

Presentation By

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Introduction

In this paper, I will discuss and advocate five, related points, as follows,

1. Enlargement of the Security Council and reform of the Security Council are not necessarily the same thing; nor is enlargement necessarily the most important thing.
2. The most important reform that heads of government will face in New York this fall arguably is to reach greater consensus on the use of force, particularly as regards the protection of the innocent in humanitarian crises.
3. There is a role for the L-20 outside of the UN and possibly inside, as well, but not as a competitor or successor of the UN Security Council and not as a subservient body to ECOSOC.
4. There is a package of reforms of the organization as on the table that, taken together, would transform the way the UN functions and go along way towards restoring confidence in the organization around the world.
5. The process of reform must be elevated to the level of capitals and leader; the ex-ministers can help see that that happens

Enlargement versus Reform*

Security Council enlargement is clearly a central preoccupation for many UN members, especially for Japan and Germany and, to a lesser extent India and Brazil. Others, members of the former “coffee club”, have serious reservations about such expansion. Differences of opinion are clear and strongly held, and risk taking the entire reform enterprise hostage. Handled ineptly, enlargement could become the cuckoo that pushes everything else out of the nest.

For the proponents, reform and enlargement are near synonymous. They see the Security Council as having a deficit of legitimacy because current Council membership is unrepresentative and anachronistic. The second and third largest funders are absent. The most populous third world countries are underrepresented. Currently, the UN has put 70,000 soldiers into the field at an annual cost of \$5 billion. Those countries that are expected to shoulder the largest shares of the burden, financial and military are excluded from the decision-making process.

The UN desperately needs more resources for military activities and enlargement could make a larger pool of resources available for UN purposes, including military missions. It is not enough for the Security Council to make decisions; it must see that they are implemented. More permanent members would facilitate reaching that goal because they would have a greater stake in the UN’s effectiveness. Indeed, it is just this expanded pool of resources that ought to appeal to a reticent United States. A more robust UN would be able to act when the US did not see it as in its interest itself to do so.

Further, the Council is moving progressively into the field of legislation through Chapter VII resolutions, such as the creation of the Counterterrorism Committee whose decisions, under the Charter, acquire the force of law and require compliance. Such legislation is legitimate only when the Council is adequately representative of the membership. Otherwise it amounts to taxation without representation, or at least compulsion without consultation.

More negatively, the Security Council is the public face of the UN and progress on UN reform will be measured by how much the Council is changed. This is apparently especially true in the poorer counties where many regard their influence on world events to be disproportionately small and the influence of the US and other Permanent members inappropriately large. The UN's legitimacy deficit can be resolved by allocating those member countries in the Security Council that contribute the most resources, financial or human, or represent the most people in the UN's already established regions, permanent seats on the Council.

For others, the UN has a performance deficit, not a representativeness deficit. The UN is failing its members, especially its poorer members. It does not follow that making the Council larger will make it more effective; the reverse is more likely true. The Council is arguably already the most effective UN organ despite its obvious problems. Enlarging ECOSOC made it less effective; also, the proposed Human Rights Council is to be smaller than the large but failed Human Rights Commission. Bigger would not even necessarily be more representational. None of the candidates for permanent status has the endorsement of its own region. New permanent members would not necessarily feel the need, nor be welcome, to act as representatives of those regions.

In any case, for the skeptics the UN's core problem is political, not institutional or structural, and is likely to be unresponsive therefore to institutional responses. The issue is a lack of consensus on what to do about contemporary security challenges and, perhaps to a lesser extent, common development problems. What is hindering the Council's effectiveness is disagreement on the major issues of the times, such as when it is acceptable for the international community to intervene in the internal affairs of states. Adding seats to a divided Council is unlikely to facilitate achievement of that consensus. It would, conceivably make the Permanent Five even more powerful, although it would isolate those who would cast a single veto even more dramatically than already is the case in a 15 member body. At the same time, more permanent seats would diminish the influence of "middle powers", which had been so beneficial to the UN and to Council effectiveness.

