

By Leila Ouardani

"UN Security Council Reform will not be taken up until the Council's membership is so at odds with the modern world that the point is reached where this dysfunction undermines the legitimacy of the Council's decisions."

- Peter Wilenski, Australia's Permanent Representative to the UN, 1991

Peter Wilenski's analysis of the future of UN Security Council reform was made at the time when it had only just begun fulfilling its role as envisaged by its founders. The Cold War had resulted in the virtual paralysis of the Council, with vetoes

being used frequently. Although appeals for reform can be traced back to the UN's inception in 1945, it was not until the early 1990s and in light of the Council's newly discovered activism that a Working Group was set up to review proposals for reform. By 2004 considerable momentum had gathered; two missions conducted an informal tabulation during a General Assembly debate identifying 150 of the then 191 UN member States to be in favour of reform. In spite of a global agreement on the need for a 'comprehensive reform of the Security Council in all its aspects', as stated in the UN Millennium Declaration of 2000, it has continually escaped solution due to disagreement as to the shape and extent of reform required. Indeed the Security Council is widely recognised to be the most contentious and divisive entity within the debate of UN reform; Madeline Albright noted that no other aspect of the UN is as explored and has led to as many studies being compiled while producing so few concrete results.

The most recent High Level Panel report of 2005, similarly to Wilenski's earlier diagnosis, asserted that a lack of 'legitimacy' was chiefly responsible for explaining the widespread call for reform. While the term 'legitimacy' is not easily nor often defined by those proposing reform, one scholar has referred to it as the call for 'widespread participation and voice'. Issues such as transparency, accountability and participation have been frequently proposed as requiring application to revising the composition, veto-rights, and every day working practices of the Security Council. Indeed it has become somewhat conventional wisdom to contend that the Security Council is in need of radical reform. However, while this article will take the position that the UNSC undeniably has its faults and a number of its aspects require reform, it aims to expose the incoherencies and potential problems within the proposed solutions and changes themselves and in reform in general. Moreover it will be asserted that in recent times what has largely undermined the Council's legitimacy is more its relations with the United States than its own structure and workings. It will therefore be proposed that most attention is needed in addressing this pressing issue.

The composition of the Council with its limited geographical balance combined with five exclusive permanent seats that possess veto powers (held by the US, Russia, China, UK and France) has led to frequent accusations by many Member States that it is unrepresentative and

requires restructuring. Since 1979 the issues of equitable representation and an increase in membership of the Security Council have been on the agenda of the General Assembly, but have met with little progress. Enshrined within Article 23 of the Charter is the statement that when considering non-permanent members due regard should be

'specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.'

Indeed it has been these two issues: contribution of resources to the UN and geographical representation; that have been subsequently held up as strong grounds for reform to the size and composition of the Council. Generally, across all regions, it appears that large or powerful states favour the inclusion of permanent members—mainly themselves— while their less powerful regional rivals promote the addition of more non-permanent seats. As a result, the debate over reform has led to the creation of three main blocs: the African Union, Uniting for Consensus, and the G4 countries.

Reformers assert that the Council should more accurately reflect the new demographic, political, and economic realities that have emerged over the last 60 years. The case for the great powers has been summarised by Daniel Drezner: '...global institutions cease to be appropriate when the allocation of decision-making authority within them no longer corresponds to the distribution of power...' Brazil, India, Japan and Germany (collectively referred to as G4) have advocated permanent seats within the Council, and at times even threatened to reduce their financial or military troop contributions to the UN if not rewarded with permanent member status. Whilst it is true that Germany and Japan are, for instance, major contributors to the UN budget, some observers have pointed to countries such as Zambia whose financial contributions are not comparable but do provide substantial non-pecuniary resources relative to their size—in 1999 Zambia provided more troops to UN disposal than US, Germany and Japan combined. Indeed in this respect, two of the G4 nations, Germany and Japan, currently have constitutional constraints concerning their involvement in military operations.

