



Policy Brief

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STALLED UN SECURITY COUNCIL REFORM Time to consider resetting policy?

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INTRODUCTION

South Africa, Brazil, India, Germany and others have been pushing for reform of the United Nations (UN) Security Council that would realise their ambitions to secure permanent seats on the Security Council. But at the end of 2011, 20 years since the reform momentum began, the process is stalled.

For the reasons set out in this policy brief, it seems unlikely that these ambitions can be realised. But reform of the Security Council is essential if international institutions are to be rescued from atrophy, and if conflicts are to be prevented and managed more effectively so that ordinary people in conflict situations can confidently look to collective international action to rescue them from death or suffering.

A number of ideas are set out in this policy brief that may encourage policymakers to believe that compromise is better than the status quo and that a much more equitable and effective Security Council can be generated – even if it is not the preferred model for some of the emerging powers who are aspirants to permanent membership status.

STATE OF PLAY IN THE REFORM DISCUSSIONS

In recent years there have been really only two significant developments in the negotiations at the UN in New York. The first is the growth in the number of countries seeking permanent membership of the Security Council. (In 1991 there was only one aspirant; now there are at least six or seven, and others are in the wings.) The second development is the increasing clarity that China, Russia and the US, who must ratify any amendments to the UN Charter and therefore effectively have a veto over the

reform process, are not prepared to accommodate the hopes of the aspirants.

The moral and political case for expanding Security Council membership and reforming its out-dated culture is widely agreed on. There seems to be a willingness to make some fundamental changes, including possibly a special status for some of the newly emerging powers. Quite a large number of smaller states have indicated that they would vote in support of new permanent members. However, because of the significant opposition to establishing new permanent members, this group is not sufficient in numbers or weight for a voted outcome to be credible.

Another key obstacle is that at the regional level, for every aspirant there are several other powerful states in the same region that see new permanent Security Council members as permanently changing the power relativities in their region to their disadvantage.

There is also a growing recognition that in politics and economics, nothing is permanent and it is therefore dangerous in the security context to pretend that states will always continue to be the same in relative terms – or even to exist at all. In the 20 years since the reform process began, important states like Yugoslavia have ceased to exist. In the early 1990s, the US was seen as 'the single superpower', but it is no longer spoken of in this way. Japan was seen as the pre-eminent economic powerhouse of Asia and as a result many saw its bid for permanent membership as logical, but today it no longer has the same weight or status.

Another important factor is that although in New York the process is styled as 'intergovernmental negotiations', some of the aspirant new permanent members seem to be saying that they are not open to real negotiation. The

joint statement of the IBSA (India-Brazil-South Africa) Summit in South Africa on 19 October 2011 says that their position is that they will only accept permanent membership. If true, this is in fact a non-negotiable demand and is likely to intensify opposition to reform.

Finally, there is the growing realisation that an outcome motivated principally by enhancing the power of a few states that are already important players would do nothing to increase legitimacy or ensure that the Security Council – and the UN as a whole – could produce better outcomes in conflict situations. On the contrary, history shows that, over time, those with power – particularly those with permanent and unaccountable power – will increasingly act in their own interests. Adding a few more already powerful states as unaccountable permanent members seems highly unlikely to promote better behaviour by the five current permanent Security Council members (known as the P5). Such a reform could result in a Security Council that exercises more rather than less ‘realpolitik’, that is less accountable to the wider membership, has less legitimacy and is less effective.

WHAT WILL HAPPEN IF THERE IS NO REFORM?

If there is no meaningful reform of the Security Council, a continuation of the steady decline in effectiveness of the UN as a whole is likely. However, it would be a mistake to assume that this decline will be dramatic or will quickly impinge on the interests of those most responsible for the current stalemate. On the contrary, decline is unlikely to be linear and the status quo could probably continue for several decades.

Moreover, it has to be acknowledged that, despite the stalemate in terms of reform for two decades, the Security Council has been surprisingly successful in some areas of its agenda. A whole new normative set of decisions involving both principles and mechanisms has been developed covering the impact of conflict on children and women, and the protection of civilians. The role of security sector reform, the rule of law, human rights and good governance in restoring peace in post-conflict situations is now routine business in Security Council mandates and discussions. The peacekeeping machinery has been significantly improved over the past 20 years and the political will to use it robustly when necessary has also been strengthened. Contrary to the experience in Rwanda in 1994, it is now capable of containing a severe crisis with potential for mass atrocities – as was proved in Côte d’Ivoire in early 2011. The Security Council has also evolved important new working methods such as the Informal Interactive Dialogue employed in the case of Sri Lanka and the regular monthly ‘horizon-scanning’ briefings from the UN Secretariat’s Department of Political Affairs.

