

# REFORM OF THE UNITED NATIONS SECURITY COUNCIL

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## INTRODUCTION

The UN Security Council is the crucial institution in the United Nations, because it has responsibility to provide international security and peace. Moreover, the Security Council has a power to enforce armed forces in order to prevent international conflicts. Recently, the Security Council has faced serious problems and it has been forced to make reform in the structure of Security Council. This paper analyzes the reform proposals for UN Security Council.

The first part of this paper gives a background of the United Nations Security Council. In the part II, this paper shows the UN Security Council's functions and powers in the international arena. In the third part, this paper examines the efficiency of Security Council by giving recent examples. In part IV, it is explained why there must be a reform in the Security Council. In the fifth section, the Security Council's reform plans are discussed. Section six propounds some perspectives of current and potential permanent members about the Security Council reforms. Finally, section seven concludes this paper by analyzing the current and proposed situation of Security Council.

## I- THE BACKGROUND & STRUCTURE OF UN SECURITY COUNCIL

UN Security Council was established in 1946. During the Cold War, the world was separated into two polar opposites: The United States and Soviet Union. It was inevitable that many of the permanent Security Council member states were polarized. This situation disrupted the functions of UN Security Council. But, the intervention of UN members to South Korea in 1950 is an important fact to understand UN Security Council's power and in this case the Soviet Union was not presented at the vote.<sup>1</sup>

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\* Erciyes Üniversitesi Hukuk Fakültesi.

<sup>1</sup> Teng, M., Lusignan, B., (2003), *United Nations Security Council Reform*, EDGE Autumn

The Security Council consists of 15 UN member states and five of them were designated as permanent members in the Charter. The Permanent members are the United States, United Kingdom, France, Russia, and China. They have veto power which is the most important discussion for reforms in the UN Security Council. Ten non-permanent members are elected with two year terms that cannot be renewed. Non permanent members are regionally arranged.<sup>2</sup>

## II- THE STATUS OF UN SECURITY COUNCIL IN THE INTERNATIONAL POLITIC ARENA

The United Nations Security Council has the primary responsibility under the UN Charter in order to maintain international peace and security.<sup>3</sup> “The United Nations Security Council (UNSC) is at the heart of the world’s collective security system.”<sup>4</sup> The Security Council is one of the six main bodies of the United Nations. “It is organized to be able to function continuously, and a representative of each member states must be present at United Nations Headquarters at all times.”<sup>5</sup> All member states have to agree with UN Security Council decisions. Therefore, it takes crucial place in the world stage.

The Security Council has extreme sanction power over the member states of UN. They have to abide by the Security Council decisions. In this context, the main purpose or function of the Security Council is a desired function (by all member states) which is to maintain international peace and security. The Council investigates every situation which might cause an

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<sup>2</sup> *Id.*

<sup>3</sup> UN Security Council, Background, Retrieved April 1, 2011, from [http://www.un.org/Docs/sc/unsc\\_background.html](http://www.un.org/Docs/sc/unsc_background.html)

<sup>4</sup> Morris, J., Wheeler, N. J., (2007), “*The Security Council’s Crisis of Legitimacy and The Use of Force*”, Palgrave Macmillan, International Politics 44, Retrieved April3,2011,from<http://www.palgravejournals.com/ip/journal/v44/n2/full/8800185a.html>

<sup>5</sup> Montessori Model United Nations Secretariat, (2010), *Security Council Background Guide*, Retrieved April 1, 2011, from [http://www.montessori-mun.org/files/FileUpload/files/Background%20Guides%202010/MMUN\\_2010\\_SC\\_Background\\_Guide.pdf](http://www.montessori-mun.org/files/FileUpload/files/Background%20Guides%202010/MMUN_2010_SC_Background_Guide.pdf)

international conflict. If the international conflict occurs, the Security Council primarily suggests reaching peaceful settlement between countries.<sup>6</sup>

Furthermore, the Security Council produces strategies to establish a regulated armaments system. The Security Council also decides whether a threat exists to the peace, if so the Council suggests what precautions should be taken. UN Security Council generally does not apply the force to prevent aggression, it applies non-force methods such as economic sanctions and the Council calls on the members to apply the non-force methods over a country which has an aggressive situation. Also it takes military precautions in order to prevent aggressions.<sup>7</sup>

Moreover, the Security Council can recommend a new member for the council to the United Nations member states and institutions. The Council also performs the United Nations' trusteeship roles in strategic areas.<sup>8</sup>

The United Nations Security Council's decisions are binding not only for UN member-states, but also for all states under the Chapter V Article 24 of UN Charter: That provision states, "In order to ensure prompt and effective action by the United Nations, its members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf."<sup>9</sup> Namely, The Security Council's decisions are universally binding, because of this reason it is very important to be a member of the Council for all countries.

Any movement or militate is illegal if UN Security Council does not approve and decide it. In other words', international movements become legitimate thanks to UN Security Council decisions.

