

# Collective Security, Peaceful Change, and UN Security Council Reform: Reframing the Debate

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*The debate on UN Security Council reform has been fixated on issues concerning the council's size and composition. This article seeks to reframe the debate by focusing on peaceful change. It turns to the interwar debate on peaceful change for insight into the symbiotic relationship between the principles of peaceful change and collective security and their relationship with international organizations designed to maintain international peace and security, such as the League of Nations and the UN. On this basis, it will be argued that the effectiveness of the council in the maintenance of international peace and security hinges on its capacity to promote the symbiosis between these two principles. It then reviews the UN machinery for promoting peaceful change between and within states, with a focus on the council's powers under Chapter VI of the UN Charter, highlighting key issues to be addressed in future council reform debates.*

## Introduction

Recent international problems such as the Syrian Civil War, the Rohingya Crisis, and the Donbas Conflict in eastern Ukraine underscore yet again the need to improve the UN Security Council's ability to maintain international peace and security. To address the ineffectiveness of the council, much of the debate on the question of council reform has explored issues like what is the appropriate size of an enlarged council, whether to add new permanent as well as nonpermanent members to it, and whether to extend the right of veto to new permanent members. Indeed, much attention has been given to these issues, as discussed further below.

While the issues concerning the council's size and composition are of great importance, it needs to be asked whether these issues really exhaust the question of council reform. Is it not necessary to look at the question from a broader perspective if council reform is to result in the enhancement of its ability to maintain international peace and security? The purpose of this article is to illustrate the need to address the question from a perspective that takes into account peaceful change and its symbiotic relationship with collective security, which have hitherto been neglected in the current debate and literature on council reform.

Peaceful change means the principle that changes in the international status quo must be brought about without the disputing parties resorting to the use of threats or force.<sup>1</sup> More specifically, peaceful change concerns changes in, or adjustments to, aspects of the international status quo against which one or more of the disputing parties have grievances that could potentially lead to armed conflict. There are different ways of implementing peaceful change thus defined, as we will see later.

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1. This definition leaves room for forcible measures, including sanctions, by international organizations such as the League of Nations and the UN.

Moreover, there is a symbiotic relationship between peaceful change and collective security—another key principle underpinning the UN. The drafters of the UN Charter had taken cognizance of this point, which is evident from the wording of Article 1(1) which reads as follows:

The Purposes of the United Nations are: 1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, *and* to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace. (UN 1945, emphasis added)

The UN Charter seeks to maintain international peace and security through promoting and entrenching both collective security and peaceful change in the international community, and as provided for in Article 24(1), it is the Security Council that carries the primary responsibility for achieving this purpose (UN 1945). The two principles and the council are mutually constitutive in the sense that the latter is based on the former and the former needs the support of the latter to be firmly entrenched in the international community. The focus on peaceful change, its symbiotic relationship with collective security, and their mutually constitutive relationship with the council helps to pinpoint what has been missing in the current debate and literature on council reform, which has mainly addressed issues concerning the council's size and composition.

This article proceeds in four stages. The first section starts by providing an outline of the history of council reform, showing that much of the debate has focused on the council's size and composition. The second section turns to the interwar debate on peaceful change for insight into the symbiotic relationship between collective security and peaceful change and their mutually constitutive relationship with international organizations designed for the purpose of maintaining international peace and security, such as the League of Nations. The interwar debate on peaceful change was the first ever attempt to systematically study the problems surrounding peaceful change in IR scholarship, and it provides insights that are still relevant to council reform today. Summarizing the findings of the previous sections, the third section calls for a greater focus on the council's ability to promote and entrench peaceful change in the international community. The fourth and fifth sections critically review the existing UN system in terms of peaceful change, and, in the sixth section, I shall set out key issues to be addressed in future council reform debates.

### **The History of and Debate on Security Council Reform**

This section shows that the current council reform debate has mainly focused on the issues concerning the council's size and composition, which has resulted in the failure to take cognizance of the importance of the symbiotic relationship between collective security and peaceful change for the council's ability to maintain international peace and security. Much has been discussed concerning UN reform, and Security Council reform, among other topics, has been at the center of the debate (Bourantonis 2005; Ciechanski 1994; Fassbender 1998; Kennedy and Russett 1995, 60–62). This is understandable considering the UN's principal purpose and the central place occupied by the council in the UN system.

It has been widely acknowledged that the council needs to be reformed so as to reflect and adapt to changes in world politics. The UN membership has nearly quadrupled since its inception, and the power relations among the member states have been changing over the years. Despite the growing awareness of the necessity of council reform, there has been little progress since the 1965 amendment to the charter which increased the council membership from eleven to fifteen by adding four nonpermanent members. The amendment was a timely response to the increase in the UN membership brought about by decolonization (Blum 2005, 636–37). However, the number of the UN member states has continued to grow since then. To respond to this change, the Open-Ended Working Group (OEWG) was set up by the UN General

Assembly in 1993 (UN General Assembly 1993). However, the 1965 amendment has been the only council enlargement achieved so far.

