

Pros and Cons of Security Council Reform

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IMPORTANT: This article has been edited. I removed the non-essential paragraphs.

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Non-Permanent Only

In the last debate on Security Council reform of the 63rd session of the GA, Germany, with a melodic metaphor, said that expanding the Council with only non-permanent members would merely add more voices to the "choir" rather than change the "song" of the Council. It is argued that by adding only non-permanent members, the basic power structure will prevail and no substantial change will have been obtained.

But those who oppose expansion in the permanent category argue that only increased non-permanent membership will lead to more efficiency in the Council. One of the things the Council has traditionally been criticized for is its stalling tactics and failure to provide timely action when needed. Critics ask why the Council didn't take action in Rwanda in 1994 and why more wasn't done to stop the appalling situation in Darfur, and those who favor expansion in the non-permanent category ask rhetorically how endowing more member states with the right to veto would help address the lack of meaningful action in the face of atrocities and other urgent crises.

As pointed out by an expert and former participant in the reform process interviewed by the Center, the discussion about categories of membership really revolves around the veto more than anything else. The bigger point, in this expert's opinion, is that there are some countries, which it would be too costly to coerce into complying with the voice of the majority. He bases his analysis on a cost-benefit basis: what would be gained or lost from granting country X a permanent seat? If, for example, the GA magically succeeded in abolishing the veto altogether it is likely that the P5 would take their business elsewhere. The UN would then, in this expert's opinion, end up with a net loss. He lists the possession of nuclear weapons as another factor that should be taken into account when doing the cost-benefit analysis, adding that the moral principles one would like to apply when discussing reform may at times clash with what is most realistic and effective.

An additional question one may want to ask regarding the composition and structure of a reformed Council is to what extent the agreed-upon solution will be flexible and capable of adapting to future geo-political changes. Could it be imagined, for example, that it might be desirable to remove countries from the Council rather than adding more? The intermediate model envisions a review period that could result in not granting re-election to some candidates, which some see as a much-needed option but no one has proposed the idea that all permanent members should also be subject to review or a change in their status based on specific

criteria. This, of course, would go against the very notion of permanency and would most likely be entirely unfeasible from a political perspective in view of the Charter amendment that would need to be ratified to accomplish it, but these ideas might nonetheless be worth contemplating for the sake of exploring future scenarios.

Abolishing the Veto for Genocide and Other Crimes Against Humanity

The S5⁴ [7] has urged the P5 to agree to refrain from using the veto in cases of genocide, crimes against humanity, and serious violations of international humanitarian law. The benefits of such a limitation is fairly obvious. The downsides are less clear. The P5 countries point out that the rules of procedure of the Council are to be decided on by the Council as provided by and in accordance with Article 30 of the Charter. They argue that compromising on that principle could lead to a corrosion of the relationship between the GA and the Council. On a broader scale, there is a fear that allowing anyone to limit the privileges of the P5 could undermine the whole functioning of the Council. For those who want to see the veto modified or eliminated altogether, none of these concerns are sufficient to justify not limiting the veto, which in too many instances, they believe, has blocked the ability of the Council to take effective, timely action to safeguard peace and prevent the massive loss of life.

An additional complication, which arises when considering abolishing the veto under the aforementioned circumstances, is the issue of whether to include designating a crisis "genocide," "crime against humanity," or a "serious violation of international humanitarian law." This was made abundantly clear in the Council debate surrounding whether or not the atrocities carried out in Darfur in the last decade fell within the legal definition of genocide included in the Genocide Convention. Some speculated that the recently published Goldstone report further strengthened US opposition to giving up the right to use the veto in cases of certain specified crimes, given the disagreement about whether Israel's conduct in Gaza constituted war crimes or not⁵ [7]. Both Russia and China have their own internal conflicts to deal with and have little appetite for discussing whether actions they have taken in dealing with these could be designated a crime for which the use of the power of the veto could no longer be invoked if the proposed reform were to be adopted.

Completely Abolishing the Veto

A former Pakistani Ambassador to the UN, Ahmad Kamal, states that in a democracy no one can be more equal than others and he terms the veto anachronistic and undemocratic, a sentiment echoed by many African countries. Abolishing the veto altogether seems to appeal to quite a few member states, but many of these same states also maintain that if they themselves end up on the Council it would only be fair that they be endowed with the right of veto.