In recognition of such realities alongside a more general movement away from furthering the interests of industrialised nations, many reformers have looked to the developing world. Indeed two of the G4 countries, India and Brazil, recognising the shifting emphasis for reform have adapted their arguments by increasingly basing their claims on their status as leading countries of the 'global south'. The African Union have been at the forefront of this call to end the domination of the northern industrialised countries within the Council and have effectively highlighted that a large proportion of the Council's activity involves their continent of which they are not represented. Their proposal therefore is for a Security Council based on geographical representativeness, but they also claim a right to a permanent seat on the Council.

In all of these reform proposals, the degree of self-interest that comes with attempting to acquire a position on the Council cannot be overlooked; a permanent seat potentially provides a considerable influence over much of the UN system, which includes both the Bretton Woods institutions and the ICJ. Indeed as Edward C. Luck puts it '...ironically, the very pressure for expansion testifies to the equally prevalent impression that serving on the Council has political

and psychic benefits, as it is the one UN body that is believed to have real clout at times'. The claim for greater representativeness should also not be accepted without qualification. Being from a particular region does not and is unlikely to in itself induce a Security Council member to be representative and accountable to its geographical neighbours. It has been persuasively argued that, historically, the most acute and persistent rivalries and security challenges have occurred between neighbours. The debate concerning new permanent members has, for instance, resulted in: Pakistan and China opposing any reform that would give India a permanent seat; Argentina and Mexico openly voicing opposition to Brazil; Japan facing resistance from China and other of its East Asian neighbours; and a campaign among otherwise amicable neighbours in Italy's opposition to Germany. Even in Africa where a regional ruling is advanced there exists strong rivalry as to who will qualify as the leading nations. It is therefore likely that a larger albeit more geographically representative Security Council will find itself victim to similar accusations as the current one receives.

However it is wholly unimaginable that a body of 192 sovereign member States would address the issue of 'representation' without constructing a regional-based solution. Claims of regional inequity are so strongly internalized and heartfelt that it cannot and will not be cast aside. As Steven Dimoff has rightly asserted, expanding the Security Council to promote regional inclusiveness alone would denote a sense of legitimacy that is currently missing.

Allied to the issue of representativeness within the Council, are claims by reformers (that often exclude concrete examples) that through increasing the representativeness of permanent membership, the scope and impetus of Security Council activity would be broadened. This does not necessarily follow since the chances of a member objecting to intervention are likely to be increased. This is especially the case with intervention in egregious humanitarian mistreatment. For instance, two strong contenders for permanent seats, Brazil and India, have both openly opposed a number of humanitarian interventions that were subsequently supported. It is more likely therefore that had these states been permanent members the process of intervention would have been in the very least delayed. Moreover disagreements within the Council that arise as a result of crises such as the war in Iraq, Darfur and the threat of nuclear-armed Iran are not a result of the size of composition of the Council, but are due rather to the way in which one or a number of powerful members view the situation and the place of the Council, quite differently from other members. One must therefore be careful in accepting arguments for reform that refer to an increased likelihood of humanitarian intervention.

One of the most difficult aspects of changing the composition and veto-rights of the Security Council is the necessity of accompanying Charter reform. However reform can include modifying the day-to-day workings of the Security Council, an altogether less controversial matter and potentially an effective way to create greater transparency and accountability. There is considerable evidence that, P-5 members have sidelined non-permanent colleagues in the past, acting as a 'force answerable only to themselves'. As such, countless procedural reform proposals have been made. Yet, attempts by member States to pass non-binding resolutions for further reform have been overtly dismissed. In any case, it proved difficult to ignore what were essentially reasonable demands for improved practice, and the Council duly revived what had become the dormant 'Informal Working Group on Documentation and Other Procedural Questions'. Notably many of the accepted practices and measures aimed to enhance both the

efficiency and transparency of the Council's work and improve interaction and dialogue with non-Council members were already agreed to on an ad hoc basis. In addition to solidifying previous gains, the Working Group has provided the Council with a definite starting point for further reform. In this area at least we can note that reform is underway, albeit at a very slow pace.