In March 1997, Razali Ismail, then-president of the General Assembly, set forth a reform plan that proposed to add five permanent members without veto power and four nonpermanent members to the council (Razali 1997). However, the Razali plan faltered in the face of opposition from Italy and the Non-Aligned Movement, which were against the idea of increasing the number of permanent seats (Bosco 2009, 202–06; Bourantonis and Magliveras 2002). In November 2004, the High-level Panel on Threats, Challenges, and Change appointed by then-Secretary-General Kofi Annan published a report entitled “A More Secure World: Our Shared Responsibility,” which put forward two models for the enlargement of the Security Council. Model A proposed the council be enlarged by adding six permanent seats without veto right and three nonpermanent seats. Model B proposed creating eight four-year renewable seats and one two-year nonrenewable seat (UN General Assembly 2004, 66–69). In his 2005 report, “In Larger Freedom: Towards Development, Security and Human Rights for All,” Annan urged the member states to deliberate on these models, intending to reach agreement preparatory to the World Summit to be held in September that year (UN General Assembly 2005a, 41–43).

Following Annan’s call for council reform, the G4 (Brazil, Germany, India, and Japan) seized the occasion to draft a reform plan which provided for six permanent and four nonpermanent seats, along the lines of Model A. Concerning the extension of veto right to new permanent members, the plan proposed shelving the issue for fifteen years (UN General Assembly 2005b). The G4’s attempt to whip up support for their joint draft resolution was met with counterproposals. A group of African countries submitted their own reform plan that, in accordance with the common African position as set out in the Ezulwini Consensus, provided for the extension of veto right to newly appointed permanent members (African Union 2005; UN General Assembly 2005c). Despite the difference in the issue concerning veto right, the G4 and African proposals were similar in that they both were in favor of the addition of new permanent seats. In an attempt to block their efforts to increase the number of permanent seats, the Uniting for Consensus group submitted a counter proposal, which provided only for an increase in the number of nonpermanent members (UN General Assembly 2005d). None of these three draft proposals were put to a vote, and the World Summit Outcome document merely reaffirmed the member states’ commitment to continue to work on issues related to council reform (UN General Assembly 2005e, 32).

In September 2007, the OEWG released a report calling on the member states to begin intergovernmental negotiations aimed at moving forward with Security Council reform (UN General Assembly 2007). In the following year, a decision was made to launch intergovernmental negotiations by the end of February 2009 with a focus on the following five pillars of council reform: “categories of membership; the question of the veto; regional representation; size of an enlarged Security Council and working methods of the Council; and the relationship between the Council and the General Assembly” (UN General Assembly 2008, 107). Ever since then, member states have engaged in a series of intergovernmental negotiations. Although recent intergovernmental negotiations have led to the surfacing of “elements of convergence” (Lykketoft 2016), no significant decisions on Security Council reform have been made so far.

As this survey shows, much of the debate on council reform has been centered around issues concerning its size and composition. Indeed, as Sabine Hassler (2013, 105–08) shows, there are a number of arguments for and against council reform based on the assumption that the representativeness of the council impacts, either positively or negatively, its effectiveness in carrying out its responsibilities. The prevalence of the view that the council’s effectiveness in the maintenance of international peace and security is a function of its size and composition is reflected in states’ proposals and statements. For example, the G4 joint statement declared as follows:

The G-4 leaders stressed that a more representative, legitimate and effective Security Council is needed more than ever to address the global conflicts and crises, which had spiraled in recent years. They shared the view that this can be achieved by reflecting the realities of the international community in the 21st century, where more Member States have the capacity and willingness to take on major responsibilities with regard to maintenance of international peace and security. (G4 2015, 1)

Moreover, those who are against the idea of adding more permanent seats to the council on grounds of fairness and sovereign equality also justify their reform proposals from the viewpoint of the council's effectiveness. For instance, an Italian diplomat, supporting the plan submitted by the Uniting for Consensus group, suggested that the council could not be effective unless its legitimacy, as understood in terms of the fairness and equality in its composition, was enhanced (UN Press Release 2005). Both the G4 countries and the Uniting for Consensus group base their arguments on the proposition that a more representative council would enjoy greater legitimacy, which in turn would increase its effectiveness in carrying out its responsibilities, but they disagree as to the meaning of representativeness.<sup>2</sup> For example, the G4 proposals seem to be based on the belief that the council should reflect the power relations among the member states, while other proposals stress the importance of regional balance and co-opting onto the council countries with different values and cultures (Nadin 2016, 73–80). Furthermore, those who oppose any expansion of the council and instead argue for improving its working methods and procedures also tend to defend their positions from the point of view of its effectiveness (Russett et al. 1996, 73).

It can be questioned whether there exists any relationship between the council's size and composition and its effectiveness. Ian Hurd (2008, 200) argued that “[a]ll Council reform claims contain hypotheses about the effects of membership change on Council effectiveness.” Although Hurd (2008) acknowledged that there exists a clear link between legitimacy and effectiveness, he saw no reason to assume that council expansion would lead to its enhanced legitimacy (and hence to its enhanced effectiveness).

Furthermore, the commonly shared assumption that the council's effectiveness in the maintenance of international peace and security is a function of its size and composition is problematic, since the fixation with issues concerning its size and composition has led to disregard for the symbiotic relationship between collective security and peaceful change and for their mutually constitutive relationship with the council. Even if the connection between representativeness and effectiveness is admitted, there is no basis for assuming that the former is the sole determinant of the latter. Any reform that confines itself to tinkering with the council's size and composition would not succeed in enhancing its effectiveness in the maintenance of international peace and security, for its effectiveness in carrying out this role also hinges on its ability to promote the symbiosis between collective security and peaceful change. To illustrate this point, the next section turns to the interwar debate on peaceful change.

