

International Organization in International Society: UN Reform from an English School Perspective

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The United Nations [UN] has not lived up to the ideal envisioned at its origin. Its role in the maintenance of peace is minor, and its influence on the solution of global economic and social problems very limited. However, while skepticism may prevail as to the effectiveness of the institution, there is growing interest in considering the possibility of its revitalization. Its financial crisis, in large part the result of an anti-UN mood in the U.S. Congress, has encouraged the acceptance of the need for reform.

The above lines nicely summarize the most common argument for UN reform in the contemporary debate. However, the quotation is not contemporary but written by French high-level UN expert Maurice Bertrand some twenty-five years ago (Bertrand 1988: 193). As the age of this argument may suggest, the debate on UN reform is old—some even suggest it is as old as the organization itself (Roberts and Kingsbury 1988: 13). In recent years, reform debates intensified especially during Kofi Annan's time as secretary-general, culminating in the reform of the human rights mechanism and the adoption of the Responsibility to Protect in 2005. However, as Edward Luck states, pointedly, the UN "adopts formal reforms with great reluctance and glacier-like speed" (Luck 2005: 412).

Not only is UN reform an eternal project, but the analysis of the reform project seems inconclusive. Perhaps this is due to the conceptual ambiguity as to the exact nature of the organization (Krisch 2008: 133). Depending on the theoretical assumptions adopted, both the nature of the organization and the drivers for its reform vary.

For some, the UN is most of all an arena that can be controlled by the powerful, wherein states try to achieve enough influence to advance a predefined national interest or, if that option is not available, to support some other state whose predefined interest seems likely to harmonize with one's own (O'Neill 1996). Proponents of this approach focus typically on the Security Council, as this is where competition for power is supposedly culminating. In questions of UN reform, the logical argument here is that the composition of the Security Council ought to mirror the distribution of power in the world outside the organization.

For others, the UN is an intergovernmental enterprise with a direction, namely, ensuring peace, development, and respect for human rights (Slaughter 2005). Proponents of this approach typically focus on more parts of the UN system than the Security Council—General Assembly complex only, noting also the various committees, councils, offices, and specialized agencies that are meant to participate in achieving the organization's goals. This approach is also more common in the UN literature as it takes the UN seriously and attributes it intrinsic value as an organization rather than merely as an arena. Studies are often explicit about the several levels of complexity of the organization, framing them as a problem of combining intergovernmentalism with transnationalism (Cronin 2002), as an issue of dynamics between the formalized structure of the organization and the informal groupings wherein most negotiation takes place (Prantl 2005), or more generally as "a synthesis between the necessary and the possible" (Franck 2005: 611). Consequently, when it comes to UN reform,

this literature has a hard time both seeing the forest through the trees and addressing it without falling into an idealist discourse of how the organization *ought* to be reformed to achieve a better world.

Yet others see the UN as an actor or various parts of the UN system as actors (Abbott and Snidal 2010; M. Barnett and Finnemore 2004; M.N. Barnett and Finnemore 1999; Krook and True 2012). This perspective is also very common in popular discourse, as it is intuitive. However, it runs the risk of being inexact, since it avoids specifying exactly *who* that actor is or how a precise part of the UN system, for instance the Secretariat, is circumvented by member states. Normally, an actor would have to have more agency than the UN manages to muster most of the time. Moreover, this approach oftentimes combines with the idea of the noble purpose, which leads to inevitable disappointment if the organization's character as actor is exaggerated. In questions of reform, concepts such as norm cascades and internalization can be drawn on (Finnemore and Sikkink 1998) but will not account sufficiently for the limits states set for what the organization may actually do, at least in the shorter term.

When it comes to grasping UN reform, therefore, none of these perspectives does the job adequately. This is simply because they tend to assume what would need to be studied, namely the nature of the drivers of reform. If it is assumed that reform has to happen to ensure a distribution of power and influence in the organization, which is consistent with the distribution in the outside world, that outside distribution (however it is measured) becomes a scale of measurement with which to assess the success or failure of the reform process. If, on the other hand, reform has to happen to make the UN more effective in achieving better (humanitarian) outcomes, then the success or failure of the reform process is measured in relation to those outcomes (which is likewise a methodological challenge and rarely remains uncontested). There is also a point of view according to which reform has to happen to achieve better representation in the UN, which can, conveniently, imply either an updated distribution of power in the organization or a cosmopolitan ambition of fairer representation of people.

