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UN Security Council: Future Prospects for a Compromised Hegemon

<https://www.e-ir.info/2016/11/08/un-security-council-future-prospects-for-a-compromised-hegemon/>

IAN HURD, NOV 8 2016

As the destruction of Syria continues, the inability of the UN Security Council to end the conflict has been frequently noted. The UN's humanitarian chief recently called it 'our generation's shame' that the Council stands by while the people of Syria endure unimaginable suffering. The failure of the Council to do more in Syria has led many to wonder what it means for the Council and its future: if the Security Council cannot bring itself to engage with a crisis as deep, wide, and destructive as this, what hope is there for global governance and for the UN?

The reaction to Syria helps show some truths about the Security Council that liberal internationalists sometimes forget: the Council was created to help the Great Powers impose their vision of global order on the rest of the world. The veto was added to ensure that when they do not agree on what should be done, the Council would do nothing. The Council therefore oscillates between complete irrelevance and imperial domination, with Great-Power consensus providing the switch that determines which condition obtains on an issue. Neither result offers much help to regular people who are suffering as a result of global forces.

This article looks at the constitution of the Security Council and highlights two features. First, the Council was expressly designed to be inactive around all issues on which the Great Powers have conflicting interests. Its inability to respond constructively to improve the welfare of people in Syria is a direct consequence of that design. Second, when the Great Powers do agree with each other, the Council becomes a mechanism for them to impose their views on the world. Animated by the interests of the strongest states, it is a global hegemon fractured by internal disagreement.

There is not much in either the design of the Council or in its practical history to suggest that when Council does come to life, it will have in mind the interests of the people over whom it claims authority. It is guided in action by the shared goals of the strongest governments. It is fantastical to assume that these are the same as the goals of regular people or of the 'international community.' While liberals bemoan the failure of the Council to exert itself more forcefully, others are left to wonder why centralizing imperial power on a global scale was thought to be a good idea in the first place.

Legalized Hegemony...

The Security Council's legalized hegemony is set out in the UN Charter. The treaty gives the Security Council the authority to 'determine the existence of any threat to the peace, breach of the peace, or act of aggression' in the world and to 'decide what measures shall be taken... to maintain or restore international peace and security' (UN Charter Art. 39). These measures can be anything that the Council decides, from diplomatic solutions to economic sanctions to military enforcement – or nothing. When the Council decides that something should be done – for instance, that Iraq withdraw from Kuwait in 1990 (S/RES/660), that the International Criminal Court investigate crimes against humanity Sudan in 2005 (S/RES/1593), that Libya end its violence against civilians in 2011 (S/RES/1970), or that all countries must enact domestic laws that criminalize the 'collection... of funds... to carry out terrorist acts' (S/RES/1373) – all governments are obligated to carry it out.

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This legal hierarchy was revolutionary in the inter-state system in 1945. Its importance to the history of state sovereignty should not be underestimated. It created a radically new situation in world politics in which sovereign governments accepted their subordination beneath a unified global legal and political order centralized in the Council (Hurd 2017). Since 1945, all UN members are committed to accepting and enacting the decisions of the Security Council. There is no appeal from those decisions and no judicial review or other escape. The substantive scope of this deference is limited to issues of “international peace and security,” but this has been expansively interpreted by the Council to include not just inter-state military conflicts but also a wide range of domestic policies including on race, gender, and human rights. After 1945, sovereign states in the UN system exist in a position of legal subordination beneath the authority of the Security Council. This is dramatic and novel but not particularly controversial.

... and Great Power Interests

Into this legal framework, the UN Charter adds the substantive interests of the Great Powers. This comes about as a consequence of permanent membership and the veto. The Council's legal powers are put to use when and how the permanent members decide that they should. Its policies reflect their moments of consensus. The Council's legal authority combines with Great Power interests to make up a global Empire.

The idea of a directorship of the Great Powers emerged in 1943 and 1944 in discussions between the US, the UK, and the Soviet Union. The Big Three thought of themselves as the natural leaders of the globe with the material capacity and moral right to project power around the world. They brought on China, for regional representativeness, and France, to renew its historical global position, to make up the eventual Permanent Five (P-5). They considered themselves the Great Powers of the age and wrote themselves into the Charter to institutionalize that status. At San Francisco in 1945, the smaller states accepted this, some because they felt it looked after their interests and some because they saw it as a *fait accompli*. As an institutional design this has been successful, in the sense that it has persisted without significant change even as political power has shifted. It certainly serves the interest of the permanent members themselves, as it gives them extra influence over other people and governments — but it is far from clear that this should count as ‘progress’ for human welfare beyond those governments.