### **Collective Security, Peaceful Change, and the League of Nations**

By revisiting the interwar debate on peaceful change, this section shows the symbiotic relationship between collective security and peaceful change and their mutually constitutive relationship with international organizations in the role of maintaining international peace and security. The catastrophe of World War I prompted the emergence of the principle of collective security, and the League of Nations was established in order to promote and implement this principle. However, it was commonly held during the interwar period, especially in the 1930s, that the league's effectiveness in this instance depended on its ability to give substance to another principle, namely, peaceful change. This view was based on the assumption that there existed a symbiotic relationship between these two principles. As Charles Webster remarked:

2. On the meaning of representativeness, see Hassler (2013, 96–108) and Nadin (2016, 72–73).

Collective Security and Peaceful Change are two aspects of all efforts to produce a more peaceful and ordered world and it may be said that each is impossible without the other. (Webster 1937, 3)

To cite another example, Arnold Toynbee stated as follows:

We have not only to establish and maintain a system of “collective security” which will safeguard the existing international order against attempts to change it by violence; we have also, *pari passu*, to work out some method of “peaceful change” as an alternative to the violent method of change which, in the international field, has hitherto been provided by war. (Toynbee 1936, 26)

Collective security is a principle aimed at upholding the rule of law in international society through collective law enforcement. However, if collective security is to effectively uphold the rule of law in international society, it needs to be accompanied by another principle aimed at changing or revising the law which has become unreasonable or unjust (see Bull 2012, 53–54; Kunz 1939, 33; Wight 1978, 205–06). As Hersch Lauterpacht (1937, 137–38) pointed out, the rule of law would, without some such principle, be “synonymous with injustice.” According to Hedley Bull (2012, 183), war was an institution of classical international society for bringing about international political change, including treaty revision. By the end of World War I, however, this traditional institution had become detrimental to international peace and security and was incompatible with the emerging norm that force should not be used by the disputing parties to bring about political changes in the international status quo. This gave rise to the need to develop and entrench the principle of peaceful change in international society. Moreover, the need for peaceful change increased as a result of the conclusion of the Pact of Paris of 1928, which categorically outlawed war as an instrument of national policy (Lauterpacht 1937, 139–40).

The League of Nations was based on peaceful change as well as collective security and was also expected to promote and entrench them in international society. Indeed, the Covenant of the League contained a provision for peaceful change. Article 19 reads as follows:

The Assembly may from time to time advise the reconsideration by Members of the League of treaties which have become inapplicable and the consideration of international conditions whose continuance might endanger the peace of the world. (League of Nations 1919)

As Lauterpacht (1937, 156) explained, Article 19 was “the first deliberate attempt to create an institution of peaceful change within the framework of a comprehensive system of legal organisation.” However, this article merely enabled the League Assembly to make recommendations and did not specify procedures for bringing about peaceful change. Such a provision was bound to be “a dead letter” in practice (Dunn 1937, 111).

The interwar period witnessed a series of efforts to improve the league’s effectiveness in the maintenance of international peace and security. For example, the Geneva Protocol of 1924 attempted to fill the gaps in the covenant by making the settlement of disputes through arbitration compulsory. However, the protocol was not applicable to disputes involving revision of existing treaties (see Williams 1924, 303–04). The protocol did not come into effect, but even if it had, it would not have helped promote and entrench the principle of peaceful change in international society. A similar attempt to strengthen the functioning of the league system was made in 1928, which materialized in the form of the General Act for the Pacific Settlement of International Disputes. However, the act obliged the Arbitral Tribunal to apply existing treaties to the case when there were treaties applicable to it (Williams 1931, 335–37; see also Brierly 1930). Most of the efforts made in the early interwar years to fill the gaps in the covenant were rooted in the belief in *pacta sunt servanda* (Latin for “agreements are to be kept”) as a principle underpinning the international legal order (Carr 1939, 232–33). Such efforts were bound to flounder in the long run, for they did not address the need to provide for peaceful change. As E.H. Carr remarked:

Respect for law and treaties will be maintained only in so far as the law recognises effective political machinery through which it can itself be modified and superseded. (Carr 1939, 245) By the end of the 1920s, it had become clear that the sanctity of treaties and the principle *pacta sunt servanda* could not be maintained without simultaneously giving substance to the principle of peaceful change (Williams 1928; Williams 1931). By the time reform of the league became the center of debate in the 1930s, it had become widely understood that there existed a symbiotic relationship between collective security and peaceful change, and the key to the league's effectiveness in the maintenance of international peace and security lay in the promotion of this symbiosis (see Salter 1936; Wright et al. 1936, 72–73). Although there were other factors affecting the league's effectiveness, such as the absence of the U.S., interwar debates surrounding league reform put much emphasis on the league's power to promote this symbiosis.