Legitimacy has become a buzzword in efforts to cover these various motivations for reform, and it has been used to denote both issues of power distribution, representation of states, effective decision making, and achieving good (humanitarian) outcomes (Hurd 2008; Lee 2011; Russett 1996: 264–65). Unfortunately, a use this wide of a contested concept will not solve the problem of capturing what is at stake in the reform process. Instead, this conundrum can only be escaped by applying a larger frame of analysis in which the drivers of the reform project are not assumed but studied. I argue that a better way to achieve this is to relate UN reform to wider movements in international society where the motivations for UN reform can be studied in context. The research question to be answered is: What are the drivers of UN reform?

The aim of this article is to spell out the drivers of reform by conceptualizing the UN as an institutionalization of international society. Using the English School concept of primary institutions, tensions and developments underlying the calls for reform may be identified and their implications more thoroughly understood. In opposition to the approaches cited above, I do not assume a pre-set underlying goal for the reform process; the drivers of reform are the object of study rather than a scale of evaluation of the reform process. For English School theorists, the slowness of UN reform is no surprise. Rather, the process of UN reform actualizes very fundamental questions about how international interaction should be organized and is, therefore, necessarily slow and constantly contested.

For the purpose of this paper, I have singled out two aspects of UN reform to study: the proposals to reform the Security Council and the implemented abolishment of the Commission of Human Rights (CHR). Certainly Kofi Annan's proposal that states should work to reform the Security Council first has been partly responsible for the recent upsurge in Security Council reform literature, but it is also widely recognized that the Security Council is the hardest reform nut to crack, a fact that reflects its embeddedness in conflicting underlying

principles, which also makes it the most interesting case for an analysis of this kind. The case of the CHR is particularly interesting because it actualizes the very fundamental tension between the power play of states and the demand for a basic decency of a liberal kind (for this point, see Hurrell 2007). It is also a unique and important outcome of the reform process that a UN organ has been dismantled and replaced.

The paper is outlined as follows: First, the theoretical tools of the English School are presented in brief, the concept of “primary institutions” is discussed, and criteria for recognizing them are specified. Second, these criteria are applied to two central parts of the UN reform project. Finally, the findings from that analysis are related back to the question of what drivers of reform are in the concluding section.

The Primary Institutions of the English School

The founding fathers of the English School pointed to a certain degree of order and predictability in international life—despite its formal anarchy—brought about by states’ common interests in preserving the very system of sovereign states (for instance Bull 2002 [1977]). This common interest is the foundation of an international society—an “Anarchical Society,” as in the title of Hedley Bull’s famous book, in which states that are “conscious of certain common interests and common values form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another and share in the working of common institutions” (Bull 2002 [1977]: 13). Order in international society is upheld by common interests in certain primary goals (relating to preserving the society itself, and its units, the states), by rules that guide the preservation of society and by *institutions* that safeguard the rules (Bull 2002 [1977]: 51).

It is essential here to establish the difference between the common institutions of international society, sometimes denoted “primary institutions,” and international organizations, sometimes denoted “secondary institutions” (Buzan 2004: 187; Makinda 2002: 366). The common institutions that states share in international society are not of the same kind as those that scholars of international regimes would study (Bull 2002 [1977]; Buzan 2004; Holsti 2004; Keohane 1988). Rather, they are basic phenomena that states routinely acknowledge and reproduce, regardless of whether there are treaties or other formal arrangements surrounding them. In Barry Buzan’s words, the common institutions in international society “are constitutive of both states and international society in that they define the basic character and purpose of any such society. For second-order societies (where the members are themselves collective actors), such institutions define the units that compose the society” (Buzan 2004: 166–67). Famously, Bull defined “institution” as “a set of habits and practices” (Bull 2002 [1977]: 71) and this definition is what makes them discernible in empirical reality.

Many scholars working in the English School tradition today seem to consider Bull’s set of five primary institutions (international law, diplomacy, war, great power management, and balance of power) outdated, and primary institutions have attracted a renewed interest from researchers in the tradition (Buzan 2004; Holsti 2004; Schouenborg 2011; Wilson 2012). For instance, it has been argued that Bull left out something essential when he chose not to include trade or the market in his list of institutions, and that the body of “common interests and common values,” which Bull writes that states share, would be considerably thicker if the economic order was included as well (Buzan 2004: 19–20). It has also been questioned whether the great powers and their special responsibilities of managing the international society can really be an institution, and other institutions to include in the list have been suggested (for instance by Buzan 2004: chapter 6; Holsti 2004: 25–27)

By way of definition, K.J. Holsti suggests that “institutions, in Bull’s sense, are established patterns of action that contain normative elements and are sustained through tradition and culture” (Holsti 2009: 136). Cornelia Navari points out that “there is nothing ‘behind’ the balance of power or ‘behind’ the practice of recognition and the methodological approach

[of the English School] is a direct encounter with self-understanding” (Navari 2010: 626). A primary institution, then, should be empirically recognizable. A state demonstrates its consent by abiding by the institution; consequently, the state may withdraw its consent by opposing the institution in words or in action (Bull 2002 [1977]: 70). An important corollary is that if the representatives of a state argue against an institution, in order to justify a decision not to conform to the routinized practice, the very act of justification means that the existence of the institution itself is acknowledged. Important, however, is the critical mass: There needs to be a widespread agreement on a practice for it to count as a primary institution.