#### *THE RECENT EXAMPLE OF LIBYA*

In the last decade, decisions of the Security Council have taken an important place in the international system. The recent case is the military intervention in Libya which is authorized by UN Security Council. NATO hadn't intervened in Libya until the Security Council made a decision to

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<sup>6</sup> UN Security Council, Functions and Powers, Retrieved April 2, 2011, from [http://www.un.org/Docs/sc/unsc\\_functions.html](http://www.un.org/Docs/sc/unsc_functions.html)

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Charter of The United Nations, Chapter V: The Security Council, Article 24 §1, Retrieved April 2, 2011, from <http://www.un.org/en/documents/charter/chapter5.shtml>

intervene. The Security Council allowed the military intervention in Libya to prevent Gaddafi riblence.<sup>10</sup>

The UN Security Council resolution authorizing military force in Libya passed. Ten countries in the UN voted in favor of this intervention, however there were five abstentions which were China, Russia, Germany, India, and Brazil.<sup>11</sup> Therefore Resolution 1973 was adopted for Libya's plight. The Resolution demands "...an immediate ceasefire in Libya, including an end to the current attacks against civilians, which it said might constitute crimes against humanity."<sup>12</sup>

This Resolution 'was' imposed 'on a' no-fly-zone over Libya to apply force to block the Gaddafi's forces from attacking civilians.<sup>13</sup> "The Council authorized Member States, acting nationally or through regional organizations or arrangements, to take all necessary measures to protect civilians under threat of attack in the country, including Benghazi, while excluding a foreign occupation force of any form on any part of Libyan territory - requesting them to immediately inform the Secretary-General of such measures."<sup>14</sup>

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<sup>10</sup> Cagiran, M. E., (2011), "Güvenlik Konseyi'nin Libya'ya Askeri Müdahale Kararı" (Military Intervention Which Is Authorized by UN Security Council in Libya), Center for Middle Eastern Strategic Studies, ORSAM, Retrieved April 2, 2011, from <http://www.orsam.org.tr/tr/yazigoster.aspx?ID=1597>

<sup>11</sup> Lynch, C., (2011), *Security Council Passes Resolution Authorizing Military Intervention in Libya*, Foreign Policy, Retrieved April 2, 2011, from [http://turtlebay.foreignpolicy.com/posts/2011/03/17/security\\_council\\_to\\_pass\\_resolution\\_authorizing\\_military\\_intervention\\_in\\_libya](http://turtlebay.foreignpolicy.com/posts/2011/03/17/security_council_to_pass_resolution_authorizing_military_intervention_in_libya)

<sup>12</sup> *UN Security Council, 6498<sup>th</sup> Meeting (2011), "Security Council Approves 'No-Fly Zone' Over Libya, Authorizing 'All Necessary Measures' To Protect Civilians, By Vote Of 10 In Favour With 5 Abstentions", Department of Public Information, New York, Retrieved April 2, 2011, from <http://www.un.org/News/Press/docs/2011/sc10200.doc.htm>*

<sup>13</sup> Lynch, C., (2011), *Security Council Passes Resolution Authorizing Military Intervention in Libya*, Foreign Policy, Retrieved April 2, 2011, from [http://turtlebay.foreignpolicy.com/posts/2011/03/17/security\\_council\\_to\\_pass\\_resolution\\_authorizing\\_military\\_intervention\\_in\\_libya](http://turtlebay.foreignpolicy.com/posts/2011/03/17/security_council_to_pass_resolution_authorizing_military_intervention_in_libya)

<sup>14</sup> *Id.* UN Security Council, 6498<sup>th</sup> Meeting (2011)

### III- QUESTIONING THE EFFICIENCY OF UN SECURITY COUNCIL

When it comes to the maintenance of international peace and security generally, and peace enforcement in particular, the United Nations has unrivalled legitimacy.<sup>15</sup> During the recent years, the UN Security Council's functions, duties, and efficiency have been questioned. The UN Security Council is the only organ which decides to apply force for the sake of protecting security and peace in the world. However, some military interventions such as Kosovo intervention by NATO, have caused some doubts regarding legitimacy of the Security Council.<sup>16</sup>

This section deals with two military interventions which caused a legitimacy crisis in the UN Security Council: Iraq and Kosovo Interventions.

#### A. NATO INTERVENTION IN KOSOVO

In 1999, the Kosovo War caused an important legal discussion regarding the UN Security Council, because NATO intervention in Kosovo happened without authorization of the UN Security Council. Under the Charter of the UN Article 52<sup>17</sup>, NATO as a regional arrangement or agency may intervene for the sake of protecting international peace and security, however under the Article 53 of the UN Charter<sup>18</sup>, regional arrangements or agencies cannot

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<sup>15</sup> Evans, G., (2009), "*Comments by Gareth Evans to the Stiftung Wissenschaft und Politik (SWP) Seminar on the Security Council and the G8, Berlin*", Retrieved April 3, 2011, from <http://www.gevans.org/speeches/speech316.html>

<sup>16</sup> Akgun, B., (2009), "*Türkiye'nin Birleşmiş Milletler Güvenlik Konseyi Üyeliği: Amac, Surec ve Beklentiler*", (The UN Security Council Membership of Turkey: The Aim, Process, and Expectations), Selçuk University The Center of Strategic Researches, Research Paper Series No: 1

<sup>17</sup> "Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations."