The importance of promoting the symbiosis between collective security and peaceful change was widely recognized by many at the time, and yet there were divergent views on how peaceful change could actually be implemented and entrenched in international society. Some held that this could be achieved by strengthening international law and international organizations. For example, Lauterpacht (1928, 310) claimed that international courts and tribunals could carry out the function of modifying the legal status quo “by way of interpreting the existing law and applying its general principles.” More specifically, Lauterpacht (1966 [1933], 270–329) held that such legal doctrines as the abuse of rights, *clausula rebus sic stantibus* (Latin for “things thus standing”), and *ex aequo et bono* (Latin for “out of fairness and goodness”) could be used by international courts and tribunals to bring about necessary international changes.

Proposals and suggestions of this kind were severely criticized at that time. For example, Carr criticized that the absence of deeply shared values among states would prevent international judicial organs from resorting to the principle of *ex aequo et bono* (Carr 1939, 262–63). However, many writers, including Carr himself, offered critiques of the legalistic approach on more fundamental grounds. For example, Josef Kunz remarked: “A problem of revision arises only if all the parties recognize that a treaty or situation is perfectly valid in positive law, but where at least one party not only desires a ‘change,’ but a change of the law in force” (Kunz 1939, 44). International judicial organs, be they arbitral tribunals or the Permanent Court of International Justice, were considered to be ill-suited for the settlement of political disputes since their primary function was to apply the existing law (Kunz 1939, 50–51; Carr 1939, 258). For this reason, it was argued that states seeking to change the status quo would not view international courts as providing a way out (Dunn 1937, 82). Therefore, what was required was something that would effectively change or revise existing rights and obligations of states, and this suggested the need for something in the nature of “supra-national legislation” (Kunz 1939, 52). Indeed, Lauterpacht (1937, 141) called for the establishment of a super-state, that is, an international legislature with overriding authority to “impos[e], if necessary, its fiat upon the dissenting State” (see also Lauterpacht 1941, 130–31). However, most of the practitioners and scholars at the time were of the view that such a proposal was nothing more than a utopian desk plan. Kunz (1939, 52), for example, dismissed it as “an utter impossibility” (see also Carr 1939, 266–68).

While it was practically impossible to establish an international legislature, there were other ways to implement peaceful change. One way to do this was to strengthen the function of the existing League of Nations; it was argued that the league could help implement peaceful change by settling disputes under Articles 11 and 15 of the covenant, which together provided for conciliation by the League Council (Dunn 1937, 90–91; Kunz 1939, 47, 53; Williams 1931, 339ff). Although the council could only make recommendations under Article 15, the council was not bound by existing law in making recommendations and had the power to propose such terms of settlement as it deemed appropriate and just. Another solution, which was favored by Carr (1939, 264–84), was to seek to give substance to peaceful change through the agency of the institutions of diplomacy and great power management (see Bull 2012, 156–77, 194–222).



Although the latter approach was favored by those who had been skeptical of the league project, the majority of the league's supporters were convinced that the former approach was more appropriate and desirable, inasmuch as it was held that the principle of peaceful change could be sustained in the long run only with the support of an international organization reflecting and supporting it (see Salter 1936, 480; Lauterpacht 1941, 131–32); peaceful change and the league were held to be mutually constitutive.

That said, the differences between these two approaches should not be overemphasized, for the success of either approach heavily depended on the willingness of the parties concerned to resolve the dispute in a peaceful manner (Dunn 1937, 81–82; Kunz 1939, 54). To address this problem, a proposal was made in 1930 to amend Article 15 of the covenant so as to confer on the League Council the power to determine and enforce terms of settlement (League of Nations 1930, 356–57). However, the proposal failed to gain traction since the amendment proposed entailed the diminution of state sovereignty. This episode in the history of the league suggests that the promotion and entrenchment of peaceful change may involve modification, if not elimination, of the principle of state sovereignty (see Kunz 1939, 54–55).

The key questions here are what the lessons of the interwar debate are and whether they are of any significance to the current council reform debate. It is to these questions that we now turn.

### **The Lessons of the Interwar Debate**

What the interwar debate tells us is that the promotion of collective security depends largely on that of peaceful change and vice versa. It was the recognition of the symbiotic relationship between these two principles that underpinned the interwar debate. Moreover, it was widely held, especially among the league's supporters, that the key to improving the effectiveness of the League of Nations in the maintenance of international peace and security lay in its ability to maintain and support this symbiosis. This contrasts with the current Security Council reform debate which, due to its fixation with issues concerning the council's size and composition, has failed to recognize the importance of this symbiosis for the council's effectiveness in the maintenance of international peace and security.

As discussed above, the purpose of collective security is to collectively deter and fight against aggression and other forms of unilateral attempts to forcibly change the international status quo. The principle is based on an assumption or expectation that if collective security can effectively deter states from using force, they will seek to resolve disputes in a peaceful manner. This is not entirely wrong, but it is important to understand what collective security can and cannot do. While collective security can create a political environment in which pacific settlement of disputes can take place, it cannot by itself eliminate underlying causes of international disputes, nor can it provide political solutions to conflict. If collective security is decoupled from peaceful change, the former may only serve to prolong conflicts, thereby leading to worsened relations between the parties concerned. Therefore, if council reform is to improve its effectiveness in the maintenance of international peace and security, the council reform debate must explore ways to enhance its ability to implement and give substance to both collective security and peaceful change in international society. Any reform that leaves this issue unaddressed is bound to fail in enhancing the council's effectiveness.