There are important similarities between primary institutions and norms as described by Martha Finnemore and Kathryn Sikkink, but there are also some important differences (Finnemore and Sikkink 1998: 891). First, whereas Finnemore’s and Sikkink’s norms come from a domestic constituency, a primary institution is truly international and applies between states only (Navari 2009a: 6). Second, primary institutions include norms, often several, and their interrelation (Finnemore and Sikkink 1998: 891; Holsti 2004: 21–22). Third, primary institutions guide (conscious) conduct, never (mechanic) behavior; thus, it necessarily involves agents of states considering their options and choosing their conduct rather than behavior being “caused” by norms in any Humean sense of the term; “agents . . . do not have causes, they have intentions” (Navari 2009b: 48–49; 2010: 627).

Through this discussion, we may extract several questions to ask about a candidate primary institution. We may even require that it fulfill all these demands in order to accept it as such. This list is obviously not foolproof, as fulfillment of the requirements is an issue of judgment and argumentation, but it may act as a useful checklist:

- Is the institution truly international, or can the same institution exist within a state?
- Is it a routinized practice based on ideas, and does it include norms, rules, and etiquette?
- Is it consciously upheld by actors?
- Is it quite stable over time and does a critical mass of states endorse it?
- Is it co-constitutive of actors?

Buzan suggests that clashes between primary institutions may be the most important drivers in processes of change (Buzan 2004: 186). As the calls to reform the UN are interpreted as a *symptom* of change in the wider international society here, we should look for drivers of reform in tensions between primary institutions. In the case of the Security Council reform debate, such a tension will be identified between great power management, sovereign equality, and regional representation. In the case of the replacement of the CHR, such a tension is identified between sovereign equality of states and a minimal standard for equality of people.

International Organizations or Secondary Institutions

Martin Wight, although his *Power Politics* contains chapters on the United Nations and the League of Nations, claimed that those chapters were named after the organizations “only by courtesy . . . and interested students of international relations consistently overrate their importance” (Wight 1978: 216). This is the traditional English School view of international organizations. Bull also explicitly cautioned against treating international organizations as pillars of order. He claimed instead to look at “institutions of the international society that arose before these international organizations were established, and that would continue to operate (albeit in a different mode) even if these organizations did not exist” (Bull 2002 [1977]: xxxiv–xxxv). Buzan suggests a development of Bull’s distinction between institutions and international organizations as one between primary and secondary institutions, where Bull’s “set of habits and practices” is the primary institution and the “organization or administrative machinery,” which sometimes exists to support the common goal, is the secondary institution (2004: chapter 6). Ian Clark notes that “an institution of international society may, but need not, in turn take on an institutional form: whether or not it adopts secondary institutions has no bearing on [its] standing as a primary institution” (Clark 2009: 219).

There is something dissonant in Buzan's idea of primary institutions leading to, or being the base for, secondary institutions. Buzan suggests that such varying international phenomena as the UN General Assembly, the UN as a whole, NATO, IMF, peace-keeping operations or the UN Security Council can be examples of secondary institutions (2004: 186–87). He also points to how the same secondary institution may be connected to several primary institutions, but the link between a secondary institution and an international organization is still too imprecise, as we cannot know whether it is only one aspect of the international organization that is a secondary institution or whether the international organization *is* the secondary institution. In the case of the UN, of course, this ambiguity is amplified as it is often treated as “a secondary institution” (Makinda 2002: 366), while I believe that few would object to the assessment that several primary institutions are visible within it.

In keeping with the most traditional English School accounts, I conceptualize the UN instead as a permanent conference for international society. This conceptualization implies an organizational purpose, namely the functioning of international society, which distinguishes it from the realist conceptualization of the UN as merely an arena for power struggles. The status of purposive conference makes it possible for the organization to be the scene for several developments and conflicts of primary institutions simultaneously. After all, the idea of formalizing an existing international society by uniting the functioning of several primary institutions into one framework is not new, even though the specific format of an international organization is fairly recent. Writers in the English School usually see this sort of international society gathering happening after major wars. At Osnabrück and Münster, parallel seven-year negotiations finally gave rise to the—weakly formalized but very practically influential—Westphalian system in Europe (Clark 2005: chapter 3; Mayall 2000: 1); at Vienna in 1815, when a similar meeting resulted in the Congress of Europe; after the First World War came, the first effort to formalize a “constitution for the new global society of states” through the League of Nations (Watson 2009 [1992]: 284); and among international legal scholars, it is suggested that the UN Charter is indeed the “constitution of the international community” (Fassbender 1998). In this vein, the UN may be seen as a permanent conference where the workings of various primary institutions that are in play are continually negotiated and renegotiated.