<sup>18</sup> "...no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state..."

take any enforcement action unless the UN Security Council authorizes this decision.<sup>19</sup>

While some legal experts classify that NATO intervention in Kosovo is illegal, because the Security Council did not authorize this intervention, some legal experts highlight international humanitarian law or law of the collective emergency to defend NATO intervention in Kosovo.<sup>20</sup> The legal experts, who defend the NATO's intervention, also "take the authorization of the international security presence in Kosovo to exercise 'all necessary means' to fulfill its responsibilities as post facto approval of the military campaign."<sup>21</sup> Kofi Annan, who was the UN Secretary General, emphasized that the NATO's intervention has legitimacy and the new norm of intervention emerged. In this sense, some experts underline that if the Security Council is insufficient taking measures, a coalition of states should entirely justify the new norm of intervention where large scale atrocities happen.<sup>22</sup>

Ultimately, this intervention has caused a legitimacy crisis in the UN Security Council because while the UN Charter legalizes the NATO intervention, the Charter states that no intervention shall be taken without the Security Council authorization.

#### *B. IRAQ INTERVENTION*

In 2003, the United States intervention in Iraq also created a legitimacy crisis in the Security Council because the UN Security Council did not authorize this military intervention. Kofi Annan declared that the US-led invasion of Iraq was illegal and he emphasized that this war was not ratified by UN Security Council.<sup>23</sup>

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<sup>19</sup> Legault, A., (2000), "NATO Intervention in Kosovo: The Legal Context", Canadian Military Journal, Spring 2000, Retrieved April 3, 2011, from <http://www.journal.dnd.ca/vol1/no1/doc/63-66-eng.pdf>

<sup>20</sup> *Id.*

<sup>21</sup> Krieger, H., (2001), *The Kosovo Conflict and International Law: An Analytical Documentation 1974-1999*, Cambridge University Press, Cambridge, UK, taken from its Introduction.

<sup>22</sup> Legault, *Id.*

<sup>23</sup> Macaskill, E., Borger, J., (2004), "Iraq War Was Illegal and Breached", *Guardian*, cited by Global Policy Form, Retrieved April 3, 2011, from <http://www.globalpolicy.org/component/content/article/167/35794.html>

There are three legal defensive claims in favor of US-led invasion in Iraq. First, this intervention was the legitimate counter to the significant threat of Weapons of Mass Destruction which were seized by terrorist organizations. Second, possession of WMD by Iraq could constitute a potential threat in the world. Last, this intervention was necessary, because international humanitarian law violated during the Saddam term in Iraq and Iraq needed to humanitarian intervention.<sup>24</sup>

In the Bangkok meeting, some authors suggested the Iraq invasion was an archetypal case of humanitarian doctrine providing a fig leaf for aggression; others suggested that the invasion was properly justified on humanitarian grounds; and others still suggest that if it was not so justified, it should have been – an example of legitimacy outpacing legality.<sup>25</sup>

While U.S. and UK asserted that this invasion relied on the Security Council Resolution 667<sup>26</sup> and 678<sup>27</sup> on Iraq, the Security Council did not

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<sup>24</sup> Cockayne, J., Samii, C., (2004), *The Iraq Crisis and World Order: Structural and Normative Challenges*, International Peace Academy, United Nations University, and The King Prajadhipok's Institute, Retrieved April 3, 2011, from <http://unu.edu/p&g/iraqcrisis2/IraqCrisisREPORT.pdf>

<sup>25</sup> Wheeler, N., *The Norm of Humanitarian Intervention after Iraq*, paper presented at IPA-UNU-KPI Bangkok workshop, cited by Cockayne, J. *Id.*

<sup>26</sup> "Acting under Chapter VII of the Charter of the United Nations, 1. Strongly condemns aggressive acts perpetrated by Iraq against diplomatic premises and personnel in Kuwait, including the abduction of foreign nationals who were present in those premises; 2. Demands the immediate release of those foreign nationals as well as all nationals mentioned in resolution 664 (1990); 3. Further demands that Iraq immediately and fully comply with its international obligations under resolutions 660 (1990), 662 (1990) and 664 (1990) of the Security Council, the Vienna Conventions on diplomatic and consular relations and international law. 4. Further demands that Iraq immediately protect the safety and well-being of diplomatic and consular personnel and premises in Kuwait and in Iraq and take no action to hinder the diplomatic and consular missions in the performance of their functions, including access to their nationals and the protection of their person and interests; 5. Reminds all States that they are obliged to observe strictly resolutions 661 (1990), 662 (1990), 664 (1990), 665 (1990) and 666 (1990); 6. Decides to consult urgently to take further concrete measures as soon as possible, under Chapter VII of the Charter, in response to Iraq's continued violation of the Charter, of resolutions of the Council and of international law."

authorize this military intervention. This situation has created a legitimate problem in UN Security Council and also Security Council was deactivated in this operation.

#### IV- WHY THE SECURITY COUNCIL SHOULD REFORM?

There are several reasons that may force the UN Security Council to reform on its system. While international relations change and transform to more complex system, the Security Council continuously needs some reforms. In this section, five major reasons are demonstrated for reform in the UN Security Council.

First, the number of UN members has increased since it was established.<sup>28</sup> “In 1945, representatives of 50 countries met in San Francisco at the United Nations Conference on International Organization to draw up the United Nations Charter.”<sup>29</sup> International organizations have changed and also UN has many member states not only from Western Europe and Latin America, but also from Asia and Africa.<sup>30</sup> The non- permanent members of Security Council are regionally arranged. Increasing number of UN member states incorporate’s new regions to the United Nations. Now, the UN has 192 member states, it means almost quadruple of the total member number in 1945.