Nor is the time right for major reform. Suspicions are high in Washington that reform is intended to dilute American influence. This is a prescription for dividing the US from the UN's purposes, not integrating it as had been a central objective of the entire enterprise in 1945 in the wake of the failed League of Nations.

Those who are skeptical about Security Council expansion feel that attention ought to be directed to reforming working methods first, particularly accountability and

transparency. Consultations with non-Council members are inadequate. Making sure that large sanctions regimes are effectively administered is a big job if future scandals are to be avoided. There is a real risk that rushed or ill-considered reform could leave the UN worse off. The focus should be on “getting it right” not “getting it done.” The skeptics believe that member states should be very, very cautious. A big bang reform could in reality be the sound of a train wreck.

All of this raises many secondary questions that are yet to be answered. How many votes would be required in a Council of 20 plus members to make a decision? Would Europe have too much influence on an enlarged Security Council? Should Europe have even greater representation given the contribution it makes to UN resources? If the two notional African seats went to sub-Saharan Africa, how would the Arab and/or Moslem countries be represented? Would it be wise merely to add just the few permanent regional seats on which all could agree? Should veto holders be able to vote “no” without ipso facto vetoing resolutions? In any case, should a periodic review not be undertaken to ensure that the Council is functioning as intended.

The process for enlarging the Security Council is moving on a parallel but separate track to the wider issues of UN reform, and earlier. The Group of Four (Japan, Germany, India and Brazil) have tabled a resolution and foresee a vote in June on the contents of enlargement, viz, an expansion of the Council to 25 (?) seats, with six new permanent members with vetoes (?), two for Asia and Africa and one for Europe and the Americas. If this resolution is adopted, there will be a run-off election until all the seats were filled. Part of the underlying strategy is to neutralize opposition, including Permanent Five opposition, by facing them with a two-thirds affirmative majority in the Assembly and, in effect, daring them to defy the wishes of the vast majority of the membership. Time, and not very much time, will tell.

The UN between Heaven and Hell**

It is worth recalling the words of Henry Cabot Lodge, former US delegate to the UN that “this organization is created to keep you from going to hell. It isn’t created to take you to heaven” It is a measure of how difficult it is to reform the UN that the word ‘reform’ does not even appear in the mandate of the High Level Panel on Threats, Challenges and Change appointed by the Secretary-General. The organization is rife with divisions between rich countries and poor, between the Security Council and the General Assembly, between the nuclear powers and others, between the Arabs and Israelis, the Indians and Pakistanis and North Korea and its neighbours, and most significant, between a unilateralist Washington and a multilateralist New York. Finding consensus in these circumstances seems like mission impossible. In this light, the Secretary General has limited his recommendations in his own words, “to items on which [he believes] action is both vital and achievable.”

Modernizing what the UN does is the Secretary General’s first priority and re-engineering who does it, i.e., Security Council membership, is second. He devoted the bulk of his report to getting the former right, addressing himself to the main issues that at

once bedevil the UN and undermine international peace and security. He addressed himself to security writ large focusing on development, security and human rights, endorsing the High Level Panel's "new and broader understanding ... of what collective security means" and advocating "a new security consensus based on the recognition that threats are interlinked, that development, security and human rights are mutually interdependent, that no state can protect itself acting entirely alone and that all states need an effective, efficient and equitable collective security system..." At the same time, he wisely did not take on regional conflicts, including particularly the enormously divisive Arab-Israeli conflict, which the UN qua UN cannot alone resolve. Nor did he devote a lot of attention to General Assembly reform, a forum which is essential to the socialization of states and the development of global norms, but notoriously ponderous and resistant to advice. He also accepted the High Level Panel's core recommendation that the Economic and Social Council (ECOSOC) should effectively become a "high level development cooperation forum" for promoting development coherence and monitoring progress on the Millennium Development Goals.

Probably the most urgent need facing world leaders when they congregate in New York in September will be saving the innocents from slaughter, starvation and disease in Darfur, the Congo, Northern Uganda and all of the other little-known or half-forgotten humanitarian crises around the world. And who will do the saving. The lives of millions of people are at stake, as is the reputation of the UN.