By no means, however, should international society in this conceptualization be seen as dependent on the UN; rather, *I assume that the functioning of the UN is dependent on the underlying international society*. In Robert Jackson's words, “International society consists of what states are prepared to agree or accept in their relations [and] the international organizations that states institute to facilitate their relations should not be misunderstood as independent authorities” (Jackson 2000: 103). Consequently, it is in this spirit that I study the UN. It is a partial institutionalization of international society, some primary institutions of which may be traced through the UN system. What I assume, however, is that the UN reflects international society of 1945 rather than that of the present day. It is much more complex in the range of issues it needs to handle, a circumstance that the allied powers could not necessarily foresee when they created the organization, and it was conceived in rather static terms to lock a system in, except that the underlying society was precisely *not* locked in but kept evolving (for this point, see Franck 2005). This, in my view, is the reason why the reform debate is eternally present. The UN is too inflexible to adapt continuously to changes in the underlying international society, and so the calls for reform are recurrent. Studying the primary institutions visible in the UN reform process helps us see how developments in the overall global arena play out in the call for UN reform.

Reform at the United Nations

There is a long-lasting debate about the need to reform the United Nations, and, to some extent, in the present framework that is merely a sign of its good health. It goes without saying that one central purpose of a permanent conference for international society should be to house—and contain—the permanent squabble over power and resources among the members.

It is hardly surprising, then, that a part of the squabble should concern the “meta issues” of the constitutional order of the organization itself—especially in case of a shock such as that provoked by the implosion of the Soviet bloc. The current reform project, which gained momentum with the end of the Cold War, has led to some reforms being implemented, notably the replacement of the Commission on Human Rights with the Human Rights Council in 2006.

The formal structure of the UN was an attempt to freeze world politics after the end of World War II. In Michael Howard’s words, “A general and equal interest was assumed in the preservation of the *status quo post bellum*. Change would be possible, but only by general consent. The postwar world was conceived, in fact, in somewhat static terms” (Howard 1988: 32–33, emphasis in original). The organization was designed to safeguard the common interests of its protectors (including the preservation of the society of states); the UN Charter was agreed on by the World War II allied powers in advance and only formally finalized at the San Francisco summit of 1945 (Luard 1988: 209). It turned out, however, that the postwar world was not constant, and the membership of the UN grew quickly. From the original fifty-one, it experienced a steady influx of members during the decolonization process to attain 193 today. Politically, this gradual enlargement meant the Western powers, and especially the U.S., which had at the start been able to count on majority support from the organization, increasingly found itself on the minority side of the General Assembly (Luard 1988: 201). Clearly, the world has changed since 1945, but the UN has, at least formally, changed very little.

No reform of the Security Council has as of yet been agreed to, but it has been hotly debated, and this debate is well worth closer study in order to illustrate how primary institutions are playing out there. Moreover, the much less substantial reform suggestions concerning the General Assembly may also be included in a discussion of Security Council reform, as the two bodies are the two main political pillars of the organization, and the reform discussion tends to take the shape of a zero-sum game between them. The case of the CHR is also particularly interesting, because it is a unique and important outcome of the reform process that a UN body has been dismantled and replaced. Moreover, it actualizes the very fundamental tension between sovereign equality of states and the minimal standard for equality of people, a well-rehearsed theme in English School theory (see for instance Dunne and Wheeler 2004; Linklater 1982; Mayall 2000; Wheeler 2000; Vincent 1986).

Security Council Reform Debates

In English School terms, the very design of the Security Council manifests the primary institution of *great power management*. It is clearly international, and it is an established practice based on ideas, rules, and norms. It is also constitutive of the states to the extent that being recognized as a great power or not affects the role and power of a state. Although Holsti claims that great power is a status rather than a patterned practice (Holsti 2004: 25–26), I would argue that the practice consists in precisely the right routinely granted to the great powers by other states to have a say—and sometimes more than just a say—in any matter of world politics. That they not always put the interest of society as a whole before their own interest was recognized by Bull already in the 70s (Bull 1979) and does not disqualify great power management from being an institution. The crucial difference between the League of Nations and the United Nations was exactly the formalized position of the great powers, so that the smaller states should not be able to move ahead with decisions that any of the great powers were unprepared to accept (Mbuende 2008: 21). Therefore, the right to veto constitutes a breaking block safeguarding the great powers from too hasty developments. As we will see from the reform debate, great power management is consciously upheld by the participant states, and whether one state is a member of the council or not definitely affects its aspirations to great power status. France would hardly deserve that status without its membership, while India is not conceived of as a great power, because it lacks membership in the Security Council (Bull 1979: 438–39; Krisch 2008: 136). Since no reform of the functioning