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<sup>27</sup> “Acting under Chapter VII of the Charter, 1. Demands that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so; 2. Authorizes Member States co-operating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the above-mentioned resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area; 3. Requests all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 of the present resolution; 4. Requests the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to paragraphs 2 and 3 of the present resolution; 5. Decides to remain seized of the matter.”

<sup>28</sup> Ronzitti, N., (2010), *The Reform of The UN Security Council*, Istituto Affari Internazionali, Documenti IAI 10, p. 6, Retrieved April 3, 2011, from <http://www.iai.it/pdf/DocIAI/iai1013.pdf>

<sup>29</sup> History of The United Nations, Retrieved April 3, 2011, from <http://www.un.org/aboutun/unhistory/>

<sup>30</sup> Ronzitti, *Id.*



Second, after the end of Cold War, UN Security Council's role has become more important crucial significant.<sup>31</sup> "The Council initially viewed its role as preventing a third world war. As the Cold War came to define global politics, the Council moved to tackle prevention of regional conflicts (often between client states or proxies of the superpowers) from spilling into a global conflagration. In this, the Council made a helpful contribution on several occasions."<sup>32</sup> The end of the Cold War has brought up more obligations for the UN Security Council. The Council has become effective and problem solver in the international arena. For example, the Security Council had taken over the administration of Kosovo before gaining independence.<sup>33</sup> Also the Council takes a crucial role for peacekeeping cases. Therefore, increasing responsibility of UN Security Council compels it to reform in the Council's system and structure.

Third, "the Security Council has entered its legislative phase."<sup>34</sup> The UN Charter Article 24 endows the Security Council to take primary responsibility for the maintenance international peace and security<sup>35</sup>, and also this Article provides that the UN Security Council can act on behalf of all UN member states.<sup>36</sup> Also UN Charter Article 25 provides a power to take decisions on measures to be carried out by member states. Compulsory sanctions take place in this framework.<sup>37</sup> The World legislature role of the Security Council has started with adoption of Resolution 1373<sup>38</sup>, (this resolution was adopted after the September 11<sup>th</sup> event) and in this resolution, Security Council unanimously adopts wide-ranging anti-terrorism resolution; calls for suppressing financing, improving international cooperation.<sup>39</sup> The most recent example is Resolution 1973, in this resolution, Security Council

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<sup>31</sup> *Id.*

<sup>32</sup> Malone, D. M., (2008), *The UN Security Council: From The Cold War to The 21<sup>st</sup> Century*, International Development Research Center, p. 4

<sup>33</sup> Ronzitti, *Id.*

<sup>34</sup> Talmon, S., (2005), "The Security Council As World Legislature", *The American Journal of International Law*, Vol. 99:175, p. 175

<sup>35</sup> Rosand, E., (2004), "The Security Council As Global Legislator: Ultra Vires or Ultra Innovative", *Fordham International Law Journal*, Vol. 28 Issue: 3, p. 552

<sup>36</sup> United Nations Charter, Article 24(1)

<sup>37</sup> Ronzitti, *Id.*

<sup>38</sup> Talmon, *Id.*

<sup>39</sup> See <http://www.un.org/News/Press/docs/2001/sc7158.doc.htm>

approves ‘no-fly zone’ over Libya, authorizing ‘all necessary measures’ to protect civilians.<sup>40</sup> Furthermore, the UN Security Council created two ad hoc criminal tribunals which are the International Criminal Tribunal for the Former Yugoslavia (ICTY – Resolution 827 in 1993) and the International Criminal Tribunal for Rwanda<sup>41</sup> (Resolution 955 in 1994). The enlargement and transformation of the Security Council’s power as a legislator require reforms in order to place this role in the system.

Fourth, new security threats occur in the world. “The international community is facing new and dangerous threats, stemming from international terrorism, WMD proliferation and failed States.”<sup>42</sup> Kofi Annan, highlighted these threats to foster reform in the UN system and he presented<sup>43</sup> two choices to show that reforms are vital for UN; he said in General Assembly “the UN must either change its understanding of preemption to meet new threats like nuclear terrorism, or clearly assert the continuing validity of the principles on use of force adopted in 1945.”<sup>44</sup> The UN Security Council is compelled to reform in order to respond the new and more dangerous global threats in the international arena.

The final reason, for reform in the Security Council, is the use of armed forces by states. Chapter VII Article 43 Paragraph 1<sup>45</sup> of the UN Charter allows the States the use of armed force, furthermore the principle of using armed force is enshrined in Chapter VII Article 51 of the UN Charter which states “Nothing in the present Charter shall impair the inherent right of individual or collective *self-defence* if an armed attack occurs against a Member of the United Nations, until the Security Council has taken

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<sup>40</sup> See <http://www.un.org/News/Press/docs/2011/sc10200.doc.htm>

<sup>41</sup> Ranzotti, *Id.* p. 7

<sup>42</sup> *Id.*

<sup>43</sup> Kofi Annan made this speech to the General Assembly on September 23, 2003