Among those who oppose abolishing the veto-and the P5 are the most prominent in that group-references are made to the League of Nations, which many believe ended up in demise because major powers such as the US refused to join. This, they argue, is exactly what would happen if the veto was abolished: the major powers of the world would either leave the UN or disregard or refuse to pay for UN actions they oppose. Whether the major powers would actually risk losing the legitimacy provided by the Charter is an open question, but the scenario presents the flip side of the cost-benefit analysis discussed above in the section on categories of membership. In reality the debate would seem to be moot as long as any P5 member

refuses to agree to abolish or modify the veto: Article 108 of the Charter provides that two-thirds of the membership of the UN including all of the permanent members must ratify amendments to the Charter. Only then does the amendment come into force for all UN members.

While the veto could appear to be one of those irreconcilable issues that divide people as abortion, health care and tax questions do in local American politics, some diplomats close to the process say that it will not be a major determining factor when push comes to shove. As discussed recently [8] by the Center, there are rumors that the African group may be willing to soften their insistence on the Ezulwini consensus [9], which includes a demand for at least two permanent and two non-permanent seats in the Council for Africa, and supposedly this would include their stance regarding the veto.

As described in a recent article [10] by the Center, there is, at least theoretically, a large majority of member states in favor of revamping the working methods of the Council as well as its relationship with the GA. Two issues, however, seem to inhibit progress: those who can directly decide on the matters, the P5, are not eager to change things, and those who could put pressure on the P5, the remaining 187 member states, cannot thus far agree on whether and how to do so.

To date, the Center has found unanimous agreement among non-P5 member states that the Council should hold more open meetings. Even P5 representatives to whom the Center has spoken agree that more open meetings could increase transparency at the UN as a whole. And indeed, the number of open meetings has gone up over the last several years. There have reportedly also been more meetings between the President of the GA and the Council in recent years. Nonetheless, many also note that there is a limit to the number of open meetings the Council can have. Representatives from these countries maintain that certain discussions need to stay within the exclusive forum of the Council for it to maintain its efficacy.

Furthermore, as recently reported by the Center, some believe the increased number of open meetings has resulted in more decisions being reached outside the formal forum of the Council's chamber before they are brought to the full Council for a vote. Among other things, the informal meetings, oftentimes held by the P5-at times even by a smaller segment of the permanent members-are reportedly used to negotiate ways around usage of the veto. By settling contentious issues in an informal environment, the veto-wielding powers avoid having a veto cast when they vote on the action to be taken in the chamber. This process is seen by some as a positive way of reaching compromises and thus avoiding vetoes being cast, while others see it as an undemocratic rigging process that may block effective Council action while protecting the reputation of the veto threatening power or powers, but harming the image of the Council itself for its inability to contain a crisis situation. It is easy to imagine that extension of the veto to a handful of additional member states would make agreement in some crisis situations harder to reach, while at the same time lending greater weight to and support for those agreements that are reached. These contending views serve to underline the power associated with wielding the veto and why some member states believe that to achieve equitable representation the veto needs to be extended to more countries or eliminated altogether.

Asked about the advantages and disadvantages of reforming the working methods of the Council, experts were hard pressed to list aspects that would be disadvantageous to the world as a whole rather than merely to the P5. It is clear that the P5 is very concerned with any non-Council member trying to meddle with the procedures of the Council. The P5 has continuously made it clear, as did a P5 diplomat in an interview for this article, that the Council and the GA are two equal and independent bodies and must behave as such.

Conclusion

As we have seen, virtually every aspect of Security Council reform can be and has been argued in at least two ways: one that purports to show why it is an indispensable part of a just solution, and the other that claims it would only weaken the ability of the Security Council to carry out its duties without solving the problems of equitable representation. This article was written to shed some light on the different aspects involved in the ongoing debates that are taking place on Security Council Reform issues at the UN. It highlights and explains the areas of contention that member states have encountered to date that have stymied progress on implementing reforms that were agreed to in principle, but not fleshed out in detail, by the world's leaders and the General Assembly during the 2005 World Summit. Which proposals, if any, will be included as part of a final agreement-or even whether there will be sufficient compromise on the part of some key countries or groups to allow any agreement to be reached on Security Council reform-is impossible to predict at this point. As noted earlier, this may be the outcome that some powerful countries actually prefer. But whether such an outcome can fulfill the long-term interests of the world, or even of the UN itself, is a question that NGOs and diplomats alike might well ask themselves considering the need for change that the world's leaders identified in 2005.