or composition of the Security Council has been agreed to, it seems safe to assume that great power management is endorsed by a critical mass of states and is quite sustainable over time. Needless to say, the five permanent members of the Security Council (the U.S., China, Russia, UK, and France; P-5 in UN jargon) are not interested in letting go of their permanent seats nor of their right to veto.

The General Assembly, on the other hand, is characterized by the primary institution of *sovereign equality*, meaning that all states count equally, regardless of their power, population size, economic or political status, or other criteria. I have chosen the term sovereign equality, as in the UN Charter, rather than just sovereignty, as is common in the English School literature, to emphasize that the main argument here is not about internal sovereignty but about the formal international level acceptance of the nominal equality of sovereign states.¹ Sovereign equality, too, is clearly an international phenomenon as it is in relation to other states that it becomes important. It is a routinized practice, based on the ideas of recognition and formal equality, and includes norms, rules, and etiquette. States take great care to reproduce sovereign equality and to ensure it is stable over time and is, in principle, endorsed by all states. Finally, it is constitutive of the actors so that states would not be allowed to participate in the UN system unless they were recognized as sovereign equals by a critical mass.

Two dimensions of great power management are striking in the debate on reforming the Security Council: First, there is a discussion surrounding the very institution, which concerns both the special rights of the great powers and the relationship between the Security Council and the General Assembly. This view is actualized when some states call for abolishment of the right to veto and/or hold permanent seats (von Freiesleben 2008: 5–6), thereby challenging the practice of great power management *per se*. It also begs the question of whether the special privileges of the great powers are accurately balanced by the special responsibilities they take on. This balance is expressed in the UN Charter only in relation to the nonpermanent members and has been interpreted to mean making contributions to the UN budget and to peace-keeping operations (Blum 2005: 638–39). Some small states (S-5)² have called for a more transparent Security Council that would be more accountable to the General Assembly, a suggestion that was strongly disapproved both by the P-5 and by would-be permanent members (von Freiesleben 2008: 8). In English School terms, the proposal to make the Security Council more transparent and accountable was perceived as threatening, because it challenged the relationship between the exclusive Security Council and the inclusive General Assembly, thereby favoring sovereign equality at the expense of great power management.

Second, there is disagreement on *what* states are to be counted as great powers today. While the U.S. and China are evident great powers and Russia is the heir of the Soviet Union, the special status of the UK and, especially, France is being questioned (Blum 2005: 363). The World War II losers—Japan, Germany, and to a lesser extent Italy—advocated after the end of the Cold War for permanent seats on the Security Council for themselves (von Freiesleben 2008). This suggests a traditional concert approach, where the power that loses the war is not to be left out in the cold for long but is free to come back to its former position in international society once it again abides by its rules (Clark 2005: 173–80). The former losers' calls for permanent seats on the Security Council then not only amount to support for great power management as a primary institution, but it is also a sign of how the institution is interpreted as essentially constant since before the war, so that the same powers are still the relevant players. Japan and Germany have also backed their claim to great power status by being sizable contributors, second and third, to the UN budget (Blum 2005: 238).

There are other candidates for an expanded Security Council as well. New contenders are Brazil, Egypt, India, Nigeria, and South Africa, which all claim uneven geographical represen-

1. This choice also has precedents in the English School literature; see for instance Manning 1972: 310.

2. S-5, "the Small Five group," comprises Switzerland, Singapore, Jordan, Costa Rica, and Lichtenstein.

tation in their favor as well as regional great power status (von Freiesleben 2008: 2). This suggests a different—and new—primary institution, namely that of *regional representation*. Since decolonization, regional cooperation has been evolving around the globe, manifest for instance in the development of regional organizations. In the UN, this phenomenon takes the shape of regional groups within which much of the practical work takes place.

I argue that regional representation is a primary institution, because it is a clearly an international phenomenon, which is routinely practiced, based on ideas and including norms, rules, and etiquette. States are expected to engage in continuous dialogue with their regional neighbors in the regional groups. Regional representation is consciously reproduced by actors. States routinely negotiate their positions within their regional groups before resolutions are presented or voted on, and, whenever they manage to agree, the president of the regional group (a revolving task) delivers a speech on behalf of the whole group. Regional representation was not a primary institution in 1947 but has been evolving since de-colonization and is today endorsed by virtually all states, with the possible exceptions of Israel, which has been at pains to find a group, and Turkey and Japan, which are members of two groups. Finally, it is constitutive of states to the extent that being a member of a certain regional group influences states' self-image and conduct in the organization. It is also through the regional groups that states are nominated for election to various UN bodies.