<sup>44</sup> Srulevitch, A., (2005), “*In Larger Freedom: Kofi Annan’s Reform Proposal*”, Committee on UN and Related Matters, Conference of Presidents of Major American Jewish Organizations, Retrieved April 4, 2011, from <http://www.conferenceofpresidents.org/media/user/images/unreform.pdf>

<sup>45</sup> “All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.”

measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of *self-defence* shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.”<sup>46</sup> The main purpose of Chapter VII is that in case of threatening peace in international arena, this Chapter gives the Security Council the power to authorize States to intervene by using armed forces.<sup>47</sup>

UN Security Council consists of fifteen members and five members of them are permanent members which are the United States, China, United Kingdom, Russia, and France.<sup>48</sup> “The non-permanent members of the Security Council shall be elected for a term of two years.”<sup>49</sup> According to the UN Charter Article 27(3)<sup>50</sup>, at least nine Security Council members<sup>51</sup> “including the concurring votes of the permanent members”<sup>52</sup> should vote to support the UN Security Council’s authorization for using of force.<sup>53</sup> “This requirement arms each Permanent member with a veto that allows it to single-handedly block the Security Council from *collectively authorizing* other states to use force.”<sup>54</sup>

Professor Allen S. Weiner emphasizes the difference between using of force under the collective security regime and having the self defense right in emergency situation, because the collective authorization essentially

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<sup>46</sup> UN Charter, Article 51

<sup>47</sup> Ranzotti, *Id.*

<sup>48</sup> UN Charter Article 23(1)

<sup>49</sup> UN Charter Article 23(2)

<sup>50</sup> “Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.”

<sup>51</sup> Benard, A., Leaf, P. J., (2010), “*Modern Threats and The United Nations Security Council: No Time for Complacency (A Response to Professor Allen Weiner)*”, Stanford Law Review, Vol. 62, Issue 5, California, p. 1399

<sup>52</sup> UN Charter Article 27(3)

<sup>53</sup> Benard, *Id.*

<sup>54</sup> Benard, *Id.*

is not unilateral right.<sup>55</sup> “In view of the capacity of any of the five Permanent Members of the Security Council to veto a proposed resolution authorizing the use of force, this means that collective security measures are available only when there is unanimity among the Permanent Members in favor of such measures.”<sup>56</sup> In this sense, the UN Charter Article 2 Paragraph 1 highlights by stating “The Organization is based on the principle of the sovereign equality of all its Members”<sup>57</sup>, however the veto right of permanent members creates a reservation in this article. Furthermore, since 1945, the UN member numbers have significantly increased and the size of Security Council were scaled up from 11 to 15 in 1965.<sup>58</sup> However, the UN has 192 members and 15 members for the Security Council remains incapable in terms of representation of regions.<sup>59</sup>

#### V- REFORM OF THE UN SECURITY COUNCIL

“While the Security Council is potentially the most powerful body within the U.N. system, its effectiveness is often undermined by the threat or use of the veto by the Permanent Members.”<sup>60</sup>

The Security Council is a predominant organ beyond any doubt in the United Nations. The UN Charter builds the powerful structure of Security Council by providing a power to take decision for using armed forces of the UN member states. The Security Council carries a responsibility to maintain and keep global peace and security. And in this sense all of the Security Council decisions bind all UN member states and also all non-member

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<sup>55</sup> Weiner, A. S., (2006), “*The Use of Force and Contemporary Security Threats: Old Medicine for New Ills*”, Stanford Law Review, Vol. 59, Issue 2, California, p. 425

<sup>56</sup> Weiner, *Id.*

<sup>57</sup> UN Charter, Article 2(1)

<sup>58</sup> Weiss, T. G., (2003), “*The Illusion of UN Security Council Reform*”, The Washington Quarterly, Autumn 2003, The Center for Strategic and International Studies and the Massachusetts Institute of Technology, p. 147

<sup>59</sup> Akgun, B., (2009), “*Türkiye'nin Birleşmiş Milletler Güvenlik Konseyi Üyeliği: Amac, Surec ve Beklentiler*”, (The UN Security Council Membership of Turkey: The Aim, Process, and Expectations), Selcuk University The Center of Strategic Researches, Research Paper Series No: 1, p. 4

<sup>60</sup> Scharf, M. P., (2007), *The Law of International Organizations: Problems and Materials*, Carolina Academic Press, Second Edition, Durham, North Carolina, p. 429

states. Therefore, its decisions become world-wide binding decision. It is very important to get a place in the Security Council for countries because of the Security Council's power.<sup>61</sup>

However, as previously stated there are reasons those force the UN Security Council to reform. International system and global world order have been dramatically changing since the end of Cold War. The UN Security Council has to adopt this new system as an only UN organ which maintains the global peace and security.

The UN and especially Security Council need to make reform which helps to the UN to adopt the new global order. In this context, the reform discussions have been come up about the *veto right* and the *Security Council members number* since 1960.<sup>62</sup>

The Security Council has been become "non-representative of the membership of the United Nations as a whole,"<sup>63</sup> and the United Nations member states, who do not exist in the Security Council, do not exactly obey the decisions of UN Security Council. Because of this reason, the United Nations Security Council takes into consideration some reform proposals.<sup>64</sup>

#### A. THE MOST IMPORTANT REFORM: "A MORE SECURE WORLD"

Kofi Annan, who was the Secretary General of the United Nations, suggested two models (*Model A & Model B*) for the Security Council reform<sup>65</sup>. "Model A and Model B do not use the present groupings, but divide the world by different categories: Africa, Asia Pacific, Europe, and the Americas."<sup>66</sup> The new recommended members who represent different regions would increase the UN Security Council's efficiency and functionality in the international system.

