Right of Veto in the Security Council. Is it untouchable?

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UN Secretary-General Kofi Annan’s High level Panel report on Threats, Challenges and Changes, published on December 2, 2004, under the heading “A more secure world: our shared responsibility” puts forward a Security Council expansion with a view to update a body that was entrusted by the founders of the United Nations with the primary responsibility of maintaining international peace and security. This report sets forth the reasons behind the need for such a reform as the nature of threats has changed since the United Nations was created in 1945, as well as the challenges to international peace and security and the distribution of power among the members of the Organization. However, the need for this reform is also based on the fact that the Council has been accused of showing a lack of legitimacy, fairness and efficiency in its decisions. This has resulted in a decrease of confidence and credibility within the body. Therefore the challenge lies in the creation of a Security Council “to increase both its effectiveness and credibility”, and “to enhance its capacity and willingness to act in the face of threats” (paragraph 248 of the Report). What does the Secretary-General’s High-level Panel recommend?

It must be said, however, that there is not just one expansion proposal but also two. This is due to the fact that the Panel members did not come to an agreement on a single proposal. This shows, on the one hand, the challenge of reforming this main body, and on the other hand, the fallacy of the arguments of those who pretend that there is only one possible way for the enlargement of the Council.

The Panel starts by emphasizing article 23 of the Charter, which, with respect to the Council’s composition, not only refers to a fair geographical distribution, but also to the States contributing to international peace and security maintenance. It is necessary to underline that taking into account financial, military and diplomatic aspects shows the degree of State contribution toward such objectives. The Panel gives examples such as “the UN assessed budgets, participation in mandated peace operations, contribution to voluntary activities of the United Nations in the areas of security and development, and diplomatic activities in support of United Nations objectives and mandates”, and even the criterion of official contribution to development (paragraph 249 of the Report).

This figure referring to a State’s degree of contribution to international peace and security maintenance is significant, not only for deciding on the composition of a possible reform of the Council from a static viewpoint, but also in order to review the Council’s composition in the future, since the proposals for changes are not final. In fact, based on previous proposals of other United Nations work groups, the Panel recommends a periodical review of the Council’s composition in 2020 (paragraph 255 of the Report). This review should be well accepted, as it would

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give greater mobility to a body that should better reflect the political truths of the world. However, it may not be generally accepted as the criteria could negatively affect the Council’s current (and maybe future) permanent members. For example, how would one take into consideration Council members controlling the arms export market?

The Panel claims that the reform of the Council should entail greater representation, especially with respect to developing countries, not impairing its effectiveness and increasing the democratic and accountable nature of the body [Paragraph 249(b), (c) and (d)]. For this purpose, it recommends two clearly defined alternatives that involve a fair distribution of seats between four major regional areas: Africa, Asia and Pacific, Europe and America. Both models would increase the number of seats in the Council by nine, turning it into a body of 24 members. The difference lies in the fact that the first model generates six new permanent seats, and three new two-year non permanent seats, while the second model does not provide any new permanent seat but instead creates a new category of eight new four-year renewable-term seats, and one new two-year non-permanent (and non-renewable) seat.

Therefore, what is the recommendation with respect to the right of veto? As it is very well known, the five permanent seats have a right of veto on the Council's decisions. This right was amply used during the Cold War, and although a certain spirit of cooperation limited much of its impact from the 1990’s, we must take into account the fact that permanent members who are using it or threatening to use it continue to obstruct the Security Council’s actions. The Panel even declares that “the institution of the veto has an anachronistic character that is unsuitable for the institution in an increasingly democratic age”. But it recommends that the right of veto of those who already have it should not be touched, and neither should there be an expansion of the veto under any reform proposal (paragraph 256 of the Report).

This is, without doubt, a realistic position from the perspective of the body itself as well as of the States that compose it. From the Council’s viewpoint, the right of veto has been described as “a safety valve” that does not allow decisions to be made that later on will not be implemented due to lack of support or lack of necessary means to achieve such purpose. If we look at it from the viewpoint of the States, we cannot expect permanent members to accept reforms that impinge on them, or that withdraw their right of veto. In fact, the right of veto was a way to involve the powerful ones in an organization that otherwise they may not have approved of. This was made clear from the very beginning by countries such as the United States, also known under Council jargon as the Permanent 1 (P1). Indeed, Cordell Hull, former US Secretary of States, even declared that “our government would not remain there a day without retaining its veto power”.

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2 Likely for Japan, Germany, Brazil, India, South Africa and Nigeria. For a short essay on permanent and elected members of the Security Council, you may refer to the chapter by Kishore Mahbubani, “The Permanent and Elected Members”, which is included in the book by David Malone mentioned in the previous footnote, pp. 253-266.

3 If there was a choice to be made between these two models, Spain would clearly benefit from the second one as it would enable it to have more frequent participation in the Council.


6 As I explained it in my previous comment, any reform of the UN Charter needs the affirmative vote of the permanent members of the Security Council.
The Panel only recommends the introduction of a system of “indicative voting” with respect to proposed decisions (paragraph 257 of the Report). According to the Panel, such system would enable to avoid subsequent vetoes, inasmuch as it would be a sort of unofficial voting that would later be adopted officially in order to become a real decision. Actually, this is quite a modest proposal within the context of strategies that attempt to restrict veto by means of procedural changes that do not mean a reform of the United Nations Charter. There are various ones. Similar to the above, there is the strategy that would make the “burden of proof” fall on permanent members in order to justify a veto they may decide to use. Another would consist in demanding two running vetoes in order to obstruct a decision. Still another one would limit circumstances in which vetoes could be of significant value.

In other words, the right of veto is there to stay, but it is not untouchable. The Panel does not represent the States, and maybe it could have put in more emphasis on recommendations more in the line of limiting the use of veto. It is true that expansion could entail greater support for Security Council decisions. However, it is not necessarily true that by itself it could turn the Council into a more representative body guided by the principles of effectiveness, efficiency and fairness, which are, according to the Report, necessary elements to create a credible collective system. For this, it is necessary to limit the right to veto.