In the Security Council, regional representation grounds in the formulation about “equitable geographical distribution” in chapter five of the UN Charter, and it is routinized through the five regional groups: the African Group, the Asia and Pacific Group, the Group of Latin American and Caribbean states (GRULAC), the Eastern European Group, and the Western and Other States Group (WEOG). The 2005 high-level panel suggesting two models for enlarging the Security Council tried to replace the five regional groups with four “regional areas,” namely Africa, Asia and Pacific, Europe, and Americas (Blum 2005: 640). That modernized regional categorization was refused, however, which is an indication of the degree of internalization of regional representation as a primary institution.

In conclusion, the three primary institutions of great power management, sovereign equality and regional representation are all important in the discussions on reforming the Security Council. Only if the Security Council should agree to let go of the right to veto would it be a sign that great power management is becoming obsolete. Regional representation, with its link to sovereign equality through the idea of proportional representation of states, on the other hand, is developing, and, moreover, clashing with great power management over the composition of the Security Council. If there is a change in the relation between the General Assembly and the Security Council so that the former gets more control over the latter as suggested by the S-5, it would mean great power management was ceding ground to sovereign equality. It seems more plausible there will be a compromise between great power management and regional representation, so the Security Council will be enlarged with semi-permanent seats allotted per region to the most important states or with regional seats whose occupancy revolves within the region.

The Human Rights Council

The Commission on Human Rights was a subsidiary organ to the Economic and Social Council, one of the principal bodies of the UN. In the post-Cold War reform project, it is one of the few mechanisms that has actually been reformed. It was abolished in 2006 and replaced with a marginally smaller Human Rights Council (HRC), which is organizationally subsidiary to the General Assembly. Former Secretary-General Kofi Annan motivated the need for reform by assessing that “the Commission’s capacity to perform its tasks has been increasingly undermined by its declining credibility and professionalism. . . . States have sought membership of the Commission not to strengthen human rights but to protect themselves against criticism or to criticize others” (Annan 2005: para. 182). States that had a very bad human rights

record had no difficulties to be elected to the CHR, and Libya (then clearly an international pariah) chaired it in 2003, much to the frustration of the Western states (Alston 2006: 192). On the other hand, arguments about the confrontational atmosphere in the CHR also abound. For instance, in speeches by the ambassadors of Cuba and Pakistan, respectively, during the reform debate:

We peoples of the South, besides *continuing to be the target of unjust condemnatory resolutions*. . . .

The Commission was discredited, we believe, not so much by the worst violators, but by the readiness of some States to condemn each other rather than help each other. (quoted in Scheipers 2007: 232–33, emphasis added)

What is often forgotten when discussing the role of the CHR is how much it achieved during its sixty years of existence. Based on vague and general charter provisions at the outset, the originally technical, rather than political, CHR contributed to creating a human rights framework comprising the Universal Declaration on Human Rights, two binding covenants, and a host of likewise binding conventions and protocols as well as an impressive fauna of “special procedures,” including special rapporteurs, technical experts, working groups, and complaints procedures (Gutter 2007: 96; Schrijver 2007: 810–12). This points to a gradual and important expansion of the international human rights system since the end of World War II, and it suggests that the CHR was not only discredited, but it had also clearly grown out of its “institutional jacket” (Schrijver 2007: 812).

From an English School perspective, the reform of the human rights machinery is clearly important as it points to a need that has evolved within the institutional setting of the UN and *was not there before*. To the extent that the human rights mechanisms of the UN represent any underlying primary institutions, these have evolved, or at least become established, from the platform the UN provides. Jack Donnelly argues that “positive international law is becoming supplemented by human rights norms that, like those of the classic standard of civilization, hold even against resistant states” (Donnelly 1998: 16).

The replacement of the CHR with the HRC was decided by means of a resolution adopted by the General Assembly (Scheipers 2007: 227). The resolution was a broad compromise where 170 states voted in favor, four against (the U.S., Israel, Palau and the Marshall Islands), and three abstained (Belarus, Iran, and Venezuela). Interestingly, the U.S. and its foreign policy allies chose to vote “no,” because they would have preferred a smaller HRC with formal negative membership criteria; that is, states with bad human rights records should be excluded (Scheipers 2007: 228–30), while the abstainers instead chose that option in protest against the decision to make the HRC non-universal and against the continued use of the CHR’s “special procedures” (Yeboah 2008: 82–83, 95). The distribution of votes points to a fundamental divergence of opinions regarding the structure of the HRC, where the resulting compromise had to accommodate both ambitions to create a small “society of the committed” and the desire to create a body with universal participation and only cooperative (as opposed to confrontational) mechanisms. This distinction of an insider/outsider vision of human rights contra a universalist idea pinpoints the fundamental issue of a recognized standard of conduct for membership in international society.