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<sup>61</sup> Akgun, *Id.*

<sup>62</sup> Akgun, *Id.*

<sup>63</sup> Scharf, *Id.*

<sup>64</sup> Scharf, *Id.*

<sup>65</sup> London, J., (2007), "*INCIPE-KAS International Conference: The Reform of the United Nations Security Council: What Role for the European Union?; United Nations and Security Council Reform: Proposals for the Future*", INCIPE, Retrieved April 9, 2011, from <http://www.incipe.org/UNSCreform.html>

<sup>66</sup> Zorn, M., (2007), "*The United Nations Security Council: Reforms Concerning Its Membership – An Overview*", Center for UN Reform Education, p. 2, Retrieved April 9, 2011, from [www.centerforunreform.org](http://www.centerforunreform.org)

According to *Model A*, six new permanent members seat in the Security Council without using the veto power.<sup>67</sup> These additional six new permanent members would be G4 nations (Brazil, Germany, India, and Japan), one representative state from Arab League, and one representative from African nation.<sup>68</sup> Moreover, the *Model A* provides three new non-permanent members for the Security Council.<sup>69</sup>

*Table I<sup>70</sup>: According to Model A, the Structure of UNSC and Its Member Number*

Regional area	No. of States	Permanent seats (continuing)	Proposed new permanent seats	Proposed two-year seats (non-renewable)	Total
Africa	53	0	2	4	6
Asia and Pacific	56	1	2	3	6
Europe	47	3	1	2	6
Americas	35	1	1	4	6
Totals model A	191	5	6	13	24

According to *Model B*, there is no new additional permanent member in the Security Council.<sup>71</sup> However, this Model “creates a new category of eight four-year renewable-term seats and one new two-year

<sup>67</sup> “A More Secure World: Our Shared Responsibility”, (2004) Report of the Secretary General’s High Level Panel on Threats, Challenges, and Change, United Nations, Graphic Design Unit, United Nations Department of Public Information, Retrieved April 9, 2011, from <http://www.un.org/secureworld/report2.pdf>

<sup>68</sup> London, *Id.*

<sup>69</sup> “A More Secure World: Our Shared Responsibility”, *Id.*

<sup>70</sup> Annan, K., “In Larger Freedom: Towards Development, Security, and Human Rights for All”, United Nations Report, Retrieved April 9, 2011, from <http://www.un.org/largerfreedom/chap5.htm>

<sup>71</sup> London, *Id.*

nonpermanent (and non-renewable) seat, divided among the major regional areas”<sup>72</sup> as demonstrated below.

*Table II<sup>73</sup>: According to Model B, the Structure of UNSC and Its Member Number*

Regional area	No. of States	Permanent seats (continuing)	Proposed four-year renewable seats	Proposed two-year seats (non-renewable)	Total
Africa	53	0	2	4	6
Asia and Pacific	56	1	2	3	6
Europe	47	3	2	1	6
Americas	35	1	2	3	6
Totals model B	191	5	8	11	24

These two models show that the new proposals are arranged in order to keep and maintain international peace and security. In this context, the recommended new members (permanent or non-permanent) are elected by taking into consideration the most appropriate regional representatives in the Security Council. The financial state of the proposed countries becomes the most important norm in these two models.<sup>74</sup>

Both models do not propose to abolish the status of permanent members; these models only propose to change the number of permanent member's'. While the Model A abolished the veto power of permanent members, the Model B does not require any change about veto right. The Model B determines two different statuses for non-permanent members. Therefore, the reaction of five permanent members would be reduced against the reform. Furthermore, this reform provides that the non-permanent

<sup>72</sup> “A More Secure World: Our Shared Responsibility”, *Id.*

<sup>73</sup> Annan, *Id.*

<sup>74</sup> “A More Secure World: Our Shared Responsibility”, *Id.*

members would have a quasi status of the Permanent Members in the Security Council.<sup>75</sup>

### B. THE VETO POWER

Each of the five permanent members has the right to veto any proposed resolution.<sup>76</sup> By reason of the veto right “the permanent members of the UN Security Council are guaranteed the ability to defeat any unwanted resolution.”<sup>77</sup> The limiting or abolishing permanent members’ veto right appears as very highly controversial issue<sup>78</sup>, because permanent members do not give up their veto power voluntarily.<sup>79</sup>

Actually, the permanent members’ veto power impeded the Security Council during the Cold War. For example, the Soviet Union (USSR) used its veto right 81 times to block new countries from becoming the U.N. member. The confliction between the West (led-by US) and East (led-by USSR) made the Security Council inactive in terms of making decision. Security Council decisions could never be exercised unless the most powerful countries (permanent members) approve this decision.<sup>80</sup>

The Permanent Members abused the veto right to protect their interests, because of this reason the Security Council could not do many things to maintain international security and peace.<sup>81</sup> Essentially, the solution of this veto problem is up to “whether the major powers can