The need to provide for peaceful change has increased under the current UN system. The UN is more powerful than its predecessor in terms of law-enforcement and collective security. The Security Council is authorized under Article 39 of the charter to “determine the existence of any threat to the peace, breach of the peace, or act of aggression” and, under Articles 41 and 42, to decide nonmilitary and military measures to be taken in order to safeguard international peace and security. Moreover, council decisions made under Chapter VII are binding upon the UN member states, as stipulated in Article 25 (UN 1945). Since the UN is equipped with a robust collective security system, it also needs to be equipped with a robust machinery for peaceful change so as to make sure that attempts to make just and reasonable changes are not

unduly blocked by the practice of collective security. For this reason, the need for some machinery for implementing peaceful change has increased, rather than decreased, under the current UN system.

One might ask whether there is any basis for assuming that peaceful change, which allegedly failed to prevent World War II, can be of any help in promoting international peace and security in contemporary international society. However, this is not a strong argument, because it may well be argued that the league could not prevent the war due to the fact that its machinery for peaceful change had not been robust enough. Indeed, this is why many of the participants in the interwar debate on peaceful change addressed the question of how the league could be reformed so that it would implement peaceful change more effectively. This also explains why the drafters of the UN Charter did not abandon the principle of peaceful change, despite reluctance on the part of some delegates to the 1945 San Francisco Conference, as discussed further below.

Furthermore, peaceful change is of increasing importance in light of the following two trends in contemporary world politics. Firstly, today's international system is characterized by global power transition, and this trend has foregrounded the issue of revision of the status quo yet again. In the face of global power transition, the UN, especially the Security Council, will have to address how the principle of the sanctity of treaties can be maintained, while at the same time bringing about just and reasonable changes in accordance with the principle of peaceful change. Secondly, there is a growing awareness that, if international peace is to be maintained, the international community must effectively prevent and respond to civil wars around the world. This raises the question as to how the international community can help implement peaceful change within as well as between states (more on this later). Viewed in this light, it can be argued that peaceful change has become ever more important and urgent today.

### **UN General Assembly and Peaceful Change**

As discussed above, there exists a symbiotic relationship between collective security and peaceful change, and herein lies the key to the effectiveness of the Security Council in the maintenance of international peace and security. However, the UN mechanisms for implementing peaceful change and their effectiveness have been almost totally neglected in the council reform debate. In this and the next sections, I shall fill in this gap by focusing on Article 14 and Chapter VI of the charter. These provisions need to be compared with their counterparts in the Covenant of the League in order to highlight both similarities and differences between these two organizations with respect to peaceful change. Moreover, it is necessary to take into account how these provisions have or have not been used in practice, for mere textual interpretations and comparisons would not be sufficient if we are to fully understand how the UN system has actually operated. Article 14 of the charter reads as follows:

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations. (UN 1945)

This article is intended to play much the same role as Article 19 of the covenant. On the face of it, the powers of the General Assembly conferred by Article 14 of the charter seem to be much broader than those conferred on the League Assembly by Article 19 of the covenant in three respects (Zöckler and Riznik 2012, 557). First, while the League Assembly could only advise its member states to reconsider treaties and consider international situations, the General Assembly is authorized to recommend measures for peaceful change. Second, while making recommendations under Article 19 of the covenant required unanimity, recommendations under Article 14 can be adopted by a two-thirds majority vote in the General Assembly. Third, whereas the League Assembly could only advise states to reconsider "treaties which have



become inapplicable” and to consider “international conditions whose continuance might endanger the peace of the world,” the General Assembly can make recommendations concerning “any situation, regardless of origin,” including matters concerning treaty revision.

For all these, however, the fact remains that Article 14 only confers upon the General Assembly the power to recommend, and the recommendations of the General Assembly are not legally binding by definition, although they might have political and moral significance (Goodrich and Hambro 1949, 178). In view of this, Leland Goodrich, who was secretary of the committee in charge of drafting the provisions of the charter on the pacific settlement of disputes, concluded in 1947 that “there is the same chance, if not likelihood, that the United Nations will be ineffective as an instrument for treaty revision” (Goodrich 1947, 8). This is not surprising considering that some delegates to the UN Conference at San Francisco were reluctant to add a revision clause to the charter. Some of them even opposed any direct reference to revision of treaties from the point of view of the sanctity of treaties (Goodrich and Hambro 1949, 178–79). The wording of Article 14 “any situation, regardless of origin,” which was introduced as the result of what is known as the Vandenberg Amendment, reflected the political contestation at the conference between those who hoped that the General Assembly would address the problem of treaty revision and those who sought to prevent the assembly from playing any such role (Zöckler and Riznik 2012, 553).

Since the establishment of the UN, Article 14 of the charter has been invoked in some General Assembly resolutions, as in Resolution 721(VIII) concerning the issue of race conflict in South Africa and in Resolution 1542(XV) concerning the overseas territories that were under the control of Portugal. Many other resolutions use phrases from the article without explicitly referring to it, as in Resolution 3395(XXX) about the question of Cyprus (Zöckler and Riznik 2012, 563–64). However, Article 14 has seldom been invoked for the purpose of treaty revision in the history of the UN. Even when the assembly uses the language of Article 14 in its resolutions, it usually does little more than call upon the parties to agree to a cease-fire and to come to the negotiating table without recommending specific terms of settlement, as with Resolution 2793(XXVI) concerning the hostilities between India and Pakistan over the status of Bangladesh being the epitome of the assembly’s approach (UN General Assembly 1971).