The UN Charter, which was written in other times for other circumstances, has become part of the problem. The framers of the Charter, with the appalling losses of World War II fresh in their minds, decided that the best way "to protect succeeding generations from the scourge of war" was to establish a strong norm against aggression and create a system of collective security that proscribed interference in the internal affairs of others. With some help as well from NATO and nuclear deterrence, the number of conflicts between states diminished. Internal conflicts such as those in Rwanda and, now, Darfur, nevertheless, have latterly become the crucial issue and international consensus on the need for protective action across borders has been slow to materialize.

In 1999, after the UN sat out the Kosovo war under the threat of a Russian veto, Secretary-General Kofi Annan posed the question of how, if humanitarian intervention indeed was an unacceptable assault on sovereignty, the world should respond to such brutal inhumanity. The Commission appointed by then Foreign Affairs Minister Lloyd Axworthy to answer the question replied by shifting the discourse from the right of states to intervene to the need of innocents for protection, which had greater appeal—not least to those needing protection. The "Responsibility to Protect" (R2P) thesis of the Commission holds that in the event of conscience-shocking brutality, including widespread loss of life, the responsibility for protecting people when their governments cannot or will not do so falls temporarily to the international community.

"Selling" R2P was and remains difficult at the UN. Ambassadors of less powerful UN member countries fear that R2P could become a license for too much intervention (others, mostly world-weary UN hands, fear there would be too little). While certain

reluctant African governments are probably concerned about their own holds on power, others, including the African Union, find the idea of intervention by non-Africans difficult to accept. The devastating legacies of European exploitation and the slave trade are still too present. The Europeans, albeit constrained by their often bloody colonialist history, are nonetheless open to the idea of protecting others. The Latin Americans look askance at the idea through the prism of the last 200 years of their often conflictual relations with the United States. The proponents of Asian values, for their part, are paradoxically almost totally dedicated to the 17th century European belief in sovereignty as an absolute good. The Americans are wary of an idea that might at once entail constraints on their capacity to act, while increasing the moral obligation to do something in conflicts they would rather ignore. The Arabs and some other predominantly Moslem countries hear echoes of the Crusades and see parallels with the Palestinian issue. In the General Assembly, spoilers such as Cuba, Pakistan, Sudan and Libya have marshaled opposition even to consideration of the idea, let alone action to implement it. The case for R2P was made incalculably more complex by the Iraq war, even though that war did not meet the tests of R2P.

There is nothing is so powerful as an idea whose time has come and, opposition notwithstanding, progress appears possible. The High Level Panel endorsed R2P as an emerging norm of international behaviour. The Secretary-General has, himself, embraced the idea. What remains is for world leaders to rise above the quarrelsome instincts of their ambassadors and acquit the trusts they hold on behalf of “the Peoples” in whose name the Charter was written.

The Secretary General dealt squarely, also, with the issue of the use of force, effectively reconfirming the applicability of Article 51 of the Charter to current challenges while re-affirming the Council’s (i.e., not individual governments’) right to authorize use of force preventatively. The potential nexus of terrorists and weapons of mass destruction post 9/11 raises a new challenge which some, notably in Washington, believe makes prevention not just possible but mandatory. He commended to Heads of Government and state guidelines on the use of force derived in large part from the report, “The Responsibility to Protect”, commissioned by then Canadian Foreign Minister Lloyd Axworthy, notably as regards the seriousness of the threat, right intention, right authorization and the necessity, efficacy and proportionality of force. By outlining the conditions in which intervention is legitimate, the panel at once encourages the Council to authorize intervention and reassures the dubious that it will not be done wantonly.

The Secretary General makes numerous other significant recommendations. The High Level Panel had done a considerable service in agreeing for the first time in UN history upon a definition of terrorism. The Secretary General embraces this approach, which proscribes any action against civilians or non-combatants intended to intimidate a population or to compel a government to act, or not to act. In brief, the end does not justify the means; nothing, for example, in the fact of occupation justifies the targeting and killing of civilians. The Secretary General also makes comprehensive recommendations on arms control and disarmament, the wisdom of which, judging by the NPT review conference so far. Forty countries, at least, have the capacity to build

nuclear weapons on short notice. If the modern priority is to prevent nuclear weapons and nuclear material from falling into the hands of terrorists, the logical first steps are to preserve the integrity of the Nuclear Non-Proliferation Treaty and to make an absolute priority of bringing both under the tightest possible control and, eventually, eliminating them.