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<sup>75</sup> Akgun, *Id.* p. 6

<sup>76</sup> Chan, S., (2003), “*Power, Satisfaction, and Popularity: A Passion Analysis of UN Security Council Vetoes*”, SAGE, Retrieved April 9, 2011, from <http://cac.sagepub.com/content/38/4/339>

<sup>77</sup> Chan, *Id.*

<sup>78</sup> Amb. Benze, G., (1999), “*Creating a New UN Security Council*”, Yale Daily News, cited by Scharf, M. P., (2007), *The Law of International Organizations: Problems and Materials*, p. 435

<sup>79</sup> Butler, R., (1999), “*United Nations: The Security Council Isn’t Performing*”, International Herald Tribune, cited by Scharf, *Id.* p. 432

<sup>80</sup> Benze, *Id.*

<sup>81</sup> Butler, *Id.*



voluntarily agree to a more constructive interpretation of the nature of the veto and of the uses to which it may legitimately be put.”<sup>82</sup> It is possible that when the United States voluntarily disciplines its veto power, in that case other permanent members could act as US.<sup>83</sup>

The permanent members naturally do not want to make concession by transferring the veto right onto the new permanent members. In this context, “the German proposal envisages to extend a limited right of veto to the new members until a yet to be formed working group will agree on a final modus. Such a ‘probation phase’ would help overcome the reservations of the permanent members.”<sup>84</sup>

Guido de Marco<sup>85</sup> suggested changing the veto power of permanent members. In this sense, he recommended that “a veto could only be tabled if at least two countries voted against a decision, a change which would limit the possibilities of blocking a vote.”<sup>86</sup>

Eduardo Vargas Toro proposed three ways limiting the veto power of Permanent Members by emphasizing that the averting of the veto is not an applicable solution. First, using limitations for veto “would be a renewed call to adopt the failed 1945 Australian amendment. This amendment would restrict the use of the veto to decisions taken under Chapter VII of the Charter, thereby permitting the *whole* Security Council to act with more authority and unity in the many cases falling under Chapters VI and VIII.”<sup>87</sup> The second recommendation is pretty similar with Guido de Marco’s suggestion which is that any decision could not be vetoed by only one Permanent Member. Toro highlights that in the case of having two Permanent Members’ veto would create more legitimacy situation than

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<sup>82</sup> Butler, *Id.*

<sup>83</sup> Butler, *Id.*

<sup>84</sup> Benze, *Id.*

<sup>85</sup> Guido de Marco was the sixth President of Malta.

<sup>86</sup> “*U.N. Reforms Could Limit Security Council’s Power of Veto*”, (1999), Agence France Presse, July 8, 1999, cited by Scharf, M. P., (2007), *The Law of International Organizations: Problems and Materials*, p. 437

<sup>87</sup> Toro, C. E. V., (2008), “*UN Security Council Reform: Unrealistic Proposals and Viable Reform Options*”, American Diplomacy Publishers, Chapel Hill, NC, Retrieved April 10, 2011, from [http://www.unc.edu/depts/diplomat/item/2008/1012/comm/vargas\\_un.html](http://www.unc.edu/depts/diplomat/item/2008/1012/comm/vargas_un.html)

having only one member's veto of permanent members.<sup>88</sup> Third way is that "countries invoking the veto should be required to state and defend their reasons."<sup>89</sup> Therefore, a divide between permanent members and non-permanent members would be slightly combined.<sup>90</sup>

Ultimately, the veto right should be abolished or restricted in order to make decision consistently and practice these decisions immediately.

#### **VI- THE PERSPECTIVE OF POTENTIAL AND CURRENT PERMANENT MEMBERS REGARDING SECURITY COUNCIL REFORM ISSUES**

The potential members (India, Japan, Brazil, and Germany) are very important part for the Security Council reform, because some reforms such as abolishing or sharing veto power and increasing member number of Security Council up to these potential members. If these members become the permanent members, the Security Council would affect more in the global world, because the new regional representatives will join the Security Council. Therefore, the Security Council would make decisions by taking into consideration all regions in the world.

##### *A. CURRENT PERMANENT MEMBERS*

*China:* It does not obviously support the radical changes in the Security Council, because it has already veto power. Ambassador Shen Goufang argued what reforms would be more effective for UN Security Council. Goufang prefers more transparent, democratic, and comprehensive working methods instead of big radical expansion in the UN Security Council.<sup>91</sup> Goufang also emphasized that "instead of losing veto power, Permanent Members of the Security Council should exercise caution when thinking of using the veto."<sup>92</sup>

*France:* It would not voluntarily give up its veto right. However, it is ambiguous whether France wants to give a veto power to the new permanent

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<sup>88</sup> Toro, *Id.*

<sup>89</sup> Rottschedt, I., (2004), "German Hopes for UN Security Council Seat Dampened", Deutsche Welle, Retrieved April 10, 2011, from <http://www.dw-world.de/dw/article/0,,1302199,00.html>.