To some extent, decline is likely to be felt more acutely and more quickly in other UN organs rather than the Security Council, e.g. the UN’s peacekeeping committee, Budget Committee and the General Assembly itself.

There is sometimes discussion of whether the Security Council will be supplanted by the G20. This seems unlikely. The major G20 members have already had experience of trying to use the G8 as a proxy for decision making on very difficult security issues. An example is Bosnia in the 1990s. But the G8 proved no more effective than the Security Council. The problem was not the forum, but rather the policy differences among members, which were just as acute whatever the forum. As it is currently established, the G20 has no political mandate, no legitimate power of binding decisions, no secretariat to provide implementation and no capacity for cost sharing financed by assessed contributions. It works by consensus, which means that effectively its decision-making processes are subject to 20 vetoes.

Despite all the above, there is likely to be an underlying trend towards decline if the Security Council reform debate remains stalemated, especially if it continues to operate on the basis of ‘realpolitik’, maximising the short-term political interests of states rather than collectively supporting the interests of people threatened by war and mass atrocities.

THE COST OF INACTION

There is a real opportunity cost of doing nothing. In 1996 at the Fiftieth Anniversary of the UN, then-South African President Nelson Mandela advocated powerfully in favour of Security Council reform. But he challenged statesmen to ‘dare to think that what we are about is people – the proverbial man and woman in the street – the poor, the hungry, the victims of petty tyrants’ and not to be tempted to ‘bend to the pressures of realpolitik’.

In the end, ‘realpolitik’ cannot be expected to disappear. The challenge is how to mitigate it so that there is more focus on the problems of people more of the time – rather than focusing on short-term political interests. The cost of inaction, of failure to compromise on the reform issue, is that in practice there will be more occasions in which the ordinary people – the victims of conflict – will suffer and die.

IS THERE AN ALTERNATIVE BASIS FOR REFORM?

A number of ideas and options are set out below that offer an alternative basis for reform:

- There is a case for a new model for the composition of the Security Council that recognises that a number of key stakeholder states need to be at the Security

Council table more often and on a more systematic basis – and this requires giving them a special electoral status.

- The following is a model that could be called the ‘20/20 proposal’, because it would run for 20 years and would give special status to 20 key stakeholder states, who would have the opportunity on average, and subject to being elected, to serve for two years on the Security Council every four years. Such a model would be a major victory for the ‘emerging states’ because it represents a huge change from the founding principle of the UN of the equality of states. While not conferring on them the same status as the P5, it would nevertheless be a fundamental recognition that they have a key stakeholder status and proof that others apart from the P5 can evolve to such a privileged status.
- Probably all sides would find the model easier to accept if the General Assembly were to decide that it was an ‘incremental step in an ongoing process’ – but without pre-judging where the process might lead. Revisiting the decision after a defined period – say 20 years – seems desirable.
- This model could be accomplished without major change to the UN Charter. Because only a very limited legal change is required, there is a better prospect that it could get the necessary ratifications.
- The size of the Security Council would be expanded by ten. This only requires changing the number in Article 23(1) from 15 to 25. (The model could also adjust Article 23(2), to allow members to stand once for re-election.)
- Twenty members might be selected by the General Assembly, based on their political weight and their contributions to international peace and security, and they would serve as a pool of 20 candidates for election to the ten new seats.
- The General Assembly is competent to address the mechanics that would establish the special status of the 20 key stakeholder states and the new electoral process for this group.
- The new seats would be divided into clusters according to a carefully balanced set of factors. (To get the right balance, these clusters might be slightly different from the current regional groupings.) This would help to mitigate some of the current regional imbalances in the Security Council.
- The pool of 20 would be sub-divided into several sub-pools to match these clusters.
- Some hypothetical allocations of seats and possible members of cluster numbers are set out, for illustration only, in the annexed tables.
- The package could also include a negotiated commitment, perhaps to be issued in a joint declaration by the P5 at the time of ratification, that, the use of the veto would be voluntarily avoided in all

cases where there were credible threats of mass atrocities or genocide and its use would in general be limited to cases where the direct security interests of the P5 member in question or an immediate ally were affected.