However, Article 14 is not the only provision in the charter that can be used for implementing peaceful change. In fact, the provisions of Article 14 are subject to Article 12, which means that it is the Security Council that is expected to play a primary role in implementing peaceful change under the charter. To understand the council’s powers with respect to peaceful change, we need to look at Chapter VI of the charter pertaining to pacific settlement of international disputes.

### **UN Security Council and Peaceful Change**

The charter places emphasis on the importance of the parties resolving disputes themselves, as stipulated in Article 33(1). At the same time, however, the charter grants the Security Council broad discretionary powers over procedures for and terms of dispute settlement. If the Security Council sees a dispute as endangering international peace and security, or if it considers a situation as likely to endanger the peace, it shall, under Article 33(2), “call upon the parties to settle their dispute” by means of their own choice, and, under Article 36(1), it may “recommend appropriate procedures or methods of adjustment” (UN 1945).

However, in the context of this discussion, the most important article of the charter is Article 37. Article 37(1) provides that the parties of the dispute shall refer to the Security Council in case of failure to reach a settlement by themselves, and Article 37(2) provides that the council may “recommend such terms of settlement as it may consider appropriate” (UN 1945). According to Hans Kelsen (1948, 182), the council may, under this article, recommend terms of settlement that amount to “an infringement upon the rights which the one or the other party has under the existing international law.” While this does not mean that the council should disregard the sanctity of treaties, it does mean that the council is not bound by existing treaties in making recommendations.

There is a clash of opinions over the nature of council recommendations made under Article 37(2). For example, Goodrich and Hambro (1949, 260) argue that council recommendations are not binding and cannot be made binding under other articles of the charter. According to them (Goodrich 1945, 966; Goodrich 1947, 8; Goodrich and Hambro 1949, 264–66), it was agreed by the delegates in the San Francisco Conference that under Article 39 the council may only make binding decisions about enforcement measures in accordance with Articles 41 and 42, the purpose of which is to bring hostilities between the disputing parties to an end, and the council may not impose terms of settlement on the parties under these articles. In the Dumbarton Oaks draft, there was no explicit provision empowering the council to recommend or determine terms of settlement. At the conference, the following two changes were made in order to make it clear that the council could not determine and impose specific terms of settlement. First, it was made clear in Article 37(2) that the council may recommend terms of settlement, when a dispute is referred to the council by one or more of the parties. The second change is the removal of the provision in the Dumbarton Oaks draft, which suggested “the possibility that failure to settle a dispute [by the means specified in what later became Chapter VI] might be deemed a threat to the peace” by the council (Goodrich et al. 1969, 258). This change was made to assure the delegates of the conference that “recommendations for settlement under Chapter VI were not binding” (292). Such an assurance was needed at the conference, since not a few small and middle powers aired concerns about granting the council power to make binding decisions on terms of settlement in fear of repetitions of the Munich Agreement (Goodrich and Hambro 1949, 264–65).

Nevertheless, many scholars (e.g., Eagleton 1946, 27; Kelsen 1948, 212–13) have argued that the council may legitimately take enforcement measures against states that disregard or reject its recommendations, and its recommendations become virtually binding on them in such cases. Indeed, the council has in practice shown its readiness to take enforcement measures against states that fail to comply with its substantive recommendations (Giegerich 2012, 1160). Such an interpretation of Article 37(2) would enable the council to play a more active role in the promotion and implementation of peaceful change.

Having expounded the council’s powers under Article 37(2), we shall now look at the council’s actual practice concerning the article. Although the functions of the council were often paralyzed by the superpower rivalry during the Cold War, the council passed some notable resolutions which contained recommended terms of settlement. The following are some of the examples. In Resolution 67 concerning the Indonesian question, the council recommended the parties, namely the Netherlands and the Republic of Indonesia, to commence negotiations with the intent of establishing “a federal, independent and sovereign United States of Indonesia” over which sovereignty was to be transferred and also specified the principles on which negotiations were to be based (UN Security Council 1949). Resolution 118 concerning the Suez question, which was adopted about two weeks before Israel’s attack on Egypt, specified six principles that any settlement of the question must respect (UN Security Council 1956). Resolution 242, which was adopted following the Six-Day War, also contained substantive recommendations for “a just and lasting peace in the Middle East” (UN Security Council 1967). Resolution 457 concerning the Iran hostage crisis can also be viewed as adopted under Article 37(2) (UN Security Council 1979).

However, the effectiveness of these substantive recommendations should not be overestimated. As Steven Ratner (1995, 433) points out, when the aforementioned Resolutions 67 and 242 were put to a vote, it was already known that the principles and recommendations set forth in these resolutions were acceptable to the parties concerned. Moreover, Resolution 118 was not successful in deterring the Israeli, British, and French invasion of Egypt, thus failing to achieve a peaceful settlement of the question. As for Resolution 457, few people would argue that it had been decisive in defusing the crisis.