<sup>90</sup> Toro, *Id.*

<sup>91</sup> Teng, M., Lusignan, B., (2003), *United Nations Security Council Reform*, EDGE Autumn, pp. 13 - 14

<sup>92</sup> Statement on the Veto by Ambassador Shen Guofang in Apr 23, 1998 to the Working Group on Reform, cited by Teng, *Id.* p. 14

members, because the old President of France Jacques Chirac supported the expansion of Security Council to form more international legitimacy.<sup>93</sup>

*United Kingdom:* Robin Cook, who was the Secretary of State for Foreign and Commonwealth Affairs, supported expansion in the Security Council by stating “the Security Council must move on if it is not to lose its legitimacy. Japan and Germany should be included in an expanded permanent membership, and there should be a new balance between developed and developing countries in a modernized Security Council. We are all agreed on the need for change; we have been discussing it for four years. It is time that we agreed that a proposal for change which has the backing of the vast majority of Members is better than a status quo which has the backing of none.”<sup>94</sup>

*USA:* The US supports the limited expansion for both permanent and non-permanent members. The US also says that the new permanent members should have a specific name. It holds no brief for giving a veto power for the new permanent members. According to the USA, none but permanent members (current) can have the veto right in the Security Council.<sup>95</sup>

*Russia:* Russia emphasized that “so far none of the existing models of reforming the Council enjoys prevailing support in the UN”<sup>96</sup>, so this statement challenges with the idea which supports overwhelmingly the new four permanent members (India, Germany, Japan, and Brazil).<sup>97</sup>

#### B. POTENTIAL PERMANENT MEMBERS

*India:* It has the most second crowded population in the world. Its economic power is growing. “Indian permanent membership is opposed by Pakistan, a long-time foe in several wars. Even today they still have trouble relations over arms racing, the disputed Kashmir region, and Pakistan-based terrorist attacks. China also has territorial disputes with India. Initially, China was opposed to India. However, due to stronger economic ties in

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<sup>93</sup> Teng, *Id.*

<sup>94</sup> Cook, R., (1997), “*Selected Quotations on the Subject of UN Reform*”, 52<sup>nd</sup> UN General Assembly, cited by Teng, *Id.* p. 15

<sup>95</sup> Ronzitti, N., (2010), *The Reform of The UN Security Council*, Istituto Affari Internazionali, Documenti IAI 10, p. 12, Retrieved April 3, 2011, from <http://www.iai.it/pdf/DocIAI/iai1013.pdf>

<sup>96</sup> Ronzitti, *Id.*

<sup>97</sup> Ronzitti, *Id.*

recent years, China probably would support India's bid for a permanent seat, but without a veto.”<sup>98</sup>

*Germany:* It has the fourth largest economy in the world and it is the economic engine of the European Union.<sup>99</sup> Germany's armed forces have a crucial role for the UN. It has really important difficulty for being permanent member in the Security Council. “Italy and Spain resent being passed over for consideration themselves. There also are serious misgivings from other regions, since there are already two European countries (France and United Kingdom) in permanent seats. African and Muslim countries are advocating that the Security Council should balance the number of permanent membership in terms of different regions.”<sup>100</sup>

*Japan:* It has the third biggest economy in the world.<sup>101</sup> The USA supports Japan to become one of the permanent members in the Security Council; however North Korea, South Korea, and China are not favor of Japan for being permanent member. Even though the US's stand-by, the US does not want to give a veto right to Japan.<sup>102</sup>

*Brazil:* It is getting involved the global issues more than before. Argentina, Colombia, and Mexico are not comfortable with the permanent membership of Brazil, because they apprehend “that Brazil's permanent membership will enhance the country's competitiveness in South America and are especially suspicious of a Brazilian veto.”<sup>103</sup>

## VII- CONCLUSION

The UN Security Council has the most powerful position among all UN institutions. It has responsibility to keep international peace and security in the international arena. The Security Council has faced some global

<sup>98</sup> Jiang, S., (2011), “*Issue Brief for the GA Sixth Committee: Legal; UN Security Council Reform*”, ODU Model United Nations Society, p. 3, Retrieved April 10, 2011, from <http://al.odu.edu/mun/docs/Issue%20brief%202011%20-%20UN%20Security%20Council%20Reform.pdf>

<sup>99</sup> “*An Overview of Germany's Economy*”, (2011), Euro Challenge, Retrieved April 10, 2011, from <http://www.euro-challenge.org/doc/Germany.pdf>

<sup>100</sup> Jiang, *Id.*

<sup>101</sup> Lah, K., (2011), “*Japan: Economy Slips to Third in World*”, CNN, Retrieved April 10, 2011, from <http://edition.cnn.com/2011/BUSINESS/02/13/japan.economy.third/index.html>

<sup>102</sup> Jiang, *Id.*

<sup>103</sup> Jiang, *Id.* p. 2

problems. Some military interventions such as NATO intervention in Kosovo were carried out without approval of UN Security Council. Moreover, the Security Council needs to have more regional representatives, because the number of UN members is significantly increasing and this situation demonstrates that the UN has not enough regional representatives in the global world.

These changes and development force 'the UN' to reform in the Security Council. In this sense, the UN Security Council should expand its permanent and non-permanent members to provide the representative for new regions. Also, veto power should be restricted or abolished, because the veto right is a very important obstacle to decision-making in the Security Council. In the case of expanding the permanent members, the veto power should provide for new permanent members in order to increase the international legitimacy of Security Council. However, this recommendation is not obviously accepted by the current permanent members, because this situation would diminish their sovereignty in the Security Council.

