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The Security Council in a Changing World

The UN Security Council is tasked with safeguarding international peace and security. More often than not, however, it serves the distinct geopolitical interests of its permanent members, argues Ian Hurd.

By Ian Hurd for ISN

On February 4th 2012, the UN Security Council [failed to agree on a resolution](#) to move more forcefully against the government of Syria's attacks against its political opponents. The draft resolution was supported by the United States, France, the United Kingdom, and the ten non-permanent members, but was opposed by Russia and China. Its failure was widely interpreted as reinforcing the existing Syrian government, which was seen by Russia and China as a good thing and by many others as a tragedy.

The episode helps to illustrate the main features - as well as the main puzzles - of the Security Council's power in contemporary international politics. The procedure by which the draft resolution was produced and then defeated shows the legal framework that constitutes the Council. This is a product of the UN Charter. By contrast, the impetus behind the draft, and the implications of its failure, show the Council's political role in international politics today, which is only very loosely related to the institution that was created in 1945 by the Charter.

These two facets of the Council's existence, the procedural/legal and the power/political, combine to create the Council as we know it - a place where high-politics dramas between powerful states unfold, where decisive action to respond to urgent problems is often anticipated and is occasionally mustered, and where ambitions for world-altering political changes meet up against entrenched state interests. It is, in other words, a microcosm of international law and politics more generally.

Primary responsibility

The legal framework for the Council is easily located in the text of the UN Charter: the Council is the organ of the UN that has the "primary responsibility for the maintenance of international peace and security" (Art. 24(1)), and to that end it has the authority to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" (Art. 39) and to decide what measures to take in response. These may include "measures not involving the use of armed force" (Art. 41) and where these "have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security" (Art. 42).

In order to take a decision, the Council must pass a resolution "by an affirmative vote of nine members including the concurring votes of the permanent members" (Art. 27(3)). This is the legal

foundation for the veto. All five permanent members must approve, or at least must not vote against, the draft for it to pass (Abstentions were understood as vetoes in the earliest days of the Council, but have been consistently treated as 'concurring' after mid-1946).

These clauses have shaped the Council's response to the violence in Syria since 2011. Because the five permanent members do not agree on whether the behavior of the Syrian government justifies the Council's coercive response, it has not activated its authority under Articles 39, 41 and 42. Without this finding, the Council has instead sought to coordinate a consensual position with the Syrian government on measures that might improve the situation. This is required by the fact that the Council must abide by the general Charter and not "intervene in matters which are essentially within the domestic jurisdiction of any state" (Article 2(7)) -- unless, that is, it can agree that the situation constitutes a threat to international peace and security. This is reason that Kofi Annan's mission in Syria only had 'observer' status, and why its mandate, its resources, its travel plans, and all of its equipment, had to be agreed by the Syrian government.

Power and permanence

Without consensus among the permanent members, the Council cannot act. This is the fundamental legal and political source from which all Council behavior follows - both its action and its inaction. It is therefore nonsensical in law to talk about a "legitimate" as opposed to "illegitimate" use of the veto, or the "responsible" as opposed to "irresponsible" veto. The Charter does not limit how or when or on what topics a veto may be used, and so there is no such thing as the "misuse" of the veto. The permanent members can veto as they wish -- no limits, no explanation needed.

It is important to understand the unlimited freedom that the permanent members enjoy with the veto because it helps to show the Council's true colors - it is a great-power compact, designed by the 'Big Three' in 1945 to manage relations among themselves and to coordinate their management of the rest of the world. These three (the US, the UK, and the Soviet Union) wanted two things out of the United Nations: a system for the collective imposition of security 'solutions' in the world, and absolute control to ensure that system would never be used against their interests. This is what they got, and it remains the same today -- with the same five permanent members.

The legal scaffolding frames the Council's political power, but does not exhaust it. That power is shown by the reactions to the failed Syria resolution, and in the fact that the issue was brought to the Council in the first place. It is significant that the Council was seen as the most relevant forum for discussing an international military response to the Syrian crisis -- this is attributable in part to its legal status under the Charter, but more tellingly it reflects the fact that the Council is widely seen as the legitimate institution for deciding such questions. Its legitimation is distinct from its legal founding. It gives the Council a great deal of political power separate from the Charter and from the states that make it up -- and it makes it possible to imagine that the Council is (or should be) the guardian of global interests and values.

However, we must never forget that the guardian is ruled by the permanent five members -- and it is designed to operate in their interest as individual, powerful states, not in the interest of the international community as a whole. It acts when the individual interests of the five coincide, and it does not act when they do not.

In whose interest?

There are many things that the Council could be but is not: the enforcer of international human rights law; the conscience of the international community; the executive agency that implements the General Assembly's desires. It is instead the collective security body for the permanent members.

The failure of the February 2012 resolution on Syria had many consequences, three of which are important for showing the power of the Council:

- first, it signaled to the Syrian government that no external military force was coming any time soon, and in doing so no doubt increased the violence felt by the Syrian population (evidence that the opposite signal would have been political consequential as well);
- second, it reaffirmed the legal foundation of the Council in which the permanent members have absolute freedom to veto any proposal that does not serve their interests;
- third, it reveals as mythical the idea that the Council embodies a coherent, international community unified in defense of fundamental values.

These implications suggest a more nuanced normative view of the UN Security Council. Yes, the Council is the tool of the most powerful states, and it jumps into action only when the powerful states are united around shared interests. It defends their interests and their power. Yes, this often means that justice or wisdom or efficiency or other goods are sacrificed to these interests. But no, this does not mean the Council doesn't *sometimes* produce good outcomes. But yes, it means we need to recognize that we will not agree on what constitutes a good outcome, and so contestation over the Council is intrinsic to its design.

Like any tool, the Council will be used in ways that serve the needs of its users. This means the permanent members. It is their individual interests that determine how and when its legal powers will be put to use and when they will not. Differences among them and between them and other actors mean that there is unlikely to be a coherent answer to questions about whether the Council is overall good or bad, a success or a failure. By treating its resolutions as important, whether they pass or fail, we are empowering the Council to serve as the central organ of the international order. If we dislike the world that results, we should change the tool, the users, or both.

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Editor's note:

For more information on how international institutions and organizations are adapting -- and being adapted -- to the changing demands of power in the world today, see the ISN's dossier on [The Future of International Institutions and Organizations](#).

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