During the Cold War, the Security Council was generally disinclined to make substantive recommendations and tended to pass resolutions that merely called on the disputing parties to agree to a cease-fire (Higgins 1970, 12–13). Instead of actively engaging in conflict resolution

through the use of its powers under Article 37(2), the council became reliant on such mechanisms as the mediation of the secretary-general (and of his special representatives) and peacekeeping (Ratner 1995, 434). There is no denying that these practices have played valuable and constructive roles in conflict prevention and resolution, but they have also obscured the council's role in the promotion and entrenchment of peaceful change in international society.

Since the end of the Cold War, the council has frequently adopted resolutions that go beyond calling for a ceasefire. As Ratner (1995, 438) explained, it "has regularly either endorsed or proposed principles and terms for settlement of conflicts," such as in Cambodia, Central American states, and Southern African states. Moreover, the council has on occasion adopted such resolutions under Chapter VII of the UN Charter. For example, in the Bosnia and Herzegovina conflict, the council, acting under Chapter VII, adopted Resolution 824 recognizing "the unique character of the city of Sarajevo, as a multicultural, multiethnic and pluri-religious centre" and Resolution 1031 endorsing the Dayton Agreement (UN Security Council 1993, 2; UN Security Council 1995). To give another example, Council Resolution 1244, adopted under Chapter VII on 10 June 1999, demanded that "a political solution to the Kosovo crisis shall be based on the general principles" set out in the two annexes of the resolution (UN Security Council 1999, 2).

### **Key Issues to Be Addressed in Security Council Debates**

In these cases, however, the council failed to prevent disputes from escalating to armed conflict between the parties concerned. Therefore, it is necessary to look for ways to improve the council's ability to implement peaceful change before disputes escalate to armed confrontation. Here I shall point to three issues that need to be discussed in order to address this problem.

First, ways need to be explored to reinforce the council's ability to guide the disputing parties through the process of dispute settlement. Under Article 33(1), the disputing parties, which are "likely to endanger the maintenance of international peace and security," are obliged to seek a settlement by peaceful means "of their own choice" (UN 1945). However, in reality, when a dispute is genuinely likely to jeopardize the peace, it is usually difficult for the parties concerned to agree on the mode of settlement, and such a political impasse can lead to armed conflict. To avoid such a scenario, the council may "recommend appropriate procedures or methods of adjustment" under Article 36(1) (UN 1945). The problem here is that recommendations made under this article are not legally binding on states. One way to enhance the effectiveness of council recommendations on the dispute settlement process is to accompany them with a statement to the effect that noncompliance may result in enforcement measures under Chapter VII. Although this may prove contributory to peaceful change in some cases, whether the council is allowed to combine Chapters VI and VII in this way is disputable in light of the fact that "the Dumbarton Oaks text was revised to eliminate the provision expressly permitting the Security Council to determine that a failure to settle a dispute under Chapter VI was a threat to international peace and security" during the drafting of the charter (Goodrich et al. 1969, 292). This leaves room for further discussion on what the council can legitimately do and what it should be encouraged to do to influence and guide the dispute settlement process under Chapter VI so as to prevent international disputes from escalating to armed conflict.

The second issue, which is related to the first one, is whether the council may recommend terms of settlement on its own initiative under Article 37 of the charter. Under the charter, the council can make substantive recommendations only after a dispute is referred to the council by one or more parties. This prohibits the council from proactively recommending terms of settlement on its own initiative when, for some reason, all of the parties either fail or refuse to refer the dispute to the council, thus limiting its role in the process of dispute settlement. In fact, however, there is a difference of opinion concerning this, and some states have argued that the council can legitimately act under Article 37 on its own judgement (Goodrich et al. 1969, 285; Giegerich 2012, 1154). In light of this ambiguity, there is room for further discussion on

what the council can legitimately do and what it should be encouraged to do to promote peaceful change when the disputing parties fail or refuse to refer the dispute to the council.

Finally, there is room for debate about whether the charter can be interpreted as permitting the council to virtually determine and impose terms of settlement by taking enforcement measures against states disregarding its substantive recommendations made under Article 37(2). While such an interpretation is at odds with the original intention of some of the founders of the UN, it has been argued by Kelsen and others that the council can virtually impose its substantive recommendation under Chapter VII. On practical grounds, one might question whether permitting the council to impose terms of settlement would enhance its actual ability and willingness to implement and entrench the principle of peaceful change in international society. John Fischer Williams (1931, 342), for example, criticized the idea on the grounds that the League Council would have balked at setting out terms of settlement if it had been required to make binding decisions on the merits of disputes. This is a fair-enough point, but it must be noted that allowing the council to determine terms of settlement does not mean it can no longer make recommendations. The key issue to be addressed is whether the council has or should be allowed to have the option to virtually determine terms of settlement.

In short, if the Security Council's ability to promote and entrench peaceful change in international society is to be enhanced, it is necessary to critically review its powers under Chapter VI and reconsider the relationship between Chapters VI and VII. As has been discussed in this article, the council is an international organization reflecting and reinforcing both collective security and peaceful change, and its effectiveness in the maintenance of international peace and security depends on its capacity to maintain and promote the symbiotic relationship between these principles. Chapter VI deserves more attention than it has received in the council reform debate, for it is primarily this part of the charter that provides for peaceful change under the UN system. The failure to address this aspect of the question of council reform would not only be unsatisfactory from a theoretical point of view but would also be detrimental to the council's effectiveness in practical terms.

