THE MYTH OF COLLECTIVE SECURITY AND THE REFORM OF THE SECURITY COUNCIL

Collective security and the reform of the United Nations Security Council will be a key issue at the Summit of the Future in September 2024, given the body's crisis of legitimacy brought on by its inability to react to conflicts such as the aggression against Ukraine and the war in Palestine. The summit provides a window of opportunity resulting from shifts in geopolitical competition, the lobbying power of the General Assembly and the growing importance of the countries of the Global South, one which requires a pragmatic and multistage approach.

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The latest phase of the reform of the United Nations' peace and security pillar began in 2015, when a group of experts proposed speaking of *sustaining* peace rather than *building* peace. It sprang from the many de facto changes, debates and proposals after the end of the Cold War derived from what has been called the "liberal peace consensus", a concept that came out of the first and only Security Council meeting at the level of heads of state and government, in January 1992, and the "An Agenda for Peace" report. I shall limit myself in this paper to collective security and the reform of the Security Council.

To provide some context, we will begin with what happened between 2016 (when the Security Council and General Assembly adopted resolutions on building and sustaining peace) and January 2018 (when the secretary-general released a report on the subject). In the interim, in 2017, the Security Council was extremely busy: 296 formal meetings, 61 resolutions, 27 presidential statements and 93 press statements. It was also extremely ineffective, with a failure to act in many crises and conflicts that posed serious threats to peace and security, and six vetoes: five from Russia (accompanied by China

in one case) and one from the United States. The former were related to the conflict in Syria and the latter to Israel, and Jerusalem's status as its capital. Once again, there was a flood of invective among Council members and criticism from the other UN members and public opinion over the Council's inability to provide peace or security.

INTERPRETING THE UN SECURITY COUNCIL'S NATURE, PURPOSE AND STRUCTURE AS A PROTECTOR OF STATES AGAINST AGGRESSION IS A MYTH THAT ONLY LEADS TO MISUNDERSTANDINGS.

Since then – particularly after Russia's aggression and invasion of Ukraine in February 2022 and the Hamas attack of October 7th, 2023, and the subsequent, ongoing Israeli response – things have only gotten worse, to the point of triggering a crisis of legitimacy and confidence in the United Nations.

Criticism of and possible solutions to the situation will be key issues at the summit in September, which is why we shall begin by dispelling a myth and clarifying the scope for reform of the Council.

The United Nations myth of collective security

The idea stems from the Covenant of the League of Nations (1919), primarily its preamble and Articles 10 and 16, which guaranteed and committed its members to preserve against external aggression the political independence and territorial integrity of all. There were subsequent developments, such as the Protocol for the Pacific Settlement of International Disputes (1924) and the Kellog-Briand Pact (1928). But the idea stalled in the 1930s in cases like Japan's occupation of Manchuria (1931) and Italy's invasion and subsequent annexation of Ethiopia (1935).

The issue was back on the table in the meetings between the major powers to establish the post-war international order, prior to the formal creation of the United Nations. They agreed to establish five permanent members of the Security Council and assign them a role as police officers of the new international system. They also agreed to confer on the Council primary responsibility for the maintenance of international peace and security, including veto power for the five permanent members. That combined with the prohibition of the use of force, except in (individual or collective) self-defence and in cases deriving from Security Council rulings under Chapter VII of the United Nations Charter. In addition, the charter provides for measures for the peaceful settlement of disputes and a relevant role for regional security bodies.

That system has often been portrayed as a mechanism of collective security, with the Security Council as a protector of states against any aggression and almost as a supranational entity. Unfortunately, this is a myth and interpreting the Council's nature, purpose and structure in this way only leads to misunderstandings. Its design, agreed before the San Francisco Conference, is akin to the Concert of Europe that emerged from the Congress of Vienna (1815). It was conceived as a forum through which the major powers would be able to coordinate policies and manage the international system collectively. They were therefore incentivised with a permanent seat and right of veto, obliging them to seek consensus to reach decisions, but which also allowed them to block decisions they considered contrary to their interests. Put in terms of Roman law, the veto guaranteed (and still guarantees) those five members unrestricted power over the law: *princeps legibus solutus*.

