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An examination of the challenges to the legitimacy of United Nations Security Council decisions from the perspective of international law

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Abstract

Achieving sustainable peace and establishing effective mechanisms for it are fundamental issues of international law that have received intense attention, especially after the establishment of the United Nations and the Security Council. The Security Council, as the main institution responsible for maintaining and developing international peace and security, needs legitimacy in its decisions.

However, some factors, such as the veto power and the dominance of the permanent members of the Security Council over its decisions, have reduced the legitimacy of this institution. This has led to some decisions of the Security Council, especially in times of global crises, facing serious criticism.

One way to strengthen the legitimacy of the Security Council is to eliminate the unfair veto power and distribute influence more equitably among member states, especially non-permanent members. The present study, using a descriptive-analytical method, examines the challenges to the legitimacy of Security Council decisions and the impact of various factors on them, and offers suggestions for improving this legitimacy in order to achieve sustainable international peace and security.

Keywords: Legitimacy, decisions, United Nations Security Council, international law

1. Introduction

The United Nations Security Council, as the principal body responsible for maintaining international peace and security, has a special place and importance in the international legal system. According to Article 26 of the Charter of the United Nations, the Security Council has the primary responsibility for maintaining international peace and security and has broad powers to achieve this goal.

These powers include the ability to adopt binding decisions and intervene in crises and wars to establish peace. However, the decisions of the Security Council always face serious challenges from the perspective of legitimacy, which affects the effectiveness of this institution in carrying out its duties.

The most important challenges to the legitimacy of the Security Council are related to its structural inequalities, especially the veto power. The five permanent members of the Security Council (the United States, Russia, China, France, and the United Kingdom) have the right to veto and block any decision that goes against their national interests.

These special powers cause many decisions of the Security Council, especially in cases of international crises, to be influenced by the vested interests of the great powers, and the legitimacy of this institution in the eyes of other countries is questioned. This situation not only weakens the confidence of member states in the decisions of the Council, but also reduces its effectiveness in establishing global peace and security.

In addition to the veto, the dominance of permanent states over the decision-making process in the Security Council, as well as the political influence and national interests of these countries, create an imbalance in the influence of other countries, especially non-permanent members of the Council, on decisions.

As a result, many member states of the United Nations may view Security Council decisions as unilateral and politically motivated actions, which undermines the legitimacy and acceptability of the Council's decisions in the global arena. reduces. The aim of this research is to analyze solutions and suggestions to strengthen the legitimacy of Security Council decisions and improve its effectiveness in maintaining international peace and security.

2. Review of relevant literature and records

Research backgrounds show that the Security Council faces various challenges in terms of legitimacy and effectiveness. These challenges are mainly related to the veto right, lack of adequate oversight of the Council's decisions, conflicts of interest between great powers, and human rights issues. Also, various legal institutions and governments play an important role in evaluating and criticizing the Council's performance.

We mention some research that can be somewhat close to our topic in brief: - Saeeda Abdul Baqi (2016): In her book, she examined the legal legitimacy of Security Council decisions in the field of human security. She emphasizes that the Council should act with more legal and human considerations in its decisions and has analyzed the challenges it faces in achieving human security.

- Seyed Amraddin Hejazi et al. (2019): In an article on the impact of the Security Council on the establishment of international security and criminal justice, they have addressed problems such as terrorism and human rights violations. They believe that the Council can affect global security and justice by using tools such

as the responsibility to protect and referring cases to the International Criminal Court, although in practice these tools face challenges.

- Goodarz Eftekhari Jahromi et al. (2017): In an article, they have assessed the performance of the Security Council and its monitoring. They believe that the Council faces structural and legal limitations and should be subject to closer monitoring.

They have also emphasized judicial and quasi-judicial monitoring of the Council's decisions.

- Malihe Behfar et al. (2017): An article titled "The Legitimacy of Assessing States in Implementing Security Council Resolutions" has addressed legal and executive challenges in implementing Security Council resolutions. In this article, the method of assessing states and their role in implementing the Council's decisions are examined.

- Fardin Qureshi (1995): In a thesis on "State Sovereignty and the Legitimacy of Security Council Actions", he has examined that in the event of a conflict between the sovereignty of states and the actions of the Security Council, this conflict does not normally create a problem in the legitimacy of the Council's actions. He emphasized that the Council has extensive powers due to its peacekeeping mission.