The L-20 and the Security Council***

The L-20 idea was born of the experience of the financial crises of the 1990s, when successively Mexico and Latin America, then South Korea and ASEAN countries and then Russia experienced serious economic and financial distress. The finance ministers of the G-7 took the lead in formulating responses but it proved too restrictive a grouping to set the direction for sound financial management for countries that were not part of the group. Ultimately, a larger group was formed, the G-20, which comprised the G-8 countries as well as key, emerging economies and regional centres of economic power. These countries represented approximately 90 percent of the world's economic output, 75 percent of its trade, and 67 percent of its population. It is increasingly evident that in the emerging world, the G-8 is too narrowly-based a body to deal with the mega-issues it faces. For the same reasons, the often mooted G-3 would be even less satisfactory. Neither exchange rates, nor financial crises nor even security challenges can any longer effectively be handled by groupings that exclude key players. "Buy-in" cannot be imposed. Above all, the L-20 recognizes that geo-political and geo-economic realities are changing.

According to the Canadian Government's conception of it, the L-20 would be comprised of countries from North and South that would meet annually at the summit level. It would deal with inter-institutional and inter-disciplinary issues that exceeded the writs of existing international organs and/or the portfolios of individual ministers. The L-20 would provide leaders a regular opportunity for frank dialogue, deliberation and problem-solving. It would encourage familiarity among leaders and facilitate the creation of networks among leaders that would facilitate solving the most contentious problems. It would uniquely also be able to oversee existing institutions and encourage greater coherence among them and make proposals for filling gaps between them. At the same time, it would stay away from technical issues, such as exchange rates, that are more properly the domains of the ministers directly responsible. Decisions it made would be binding on participants only, although the broader impact of such commitments, for example, of strengthening their public health systems to cope with globe-trotting viruses or bio-terrorism could be very positive.

The L-20 remains a controversial idea with some attached to the exclusivity of the G-8 and reluctant to expand the club; others, offended by that exclusivity, fear the group's enlargement. Some worry that such an institution would compete with the UN Security Council. In fact, the Security Council is a treaty-based institution, whose mission is to preserve international peace and security. The L-20 ambit would be much wider, discussing and promoting action on the major cross-cutting global issues of the day, including, for example, bioterrorism and health pandemics, finance, trade and

development, and energy efficiency and climate change. Where the Security Council is in continuous session, the L-20 would meet annually. The Security Council is normally an Ambassadors-level body, while the L-20 would function at leaders-level.

While consideration was given by the High Level Panel to establishing a counterpart to the L-20 inside the UN, no such proposal was made. It is difficult to see how the Canadian conception, at least, of an L-20 at leaders' level could be reconciled with the 54-member ECOSOC in either membership or mandate.

A Package Deal****

Politics is the art of the possible and the Secretary General has been necessarily artful. There is inevitably criticism that his report does not go far enough, or represents a missed opportunity in one respect or another. For example, it presents options, not clear cut recommendation, on enlarging the Security Council. Nevertheless, the Secretary General has been both forthright and realistic. The challenge now is for the membership to devise a package that will attract consensus or, as a minimum, 127 affirmative General Assembly votes, including those of the existing five permanent members.

The Secretary General has proposed a package approach, in recognition of the reality that generating agreement inevitably entails give-and-take. Pursuant to the discussions in New York and elsewhere, there appears to be a handful of truly transformative innovations that, with the requisite statesmanship, should be collectively within reach:

1. The adoption of the 0.7% ODA timetable by willing developed countries, accompanied by a "Quick Wins" strategy
2. The creation of an International Financial Facility
3. Adoption of the emerging norm of the Responsibility to Protect,
4. Security Council endorsement of guidelines on the use of force
5. Adopting the definition of terrorism
6. Embracing the IAEA Additional Protocol
7. Creating the Peace Building Commission and Fund
8. Strengthening the human rights secretariat and transforming the Human Rights Commission into a more competent body
9. Establishing a Democracy Fund, and
10. Undertakings by the Permanent Members of self-imposed limits on recourse to the veto

Taken together, and with sufficiently agile drafting to meet various negotiating needs, these ideas would go a long way towards equipping the UN to cope with the challenges it faces in the 21st century. The temptation to engage in invidious reductive negotiations, to find the lowest common denominator, must be avoided. Effective reform of the UN will require much more of its member states than doing business as usual. An effective UN is in every member's interest.