At this point, it is good to give some thought to whether the UN membership would be willing to accede to such reform proposals as are designed to strengthen the powers of the council concerning peaceful change. As discussed in the second section, the problem of peaceful change is closely linked to the principle of state sovereignty, and the council was given limited powers because of the fear that a stronger council would undermine this principle. One way to address this concern is to ensure that the council is adequately representative of the UN membership, and, therefore, it is hereby proposed that the item or category entitled "the Council's powers under Chapters VI and VII of the UN Charter" be added as the sixth pillar to the aforementioned five pillars of council reform so that the issues surrounding the council's powers and ability to promote peaceful change can be discussed along with other issues surrounding council reform, including the issues concerning its size, composition, and representativeness.

The question remains though of whether UN member states would agree to add this new pillar to the agenda. From a purely normative standpoint, this new item should be added to the agenda, since peaceful change is one of the fundamental principles enshrined in the UN Charter, and the member states are expected to be fully committed to it. However, peaceful change is also beneficial to them. As discussed above, some of the founders of the UN put more effort into creating a system that would serve to maintain the international status quo, and from their viewpoint, the problem of peaceful change had perhaps been of secondary importance. However, the increase of the UN membership since its inception has resulted in the growth of the number of member states that are dissatisfied with aspects of the international status quo, and due to changes in circumstances, most of the countries, which were satisfied with the status quo back in 1945, have become dissatisfied with aspects of the status quo in one way or another. Strengthening provisions for peaceful change is beneficial to all those who want to bring about political changes in the international status quo in accordance

with international law, especially with that governing the use of force in contemporary international society.

One might still wonder if the permanent five would agree to add the new item to the agenda, but peaceful change does not necessarily work to their detriment. Changes in Chapters VI and VII of the UN Charter aimed at enhancing the council's ability to promote peaceful change can expand room for great power management, thus increasing their collective institutional power. Moreover, the permanent five can block Security Council decisions concerning peaceful change as long as they retain their veto right. Whether the institutionalization of peaceful change would work against them largely hinges on how the question of veto right is addressed, and this more contentious problem, which has direct implications for the institutional power of the permanent five, has long been discussed in the context of council reform. If so, there should be no reason why the relatively innocuous problem of peaceful change cannot also be discussed in the context of council reform.

The issues to be discussed under the sixth pillar are relevant not only to interstate conflicts but also to internal conflicts with global repercussions. There is a growing awareness of the importance of conflict prevention at both international and domestic levels. UN Secretary-General António Guterres, addressing the Security Council on 10 January 2017, stated:

Most of today's conflicts are still essentially internal, even if they quickly take on regional and transnational overtones. . . . We must rebalance our approach to peace and security. For decades, this has been dominated by responding to conflict. For the future, we need to do far more to prevent war and sustain peace. (UN Security Council 2017, 3)

With this in mind, the secretary-general went on to call on the Security Council "to make greater use of the options laid out in Chapter VI of the Charter of the United Nations" (UN Security Council 2017, 4). Indeed, as discussed above, since the end of the Cold War, the council has been occupied with responding to internal conflicts that have already occurred. In view of this, it is vitally important today that the promotion of peaceful change be addressed while taking note of changing global security environments so as to enable the council to effectively prevent internal conflicts as well as the interstate ones.

## Conclusion

The current debate on Security Council reform has mainly been fixated on the issues concerning the council's size and composition. In order to look at the question of council reform from a broader perspective, this article has focused on peaceful change, its symbiotic relationship with collective security, and their mutually constitutive relationship with the council. On the basis of the insights obtained from the interwar debate on peaceful change—the first ever attempt in IR scholarship to systematically study the problems surrounding peaceful change—the present article pointed out that the effectiveness of the council in the maintenance of international peace and security hinges on its ability to promote and entrench the symbiosis between collective security and peaceful change in international society. If council reform is to have any meaningful impact on its effectiveness, the symbiotic relationship between collective security and peaceful change and their mutually constitutive relationship with the council must be taken seriously as we deliberate on ways to reform it. Any council reform that neglects this nexus would be inadequate in practice.

On the basis of these findings, this article has argued that future council reform debates should explore ways to enhance the council's ability to implement peaceful change so that it can proactively prevent international and internal disputes from escalating to armed conflict. This requires a critical review of the council's ability to give substance to peaceful change in terms of its powers under Chapter VI of the UN Charter. More specifically, it requires a rethinking of the council's powers to recommend appropriate dispute-settlement procedures and terms of settlement and a reconsideration of the legality and desirability of enforcing council recommendations under Chapter VII.

As pointed out in the introduction, the UN Charter recognizes the importance of peaceful change as well as that of collective security for the maintenance of international peace and security in Article 1(1). Therefore, if we are to stay true to the spirit of the UN, equal weight must be given to both of them, and peaceful change must be taken more seriously in future Security Council reform debates. This is not to claim that peaceful change is a panacea, but conferring on the council the power to take necessary and effective measures to implement peaceful change is an important step forward toward the enhancement of its effectiveness in the maintenance of international peace and security.

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