REFORM OF THE SECURITY COUNCIL WILL BE IMPOSSIBLE WITHOUT TAKING INTO CONSIDERATION THE BASIC INTERESTS OF ITS FIVE PERMANENT MEMBERS.

The situation described above is clearly unequal and unfair, and it would be good to have a real collective security mechanism. But we should not confuse desire with reality. Facing the facts, however, does not mean we have to resign ourselves to them from a moral standpoint. Combining the two things, we can draw a lesson for the agenda of the Summit of the Future and for the times ahead, focusing on improving future prospects. Lobbying to reform the Council's composition, structure and functioning necessarily involves accepting that any attempt to improve global governance, to correct the growing discredit of the United Nations, to bolster order in the international system and the effectiveness of the rules governing it, must start from the premise reflected in the United Nations Charter. Namely, any process of reform will be impossible without taking into consideration the basic interests of the five permanent members.

It is necessary, then, to come up with mechanisms and proposals that might be appealing to them and, perhaps, ways of sometimes making decisions without them. Not forgetting, in any case, that the legitimacy and health of the Council are seriously debilitated. There is, nevertheless, a window of opportunity resulting from changes in the positions of the permanent members, the geopolitical competition underway, the increased lobbying power of the General Assembly and the growing importance of the countries of the Global South.

Reform of the Security Council

There has been a great deal of talk about the subject for years, but very little has been achieved. In late 1992, the General Assembly created a working group to seek equitable representation on the Council. Thirty years on, the group continues to meet, but to no effect. In October 2008, the United Nations formally authorised intergovernmental negotiations to seek that equitable representation and increase the number of Council members. In 2024 there are still no results, not least because the member states have never agreed to negotiate on the basis of a draft working text.

Ukraine and Gaza have raised the pressure. In his address to the General Assembly in September 2022, US President Joe Biden reiterated his longstanding support for increasing the number of permanent and non-permanent members. And he broke new ground by speaking about permanent seats for countries from Africa and Latin America.

THERE IS A HUGE DEFICIT OF REPRESENTATION OF THE GLOBAL SOUTH, DESPITE THE FACT THAT MOST OF THE PEACE OPERATIONS THE COUNCIL AUTHORISES TAKE PLACE THERE.

There is a consensus that not all states that deserve to be on the Council are there, and some that are there might not deserve to be; that the Western presence is overstated; that it fails to represent the security needs of many of the world's countries; and that the veto system often blocks the decision-making process. There is no permanent seat for Africa or Latin America and only one for Asia. And there is a glaring inconsistency between the huge deficit of representation of the Global South and the fact that most of the peace operations the Council authorises take place there.

In a nutshell, people are agreed that the number of permanent and non-permanent members must increase in search of more equitable representation. The discrepancies arise over the candidates and whether they would also have the right of veto. To foster rotation among non-permanent members from middle and emerging powers, a "semipermanent member" status has even been suggested.

There are several mooted candidates: Brazil and Mexico for Latin America; Egypt, Nigeria and South Africa in the case of Africa; India, Indonesia or Japan for Asia, as well as European countries such as Germany, Poland or Ukraine. These candidacies are often based on population and GDP. Leaving aside the veto issue for the moment, there is, in any case, real

tension between representation and effectiveness. An expansion to 20-25 members would boost the Council's legitimacy and authority, but it would lower its effectiveness and efficiency. Its initial design, skewed in favour of the victorious big powers, pursued effective problem management.

The reform of the Council is about values and about power. Its composition has normative value and material implications for the world order. Any alteration in the Council (inevitable in the medium term) will alter the balance of power, give certain national interests precedence over others and influence the way we understand and apply the notion of "security". It is contentious issue, and it will trigger resistance and subsequent impacts: there is no action without a reaction. Both the states and the people and groups interested in exerting influence should be flexible and take an approach based on clear criteria that ensures procedural transparency and the possibility of making changes gradually, without waiting decades.

GIVEN THE EFFORTS THAT COUNTRIES FROM THE SOUTH ARE PUTTING INTO THE ISSUE, FRUSTRATION ARISING FROM THE LACK OF PROGRESS WOULD ALSO HAVE HARMFUL EFFECTS ON THE UNITED NATIONS.