What is needed is to couple the Secretary General's vision with political will. There are not many examples in history of where it has been possible to mobilize enthusiasm for significant change in the absence of a major political upheaval such as was caused by the appalling losses of the Second World War. Whether it can be done this time will test whether humanity can learn lessons other than the hard way. It is quite apparent that leaving these problems up to Permanent Representatives in New York to resolve is a prescription for deadlock. Many lack the authority to adjust national positions for a larger interest. In any case, the reform of the UN cannot be left to diplomats alone. Capitals must become engaged at the political level, and sooner rather than later. Proponents of reform should not leave all of the selling to the Secretary General and his envoys. The world needs its leaders to take command of this issue. Although it is late to do so, engaging civil society in support of reform is also needed. Reform is scarcely on the public's radar in most member countries.

The challenge is to recognize the enormity of the stakes and to rise above the temptation to indulge animosities and the instinct to conduct business as usual. The times are not usual. An historic opportunity is at hand and those who believe in the UN will seize it.

Recommendations

It is pointless to try to anticipate every twist and turn in the discussions in New York or to propose new ideas after expert bodies and the Secretary General himself have thoroughly canvassed the necessary and the feasible. What interested and influential former officials can do at this stage is largely, but not exclusively, hortatory, focusing on the necessity of reform and the need to capitalize on a rare confluence of events that make it possible to achieve it. The Aspen foreign ministers group should consider doing the following:

1. Develop a simple and persuasive common message on behalf of reform, reminding people why a system of collective security based on the rule of law is in everyone's interest and why the United Nations is at the heart of that system.
2. Urge current leaders to lead, and to leave their peoples a legacy of reform rather than accept the custodianship of an unsatisfactory status quo.
3. Remind them that a process that produces winners and losers would be destructive of the very consensus that reform is intended to generate and that principled give and take is indispensable to deal-making and the essence of statecraft.
4. Call on the Secretary General and the President of the General Assembly (in person and collectively, if possible) to urge them to force heads of government to make decisions rather than allow Permanent Representatives to engage in the usual invidious reductive negotiations

that empty UN resolutions of any meaning. Only leaders can make tough choices among competing priorities.

5. Divide up the labour, with those former foreign ministers with influence in the South timing any advocacy to anticipate the opening of the Global South Conference in Doha and those former G-8 ministers targeting Gleneagles
6. Enlist civil society in the effort; major organizations are scheduled to convene in New York in June; most decision-makers respond to better to their own publics.
7. Make common cause with capable NGO's in generating public interest in reform by supporting discrete campaigns on behalf of particular ideas, such as the Peacebuilding Commission, or the Human Rights Council.
8. Contribute op-eds to opinion-leading papers and journals, especially in countries reluctant to contemplate serious reform.
9. Generate opportunities to exploit the news and commentary segments of the electronic media in favour of UN reform.
10. Launch blogs to generate interactive engagement via the web.

*For a fuller treatment, see Conference Report *The UN: Adapting to the 21st Century* Centre for International Governance Innovation, www.cigionline.ca

** See Paul Heinbecker in *Behind the Headlines*, Volume 62, Number 2, Canadian Institute of International Affairs and a forthcoming edition of *Canada World View*, www.international.gc.ca/canada-magazine

***See also "A Global Answer to Global Problems" by Paul Martin, *Foreign Affairs*, May/June 2005, www.foreignaffairs.org

****See also "The Way Forward" by Paul Heinbecker in "Irrelevant or Indispensable? The United Nations in the Twentieth Century, forthcoming from Wilfrid Laurier University Press.