The Big Three insisted that each of the permanent members should have a veto over Council decisions in order to ensure that enforcement powers could never be used against their interests. This was codified in the requirement that decisions on substantive matters required the ‘concurring’ votes of the five permanent members as well as some number of non-permanent member votes (Art 27(3)). The veto guarantees that the Council will only exercise its authority over governments when it is desired by the P-5. Seen from a different angle, it ensures that the goals of the Council will be the shared goals of the permanent members. It is animated by substantive goals that the P-5 have in common. And when they disagree on what should be done – as with Syria today and with so many proxy conflicts throughout the Cold War and after – the Council can do nothing. This ‘nothing’ isn’t a failure of the organization; it is instead the organization working in precisely the way it was designed to work – which is to say, it is designed *not to work* when the Great Powers don’t agree on what it should do.

In the place of ‘international anarchy,’ the Security Council brings into being a global Empire, a ‘world-state.’ It is a centralized legal authority with the capacity to command obedience from states. B.S. Chimni calls it part of ‘the emerging imperial Global States’ (2007, 207). José Alvarez sees it as part of the ‘law of empire.... imposed by and at the service of the world’s hegemon or hegemons’ (Alvarez, 2008-09, 824). With the legal powers of Leviathan and the political interests of the Great Powers, the Security Council is an imperial super-sovereign, a mechanism for global governance that transcends the conventional distinctions of liberal political theory between public and private power and between domestic and international affairs.

Hardt and Negri describe ‘Empire’ as a constellation of political and military power that gives ‘the right of duty of the dominant subjects of the world order to intervene in the territories of other subjects in the interest of preventing or resolving humanitarian problems, guaranteeing accords, and imposing peace’ (Hardt and Negri 2000, 18). Alexander Wendt aimed at a similar idea with the ‘world-state,’ which he defined as a ‘universal supranational authority – a procedure for making binding and legitimate decisions about the exercise of ... common power’ (Wendt 2003, 505;

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Chimni 2004). The Security Council is the institutional home of that authority. It embodies the world-governing imperial council that Carl Schmitt called for in his mid-century analysis of world governance – it is the *Nomos* of the Earth (Schmitt 2006).

Both liberals and realists in IR theory may overlook this imperial power since they share the view that international law and organization are *constraints* on governments rather than *empowering* of them.[i] The Security Council helps reveal the empowering side. The Council is useful to the Great Powers because it helps them govern the world in ways that would be harder without it. They can rely on the Council's legal authority and its institutional legitimacy to require that all states comply with their decisions. The Council amplifies the power of its strongest members. Global governance would be more difficult for them in its absence.

The Council's internal division make it a particularly compromised hegemon. This won't change unless the membership and voting rules are amended, which is itself extremely unlikely given that the current permanent members must consent to any changes in either. Today's disagreements between the US and Russia have the same effect on the Council as did their disagreements in the Cold War: they put the Council on the sidelines of world politics. The future of the Council looks a lot like its past: long periods of irrelevance punctuated by interventions of 'governance' on behalf of the strongest states. The periodization between these is determined by the interests of the Great Powers — it comes into action when the Great Powers find it useful for their own purposes and it fades when they disagree.

Conclusion

Authority, said Hannah Arendt, is a relation 'between the one who commands and the one who obeys' (Arendt 1997, p.93). The Security Council has unlimited legal authority to impose itself on the world and it is guided by the interests of the P-5. The combination of absolute legal authority and the substantive goals of the Great Powers gives the Security Council an imperial character. But it is fractured by the requirement for P-5 consensus. The SC is therefore a compromised hegemon. To international interventionists, liberal or otherwise, the paralysis that comes from Great-Power disagreement looks like a defect of the Council that impedes its ability to rule the world. But to people who see centralized global power structures as a problem rather than a solution, Council inactivity may be a respite from being 'governed' from above.

Notes

[i] See Hurd (2016). The idea that international law is a constraint on states is conventional wisdom for scholars of international law and international politics. For instance, Rosa Brooks (2016, 295) says "the core notion of the rule of law is that all power must be constrained by law." Beth Simmons (2009, 5) says "it is precisely because of their potential power to constrain that treaty commitments are contentious in domestic and international politics."

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