- The package would need to include a limb involving a negotiated set of reforms to the Security Council’s working methods, which would be adopted concurrently by the council when the General Assembly was adopting the reforms outlined above. (The concurrent process used by the Security Council and the General Assembly in 2006 when establishing the Peacebuilding Commission proves that this is possible.) These reforms should include specific decisions that would strengthen the capacity of the Security Council and better resource its engagement with regional organisations, with non-state parties to conflicts and with states parties to conflicts. Also, there should be decisions to establish capacity for and incentivise much stronger practical Security Council engagement at the prevention/pre-conflict stage – including associated financing reforms so that UN pre-conflict missions are financed on the same elastic basis as peacekeeping missions.
- Finally, the package should include specific decisions that incentivise new forms of collective UN leadership and action when robust capacity is required, as opposed to the historical pattern of leadership and action by former colonial powers. Appropriate member state input and oversight could also be part of this limb of the negotiations.

CONCLUSION: IS THERE A REALISTIC POSSIBILITY OF ANY REFORM?

Many argue that governments are too busy with pressing day-to-day foreign policy issues and there is no inclination to focus on Security Council reform. Many also say that, because almost any reforms would involve additional costs, and therefore that, given the current global financial crisis, reform is not a priority. Some add that the political dynamics particularly within the P5 at the moment mean that the time is not right, politically, to undertake meaningful reform of this kind.

Meaningful change takes time and high-level commitment. Policymakers only need to recall that the negotiations on the Law of the Sea Convention took 11 years, with huge teams of negotiators meeting full-time, usually for six months each year. By contrast, the actual negotiation efforts on UN reform (averaging at most several days a year) look anything but serious. Policymakers also need to recall that clinching agreement on the UN Charter in 1945 took a sustained commitment in San Francisco by prime ministers and senior political figures for several months. And this was for a deal where

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most of the basic elements had already been pre-negotiated.

Nevertheless, it is useful to remember that the United Nations (and, indeed, also its predecessor, the League of Nations) was born as the world emerged from a major global crisis. Such points in history offer opportunities. So, as the world emerges from the current financial crisis, a turning point will probably come when there is a real opportunity to re-vision the UN and the Security Council.

A policy opportunity now exists to do some serious groundwork on realistic middle-ground changes to the Security Council (and related reforms in the wider UN) and to be well prepared for the possibility of such a new turning point. The achievements of the 2005 World Summit (the establishment of the Peacebuilding Commission and the Human Rights Council) show that the General Assembly is capable of generating substantial change in the multilateral architecture when the conditions are right.

It is not unreasonable, therefore, to look forward to the possibility of reform of the Security Council in the next few years. But this possibility could be lost unless serious compromise building begins soon.

TABLES

Table 1: Hypothetical allocation of ten new seats to new regional clusters

Africa	3
Americas	2
Asia	2
Eastern Europe	1
Western Europe	1
Middle East	1

Table 2: Hypothetical candidate countries for each sub-pool

Africa	Egypt, Nigeria, South Africa + two others
Americas	Argentina, Brazil, Canada, Mexico
Asia	India, Indonesia, Japan, Pakistan
Eastern Europe	Poland, Ukraine
Europe	Germany, Turkey
Middle East	Saudi Arabia, Jordan

ABOUT THE AUTHOR

Colin Keating is an independent adviser on international affairs. He was the founding Executive Director of Security Council Report in New York for the past seven years. He was concurrently a Senior Research Scholar at Columbia University in New York. Formerly, Ambassador Keating was a senior New Zealand diplomat. From 1993 to 1996, he was the New Zealand Ambassador to the UN and served on the Security Council in 1993 and 1994. He was Security Council president during the 1994 genocide in Rwanda and has been widely recognised for leadership and advocacy at that time in trying to secure a timely and effective response. He led the Security Council Mission to Somalia and he chaired the Security Council Committee on Sanctions against Iraq. He was actively involved in UN reform, serving as Co-Chair of the General Assembly working group dealing with reform at that time.

Upon his return to New Zealand, Mr Keating was appointed in 1997 as the Secretary of Justice of New Zealand. From 2000-2004 he worked in the private sector in New Zealand as a partner in legal practice.

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