensure that stakeholders in a conflict are party to discussions concerning a resolution.

The long-term effects of this emerging trend in international affairs will obviously take some time before they become readily apparent. Until then, Prantl has posited several ways in

⁷⁸ *Ibid*, pp. 561

⁷⁹ *Ibid*, pp. 563

⁸⁰ *Ibid*, pp. 570

which these informal groups of states affect power relationships at the UN. The first states that they [informal groups of states] amplify the relative influence of stakeholders, which are not being represented by members of the Security Council. The second way Prantl suggests is that informal settings balance the preponderance of the P5 of the Security Council. The third stipulates that informal groups of states have the potential to disguise U.S. hegemony.⁸¹ Taken together, these effects of the growing influence of informal groups of states suggest yet another shift is occurring in the relationship between individual states and the Security Council at large. Furthermore, Prantl suggests that these informal groups may ultimately come to pre-negotiate and draft Council resolutions in such a precise manner that substantial change is almost impossible in subsequent stages when the matter comes under official consideration in the Council.⁸² These groups, then, seem to represent not so much a rejection of Security Council legitimization rather than a creative effort to overcome areas where the Council has historically struggled with its responsibilities to the international community. Rather than attempt to disrupt the established order within the Security Council, these informal groups of states represent a means of generating an adaptation process in response to altered structural conditions.⁸³ Indeed, Prantl suggests that the growing recourse to informal arrangements appears as the “cheaper option” than a complete overhaul of the organization’s foundations, that is, the revision of the UN Charter.⁸⁴

While many scholars continue to push the agenda of instituting widespread systemic alterations both to the composition and procedures of the Council, I propose a somewhat different strategy. The annual birdsong of states outside the Council naively calls for the

⁸¹ *Ibid*, pp. 579

⁸² *Ibid*, pp. 580

⁸³ *Ibid*, pp. 588

⁸⁴ *Ibid*, pp. 588

complete elimination of the veto power as well as the addition of an unknown number of seats on the Council. Granted, the expansion of Security Council membership would certainly bolster the perception of procedural accountability and legitimacy on the international stage. Yet, such an approach would see the Council crippled by the multiplied effect of competing interests if a large number of new seats were created. Would the Council be viewed as more legitimate? Yes. Would the Council be more effective in pursuit of its responsibilities? Unlikely. Thus, it is clear that the notion of effectiveness is separate from that of institutional legitimacy and accountability.

In pursuit of this notion of greater effectiveness, I submit a potential remedy which would only slightly alter the current operation of the Security Council: increasing the requisite number of negative votes (i.e.-vetoes) from the P5 from one to three before a resolution may be halted. Additionally, this increase in the requisite number of vetoes would be coupled with a clause which would allow the override of a veto if a given number of states on the Council voted to do so. Beyond that, three new permanent seats (each with the power of the veto) would be added to the Council; Europe would potentially see the addition of Germany as a permanent member if relations with France were to improve, while the region of Asia would potentially see the addition of Japan if relations with both China and Russia were smoothed over. The third seat would potentially see the addition of India. If such a system were to be implemented it would reinforce the UN framer's intention of maintaining a consensus among the great powers, albeit in a negative aspect. Furthermore, the option of the override would rid the Council of the aura of being a slave to the whims of the individual P5 states. Indeed, under this system states would be more assured of great power consensus if at least three of the P5 states jointly vetoed an action as opposed to the current system of requiring only a single stonewalling P5 state. As a result of this

tweak to the existing framework of the Council, resolutions would stand a better chance of surviving the gauntlet represented by the competing interests of Council members. Moreover, the addition of three new permanent seats on the Council would be enough to strengthen the Council's image of legitimacy while, at the same time, preventing almost certain gridlock that would emerge as a result of further enlargement. It is possible, then, to imagine a more active Security Council should such a policy manage to get approved by both the General Assembly and the Security Council.

Adding to its appeal for the P5, this option wouldn't involve the direct elimination of their veto powers as prescribed by other UN reformists. However, finding an incentive to get the P5 to sign off on an override option would prove exceedingly difficult and could potentially stall this particular effort on reform. The question emerges: how do you provide an incentive enticing enough to get the world's strongest states to sign on? This question is highlighted by the fact that one P5 state, the U.S., essentially holds all the cards at this point in time. How do you entice a rabbit with a carrot when that rabbit currently holds all the other carrots? Certainly, it will prove quite difficult to reform an institution that was inherently designed to resist change and has over sixty years experience in the field as it were. Furthermore, this proposal would face an enormous obstacle as it would require nothing short of an amendment to the UN Charter. A note to illustrate just how difficult such a feat would be: amendments to the UN Charter have succeeded in only three instances in the course of UN existence over a span of more than sixty years. While this is not a bright statistic for the chances of success for a Charter amendment, the fact remains that concerted effort combined with widespread support (especially from the P5) has succeeded in the past and may be able to succeed again in the future of the organization.

It is important to remember that this reform proposal stands as a limited solution in light of continuing U.S. hegemony. The fact that the U.S. would still be capable of opting to work outside the UN framework severely limits the extent to which *any* reform could be successful. Thus, it seems only prudent to suggest that reformers focus their energies on finding new, and perhaps, informal methods of aligning U.S. and international interests. To take a page from the theory of public policy, the framing of a problem can have a significant impact on whether a given solution is adopted. Thus it would make sense for reformists to frame problems in such a way as to align them with U.S. interests. Until a military force comparable to the might of the U.S. comes to fruition and is able to fulfill the former role of the U.S., reform policies will continue to revolve around the primacy of Washington in world politics.