- Ronald Thomaszadeh (1996): In a thesis, he systematically analyzed the relationship between the structure and functioning of the Security Council and the legitimacy and effectiveness of its actions. He emphasizes the creation of a more open and multilateral decision-making system so that the Council can act more effectively in maintaining peace.

- Zhaleh Amin Rad (1993): In a thesis, he addressed the legitimacy of humanitarian intervention in Libya. He believes that the intervention in Libya, as an example of the responsibility to protect doctrine, failed to succeed and in fact led to regime change and further crises.

- Ebrahim Valipour (2009): In his thesis, he discussed the role of the Security Council in the fight against international terrorism. He examined how the Council, by using legal and security tools, can have an impact on the global fight against terrorism, especially after September 11.

3. Definition of Legitimacy in the Word

The literal meaning of "legitimacy" is "legality" and "in accordance with the law", and its origin is taken from the word "shari'ah" and is cognate with words such as "shari'ah" and "mutshari'ah". Although this word is primarily related to followers of religion and sharia, it is used as a term in political philosophy. Legitimacy means "rightfulness" and specifically refers to the rational justification of government actions by the ruler.

In fact, legitimacy is a feature in a government system that allows the ruler to consider his rule right and the people to obey it. This concept answers questions such as why some people have the right to rule and others should obey them, and what characteristics and qualifications the ruler must have for his rule to be valid.

In any society, based on accepted beliefs, only individuals have the authority to govern, and any law, decree, or order they issue is based on their right, and people accept their obedience because of their belief in their authority and competence (Mirzaei Nigeh, 1994, p. 156).

The term through which the concept of legitimacy can be better understood is “usurpation.” Those who have unjustly usurped the government try to gain means for themselves and try to justify their legitimacy and make their rule appear legitimate by attributing it to God and religious values or by compelling people to obey. Therefore, the ruler’s justification for exercising his sovereignty and justifying the people to accept it is ultimately related to the concept of legitimacy (Khosravi, 2001, p. 25).

4. The Terminological Concept of Legitimacy

In the contemporary world, the legitimacy of countries claiming to be democratic is mainly achieved through mass media, the press, and advertising technologies. These tools are able to direct public opinion in different directions and determine its direction. Today, it has been clear that in these governments, where the legitimacy of the government comes from the will of the majority of the people, immoral methods and methods of manipulating public opinion are used to direct the people's desires in the direction that the holders of power and wealth want.

For this reason, in dictatorial governments, the principle of sovereignty has always been applied throughout history through power and force. The conclusion from these issues is as follows:

First, acceptability is the result of legitimacy. Second, in countries claiming democracy, legitimacy is the result of propaganda and news imperialism that is carried out with the aim of showing the system of domination and the holders of power as acceptable. In these societies, legitimacy should be considered the result of a process that the mass media pursues to create political acceptability.

Third, if legitimacy is based on acceptability, it means that if the people do not want a government, that government will be illegitimate, even if it seeks to attract the interests of the people; and if the people want a government, that government is considered legitimate, even if it goes against real interests. Society acts.

The definition of legitimacy as “legality” is not precise; because a law may not be legitimate in the eyes of the people, while it is regulated based on their real interests, or there may be a seemingly legitimate law that is contrary to the real interests of society. Since every society needs law, this definition may lead to the conclusion that all governments that seize power by using coercive force and enact and enforce laws are considered legitimate, while the legitimacy of such governments needs to be examined. Regarding the owners and sources of legitimacy, three main sources can be considered:

1. Moral values
2. Social contract
3. Divine legitimacy (Source: Khosravi, 1380, p. 25)

5. United Nations Security Council

The United Nations Security Council is one of the main organs of the United Nations, responsible for maintaining international peace and security. The duties of this council include sending peacekeeping forces, approving international sanctions, and authorizing the use of military force against belligerent countries. The decisions of this council are announced in the form of resolutions.

The Security Council is composed of five permanent members and ten elected members, of which the permanent members have the

right of veto. The presidency of the council is assigned to the member states in turn in alphabetical order and for a period of one month. The Security Council held its first meeting on January 17, 1946 in London and has been operating continuously since then. Most of the council's meetings are held at UN headquarters in New York.

Major changes in the number of council members include an increase in the number of elected members from 6 to 10 countries in 1965 and the transfer of the Republic of China's seat to the People's Republic of China in 1971. Also, after the collapse of the Soviet Union in 1991, it was replaced by the Russian Federation.