It has become apparent that some permanent members –namely the United Kingdom and France – now show a willingness to work towards a more open and transparent Council. From a historical perspective of the Council's working practice it is clear that the greatest impact comes not from the substantive issues themselves but as a result of the individual determination of permanent representatives inclined to take up these issues. Both the UK and France are sensitively aware of the contentious nature of their permanent membership and are keen to promote a 'transparent' and 'accessible' Council. It is in this context that we should understand both the UK's and France's backing of several transparency-related reforms. For instance, the UK was instrumental in promoting presidency briefings and France in developing a number of significant methods for the Working Group on Children and Armed Conflict.

What primarily places reform of the Council's working practices at a high priority, is that it has the potential to affect all members of the United Nations, and especially those that do not have a realistic prospect of receiving a permanent seat. Easier access to the Security Council and the ability to address the Council in times of urgency and on specific issues of concern should be continued and further improved for this very reason. Yet while real improvements have been made such as the increase in the number of public meetings and invitations to troop-contributing countries (TCC) to understand how the Council reaches its decisions- a clear problem remains in that Council members are against any overt interference into how they conduct 'their business'. Indeed in some ways these measures can lead to a reduction in the involvement of decision-making. There is some evidence that transparency-initiated measures have led to an increasing number of decisions being taken in secrecy. For instance, as more public discussions are conducted within the large Security Council chambers, an increasing number of informal negotiations have been moved to an adjacent closed room. Such an example illustrates the need to consistently review reform that is undertaken, and in this case demonstrates the ongoing resistance within the Council to adopt real change.

However there is something to say for the argument that irrespective of changes to the Council's composition, veto-rights and working practices it is the relations between the Council and the United States that most requires 'reform'. Edward C. Luck argues persuasively that the UNSC's main challenge is its uneasy relationship with Washington, DC and American power. Indeed in recent years debate concerning Security Council reform has shifted from adequate representation to whether the Council can constrain U.S power. The US's unparalleled military might and proven political will to bypass the Council when deemed necessary impacts upon the functioning, and ultimately the legitimacy, of the Council.

However with the recent geopolitical power struggles that have been played out in full public view, the US's increasingly problematic manoeuvrability within the Middle East and it's the global financial crisis— it may very well be the time for more conducive Security Council relations. Interestingly, there is a growing albeit still a minority of political thinkers in the US that

advocate that the country has not only the least to lose from reform (as compared to other permanent members) of the Security Council's size and composition but also that it should play an active part in carrying it out. In any case, the issue of attempting to balance multilateral expectations in what has, for nearly the last two decades, been considered a uni-polar US military world is an issue that has not (but must be) adequately addressed by reformers.

Generally analysts remain sceptical as to the future success of many of the proposals for Security reform in the near to medium-future. The reality of the situation must be plainly put: any amendment to the UN Charter requires a vote of two-thirds of the UN member states, which includes all permanent members of the Security Council. As we have considered already the divisions in proposals run deep and there is currently no sign of a single state that can launch an initiative that would carry an overarching consensus. Kofi Annan's reference to reform being a 'process, not an event' in fact provides an indication to how reformers of the UN Security Council should proceed. It appears that what changes have come about have been initiated through small steps. For instance, in terms of changing the size of the Council it would be wiser to focus on eliminating the clause in Article 23 of the Charter which limits an elected term for a non-permanent member to two years—this would create a firmer foundation for greater change in the future. Indeed in many ways reform is an issue of coordination. If the member States were able to agree on a single proposal, the veto-powers of the Security Council would find it difficult to oppose. And yet, after nearly two decades of international attention no single proposal has succeeded in attracting widespread support, even the High-Level Panel report found it necessary to put forward two potential Models. While the need for reform is real, the proposals themselves need, in some cases, considerable re-thinking especially in terms of the subsequent effectiveness of the Council.

If we return to Wilenski's 1991 forecast which was cited at the beginning this article—while it is clear that the Council's legitimacy has and continues to be called into question and reform is needed— Reform and those that promote it today prove to be as deadlocked as the Council itself had been during its Cold War days. In reality, there is as marked an absence of legitimacy outside the council as there is within.