In English School theory, it is becoming quite common to see human rights as a primary institution (Buzan 2004: 187; compare Vincent 1986), but in my view, the compromise on the HRC with its implications on membership suggests that this was not only about human rights as such but about *the right to enforce a minimal standard of conduct*. It embodied the tension between “sovereign equality understood in radical legal positivist terms” and “the morally appealing idea of adherence to shared standards of justice as a condition for full membership in international society” (Donnelly 1998: 13–14). Human rights as such imply state sovereignty (internal and external), since the idea is exactly that states are responsible for respecting and protecting certain basic rights of their citizens and can be held to account if they fail to do

so. Rather than treating human rights as one primary institution, therefore, I argue that human rights are related to two primary institutions: sovereign equality on the one hand and a shared minimal standard of acceptable conduct on the other. Finding a convincing name for this shared minimal standard is no easy matter, but following Buzan's lead, let us call it *equality of people* (Buzan 2004: 187). As the substance of the minimal standard is the idea that basic rights should apply to all humans regardless of the state in which they are born, so equality of peoples captures the essence of the institution.

Equality of people in this sense is an international phenomenon, as it is founded on adherence to a shared standard between states. (Human rights, on the other hand, are enforced primarily via national adaptations.) Equality of people is routinized, both through its monitoring via UN channels and via bilateral diplomatic contacts (and sometimes suspension of those contacts in case of serious misbehavior). It is based on ideas of human dignity and equality and includes norms and rules (although it is less clear about etiquette). It is consciously reproduced by actors, endorsed by most states, and constitutive of them to the extent that respecting the minimal standard is what makes a state a "full" member of international society. The fact that the resolution that established the HRC was accepted by 170 states also points to the critical mass of states that endorsed the notion of a common minimal standard. (It is worth noting here that the U.S., which argued for a more exclusive HRC and voted "no" to the ensuing compromise under the Bush administration, subsequently turned to endorse the new human rights body under the Obama administration and sought election to it in 2009.)

The balancing act of reconciling sovereign equality and equality of people in the creation of the HRC initially turned out to put greater emphasis on sovereignty, and its corollary non-intervention, than expected. "What many diplomats did not realize until late in the negotiations was that any new UN body would have to be created along *customary UN lines of equitable geographical distribution*," writes Amnesty's Yvonne Terlingen (emphasis added), and explains how this fundamentally changed the majority structure in the HRC from that of the CHR. "The African and Asian members now have a comfortable majority (at least twenty-six out of forty-seven votes) in the UN's main political human rights body; and they are definitely using it to set the agenda. . . . The changed political dynamics point to the need for European and Latin American countries to adopt a cross-regional approach to address human rights issues of common concern (Terlingen 2007: 171)."³ Creating a new body without taking regional representation into account was apparently inconceivable for a majority of states.

A novelty of the HRC is its Universal Periodic Review (UPR), an arrangement by which all states are to have their human rights performance reviewed at regular intervals. Allehone Mulugeta Abebe, first secretary at the Ethiopian delegation, notes that African states pushed for an "essentially state-driven process while others wanted to maintain a robust participation of NGOs in the review" (Abebe 2009: 4). The UPR became, importantly, a review by *peers*; that is, states are being reviewed by other states and not by independent experts. This arrangement signals how some states prefer to emphasize sovereign equality over equality of people by keeping procedures strictly intergovernmental, while others are more interested in achieving a certain human rights standard, even at the expense of reducing state control over the process. Significantly, however, Abebe also notes that the UPR is not restricted to holding a state under review up against the standards of human rights documents to which it is a party (as is the case with the UN's Treaty Monitoring Bodies, which review State Parties' human rights performance in relation to particular agreements *which they have ratified*), but it may likewise draw on the UN Charter and the Universal Declaration as well as on voluntary pledges and

3. Understanding the implications of this observation requires some background knowledge of traditional human-rights voting patterns: The WEOG often votes as a block, with the support of the Eastern European EU member states and candidate states and GRULAC (with some exceptions, primarily Cuba and Venezuela). African and Asian states also tend to block vote, which means that the Commission usually housed two camps of roughly equal strength so that what members of the GRULAC and the Eastern European group were elected could decide the majority situation in the Commission. This is not the case in the HRC, where the Asian and African groups together enjoy a comfortable majority.

commitments made by the state (2009: 4). This is an interesting exception to the usual legal positivism that supposes that states are only held responsible in relation to provisions to which they have explicitly concurred (Donnelly 1998: 6, 14). It also points to an evolution of equality of people through the new institutional platform, which allows the institution to expand.