It is true the Security Council stands as a legitimate source for the collective legitimization of state action, albeit in a limited role. The Council occupies a unique position in the international arena which is bolstered by the membership of the world's superpowers, and it has incrementally expanded its authority and legitimacy on a case-by-case basis. While the Council has emerged as the natural "first stop" on the road for states seeking to justify certain actions, it would seem that collective legitimization, at its core, is a political function and one that is not well represented by an international organ in the midst of a legitimacy crisis. Perhaps more appropriate for this coveted role would be the somewhat less prestigious, yet far more politically legitimate, General Assembly (GA). Granted, the GA has become increasingly politicized in recent years; however, the fact that it is not overshadowed by the preponderance of great powers and that it operates on a "one state-one vote" system suggests that it would be a more appropriate body to provide such collective legitimization. The process of the GA stepping into that role, however, would likely mirror the path taken by the Council: a gradual, case-by-

case expansion of authority. In addition, the sheer size of the GA (192 member states) would certainly provide a more comprehensive assessment of state actions as compared to the 15 member states of the Security Council. While the efficacy of this notion is subject to speculation, it would seem that, on the issue of legitimacy, the GA stands as the superior candidate for the role.

VI. Concluding Thoughts on the Council

The Security Council remains the primary international body charged with the maintenance of peace and security in international politics. Yet, it is apparent that the Council has evolved to fulfill a new role as provider of legitimization as a result of poor performance in the areas of peacekeeping, peace-building, and peace-enforcement. The collective experiences of UN operations in Bosnia, Somalia, and Rwanda clearly illustrate the institutional constraints and incapacities under which the Council is forced to operate. Although the Council was designed to function within a scheme of collective security, the effective implementation of that approach to international conflicts has been shown to be the exception rather than the norm. Collective security demands far more from states than they are often willing to provide, and only further highlights the inability of the Council to achieve its original UN mandate. Indeed, in order for collective security to operate effectively as a tool in the international system, those states that subscribe to the theory must be willing to back up the *threat* of force with the actual *use* of force. Beyond that, pinning down a concrete definition of aggression in an ever-evolving international system also poses an enormous obstacle to the fulfillment of collective security and has marred numerous Security Council attempts to implement a stable collective security regime.

Chief among the issues faced by the Security Council, in the failed operations examined earlier, was the tendency of member states to allow their discussions to become bogged down in the technical or legal definitions of words like “civil war,” “genocide,” and “sovereignty” in the early stages of a crisis. As a result of this “tunnel vision,” the Security Council was often shown to lose sight of its primary objective in international politics: the maintenance of peace and security. Moreover, a common theme emerged as a result of the examination of these operations: states, especially the P5, simply lacked the will to see the operations through to the fullest extent necessary, at times because the states that would be leading the effort have lost their will. As a result, the Security Council faced a crisis of legitimacy which it sought to remedy through the act of collectively legitimizing state actions. This process, however, was gradual and incremental. The Security Council seized upon opportunities whereby it could expand its authority to address new and varied international issues. Owing to this, the international community has come to view the Council in this new role as a provider of legitimization.

Many scholars believe that this unique legitimacy springs from the sociological aspect of international authority; in other words, the Council is only able to fulfill its role of legitimizing state action if the actors within the international community buy into the perception that they need external political reassurance. It was shown that states, even the proverbial juggernaut as embodied by the U.S., indeed buy into this new role for the Security Council as evinced by the adamant pursuit of its approval. Collective legitimization thus illustrates, with promising clarity, the fact that the Council is able to respond to the realities of the international political environment in which it must operate. The inability to do so would see the Security Council face

a crisis of authority and legitimacy which could diminish its role and prestige in the international community.

While it is clear that the international community has come to view collective legitimization as an appropriate function of the Security Council, there are issues which, if left unaddressed, could see the Council lose the legitimacy it has labored so long to establish. Issues such as the lack of democratic operation within the Council, as well as the lack of equal geographic representation, and the failure to reflect recent shifts in the international distribution of power stand to erode the foundation upon which the Council currently stands. To be sure, efforts at reform are in constant supply, and have occupied the minds of scholars and diplomats for the better part of the past thirty years. Often, these efforts have proven to be simplistic and particularly naïve of the political realities that must be taken into account if any reform is to be successfully implemented. Finding a way to garner the approval of the P5 has shown itself to be a key component for these reform efforts; yet the question of what incentive could impel those states, especially the global hegemon, to sign on continues to elude an adequate solution.

The unique reforms posited in section V by no means offer a comprehensive solution for the issue of Security Council legitimacy, nor do they stand a significant chance of being implemented in the absence of P5 approval. Rather, the reforms that have been suggested more readily serve the purpose of feeding the flames of thought for both current and future scholars attempting to reform a body that was inherently designed to resist change. Indeed, until a method can be devised whereby reform initiatives may circumvent an unwilling Council or the P5 are willing to surrender the power they have guarded for over sixty years, the international community will be forced to operate under the auspices of a Security Council whose legitimacy may, at times, be called into question.