That assumes dispensing with the previously mentioned myth of the Security Council as a collective security mechanism. While we can morally reject an unjust reality, it is important to approach the reform not only from the viewpoints of justice and desirability, but also from one of feasibility. The paving stones of the Council are too tough to break and reach the beach, to paraphrase a slogan from May 1968.

As for putting an end to the right of veto, it is a pipe dream in the short term, even if it may be alluring to put the issue on the table. Nor is it a certainty that new permanent members will all and always have the right of veto. It would be better to focus not on eliminating it but on limiting its use through different types of agreements, some of them on ways of working. France and the United Kingdom, for example, are known to have had little recourse to the veto since the Cold War. France put forward an interesting proposal in 2015: procedurally restrict the use of the veto in situations of mass atrocities. There is also scope for using the General Assembly for security matters when there is deadlock on the Council, a path that was first opened during the Korean War and which was used recently for the wars in Ukraine and Gaza.

It is also useful to hone the working methods, which are still governed by the rules of procedure of 1982 and a series of *ad hoc* practices. Reforming

the working methods requires no amendment of the charter or ratification by the member states, which makes it viable. Proposals from the Accountability, Coherence and Transparency Group of 22 countries have existed for some time, some of which are now in use. Suggestions range from including non-Council members in discussions to more reporting on briefings and informal consultations or new meeting formats, such as the "Arria formula" in which the Venezuelan ambassador invited a Bosnian priest to testify before the Council during a break for coffee.

Lastly, we shall turn our attention to the four groups that take quite irreconcilable positions on reform:

– The first group comprises the five permanent members, each with their own stance, although they all agree on maintaining their right of veto and trying to restrict the right of prospective new members.

– The second group is the G4 coalition, consisting of the four main contenders for permanent membership (Brazil, Germany, India and Japan). They seek the same status as the five current members, although they are fairly flexible on the right of veto, and they also champion Africa having two permanent seats.

– The third one is the "Uniting for Consensus" group, led by the regional rivals of the G4 (including Argentina, Mexico, Italy, Poland, Pakistan, South Korea and Turkey). They call for increasing the number of non-permanent members from ten to 20, arguing that instead of reinforcing the hierarchy of the major powers we would see a more globally representative and equitable Council.

– The fourth bloc is formed by the African Union. Its 54 members explicitly back what is known as the "Ezulwini Consensus", which calls for two permanent seats with full veto rights for the region, as well as at least a further three non-permanent seats.

Reform of the Council faces crucial challenges, yet despite recent discredit and ineffectiveness it remains an indispensable stabilising force and forms the backbone of the rules-based international order. And in spite of the deterioration of this order, there is no short-term prospect of replacing its role under the rules as they stand in the charter. A failed update of its composition and operating rules may undermine that role even more than the habitual deadlock of recent years. And the absence of a true collective security mechanism and a lack of confidence in the Council will encourage the expansion, reinforcement or creation of new

collective defence bodies, a disturbing development in a climate of deep militarisation and widespread rearmament.

In addition, given the efforts that countries from the South are putting into the issue, frustration arising from the lack of progress would also have harmful effects on the United Nations. In any event, we cannot rule out the scenario of a deterioration of the current *status quo*. Hence the two final suggestions on how to pursue those feasible changes and reforms. The first: to work from a draft text structured to prompt negotiation and bargaining over the content of the reform. That would require consensus between the African Union and the G4 and certain collaboration on the part of some of the current permanent members, though this appears difficult in the cases of China, the United States and Russia. The second suggestion also involves a change of position on the part of the G4, with the group opting for a two-stage reform. It would mean dropping the insistence on securing permanent seats in this first stage and advocating semipermanent positions. It is, however, doubtful that India under Narendra Modi's government is ready to accept such a relinquishment at present.

The summit, then, comes at a time of uncertainty. All the same, reform of the Security Council is a *sine qua non* of enhancing the building and sustainment of peace, with diagnoses of necessary changes in peace operations that have been put off since the Brahimi Report of 2000. It would be wise to choose a pragmatic approach today, taking Dag Hammarskjöld's phrase as the principle for establishing a road map: "The United Nations was not created to take mankind to heaven, but to save humanity from hell".