In conclusion, the very notion of human rights has expanded from holding a small place at the creation of the UN system immediately after World War II into becoming one of its main pillars. This is reflected in the establishment of the new HRC as a subsidiary organ to the General Assembly, rather than to the Economic and Social Council, as was the case with the CHR. This signals the emergence of a new standard of equality of people as a primary institution in international society, a development that the UN has been under strain to accommodate institutionally, hence the reform. While some states emphasize sovereign equality by striving to limit the influence of NGOs, holding on to intergovernmental control over the UPR and protesting the “special procedures” established by the CHR, the compromise creating the HRC nevertheless carried forward a strong case for respecting at least a minimum standard for human rights. The emphasis on equality of people is also clear from the fact that the UPR has been mandated to depart from the hereto dominant notion that a state can only be held to a standard to which it has actively agreed. Finally, in the human rights domain, too, we see regional representation, mainly in the final institutional design of the HRC but also in united regional fronts on human rights issues, where there is a tendency to intra-regional loyalty and inter-regional criticism.

Conclusion

It seems clear the repeated bids to reform the Security Council are due to the clash between great power management and sovereign equality, which is institutionalized in the organizational design of the United Nations. In Adam Watson’s comparative study of historical international systems (Watson 2009 [1992]), great power management is understood as a special case of hegemony, namely one where hegemony is diffused over several great powers. Today, this diffusion of hegemony is institutionalized in the United Nations Security Council. The various bids, all unsuccessful, to reform the Security Council point to the interpretation that collective management by the great powers is still a primary institution. There is, however, evident disagreement on who should be included in the great power club. A case could be made that the membership would have developed differently had the primary institution not been formalized through the UN as the squabble for seats suggests. Given this understanding of Security Council reform, it is unsurprising that compromises are hard to strike. In international society, there is no understanding of “almost great powers,” which are just slightly more than sovereign equals. Perhaps, however, this is a possible way forward. If there were such a thing as “middle-power states” (Foot 2007), these could quite logically be granted an in-between status, such as semi-permanent seats without veto.

It has also been argued in this article that regional representation has emerged as a primary institution. It is based on a norm of equal representation (of states, not of people) over the globe and the possibility of creating a new UN body without regional representation was perceived as impracticable by a majority of states. Whether the primary institution of regional representation could have emerged independently of the UN is unclear, as decolonization could potentially have given rise to it regardless of international organizations. Yet, it seems that the specific provisions of sovereign equality in the General Assembly must have been especially conducive to it through their emphasis on proportionality in numbers rather than in influence, so that an international society with a heavier reliance on great power management alone would have been at pains to develop it. Interestingly, too, a recent proposal on how to overcome the Security Council reform stalemate has emphasized regional representation even further, suggesting that longer term seats are allocated to regional groups and that occupancy rotates within those groups (Swart 2013: 51).

The observation on regional representation and its relation to sovereign equality ties into the observation on diffused hegemony above, as the sovereign equality practiced in the General Assembly is, in Watson's terms, rather a formalization of the other extreme condition: multiple independencies. In Watson's historical comparison, this is a rare and unstable condition; but in the UN, it is formalized as a basic—and somehow timeless—understanding. As for equality of peoples, it has been around for a long time as an idea and a norm, but it has been channeled and built up by the way in which it is implemented through the UN system. If it was for the first time formally stated and agreed to with the Universal Declaration of Human Rights in 1947, it could be argued that it has since then evolved from an international norm to an international rule and further to an established international practice, under the mediation and guidance of the UN system. As the UN founding members all agreed to the Universal Declaration on Human Rights, subsequent members had to endorse it as well. In the English School framework, it is understandable that the establishment of a primary institution such as equality of people takes time.

UN reform, with its drivers and obstacles, may only be understood in its historical context. The conclusion of this study is that UN reform is driven by efforts in the underlying international society to accommodate the evolution of several competing primary institutions. Specifically, it has been argued that the main driver for Security Council reform is the continuous need to reconcile great power management with sovereign equality. Regional representation seems to have evolved partly in response to this institutional tension and may turn out to contribute to overcoming it in the future. Meanwhile, the main driver for reform of the human rights system has been the need to reconcile sovereign equality with equality of peoples, an equally serious institutional clash that will likely stay with us for a long time to come.

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