The role of the President of the Security Council includes organizing meetings and handling crises. The members of the Council are divided into two categories: permanent members and elected members. A member of the Council must always be present at the headquarters so that the Council can convene urgent meetings (Ziaei Bigdali, 1984, p. 245)

6. Political functions of the United Nations Security Council

According to Article 1, paragraph 1 of the Charter of the United Nations, the maintenance and establishment of international peace and security, which emphasizes the principles of justice and international law. This function is assigned to the Security Council to ensure international security quickly and effectively. International security does not have a precise concept and includes military, political or even economic threats. Therefore, this security is political in nature and the Security Council must consider legal dimensions in its actions in addition to political aspects.

Article 39 of the UN Charter states that the Security Council is responsible for identifying threats to the peace, breaches of the peace or aggression and must decide what measures should be taken to maintain or restore the peace. Unlike the League of Nations, in the UN, the determination of threats and responses is exclusively the responsibility of the Security Council.

The Council is tasked with preventing breaches of the peace and, if necessary, responding, without the aim of punishing the aggressor. However, the precise demarcation between preventive and punitive measures is often unclear, and this has led to different interpretations of the concepts related to threats and aggression.

Finally, the actions of the Security Council have political and legal aspects, and international politics and international law are closely related (Buzan Barry, 1991, p. 34-1; Klyar, Claude Albert, 1992, p. 739; Dupuy, Pierre Marie, 1980, p. 303 (..

7. The Legal Nature of the Security Council

The legal aspect of the actions of the UN Security Council has two dimensions: quasi-legislative and quasi-judicial. In the quasi-legislative dimension, the Security Council issues binding regulations for the maintenance and restoration of international peace and security, which are legally delegated to this Council based on Article 24 of the Charter of the United Nations and Article 39 of the Charter. Due to the competence of the Security Council, these regulations can make changes to existing regulations and establish new legal standards that are general and binding. For example, economic sanctions in accordance with Article 41 of the Charter and Security Council resolutions are examples of quasi-legislative measures. (advisory opinion of may 1948ICI report. pp 57, 64)

In the quasi-judicial dimension, the Security Council can make decisions that have a judicial nature, such as recommendations on the settlement of international disputes or the application of force measures under Chapter VII of the Charter.

These decisions are binding even on non-member states of the United Nations. In this regard, the Security Council can identify and condemn states as potential or actual aggressors and take forceful measures to maintain international peace and security, as was observed in cases such as Iraq's invasion of Kuwait.

The Security Council also has implicit powers to act that, although not explicitly mentioned in the Charter, are legitimate based on global needs and the principles of the Charter.

These powers must be in accordance with the purposes and principles of the United Nations in order to prevent negative consequences for the international system. The evaluation of the Security Council's actions should be carried out with regard to their political and legal aspects in order to obtain a more accurate analysis of the Council's role in maintaining international peace and security. The decisions of the Security Council according to Chapter 6 can also have a judicial and binding aspect. (Falsafi, 1989, p. 40)

With regard to the issues raised, since the duties and powers of the Security Council have a political and legal structure, it should be borne in mind that any accurate assessment and balanced analysis of the Council's actions can only have a comprehensive meaning and concept by understanding this two-dimensional reality.

8. Legitimate Responsibilities of the Security Council According to the Provisions of the United Nations Charter

The main duties that the Security Council is responsible for according to the United Nations Charter and are also examined in the present study are reflected in Chapters 6 and 7 of the Charter.

8.1 Peaceful Resolution of Disputes

The United Nations Security Council has various responsibilities according to the provisions of the United Nations Charter, which are defined in Chapters 6 and 7 of the Charter.

1. Peaceful Resolution of Disputes (Chapter 6)

Chapter 6 of the United Nations Charter deals with the examination of international disputes and the provision of peaceful solutions. This chapter includes six articles (33-38) which suggests that the parties to the dispute should resolve their differences through various methods such as negotiation, mediation, arbitration, and judicial review. The Security Council can intervene in this area and suggest solutions to resolve the differences (Article 36). If the parties to the dispute agree, the Council can use international bodies such as the International Court of Justice.

2. Action in cases of threats to the peace, breaches of the peace, and aggression (Chapter VII)

Chapter VII of the Charter gives the Security Council broad powers to take necessary measures in the event of a threat to the peace, breach of the peace, or aggression. Article 39 of the Charter stipulates that the Council must identify the threats and take appropriate decisions to maintain or restore international peace and security. These measures may include economic, political (Article 41), or military (Article 42) sanctions. Economic sanctions: The Security Council can decide to sever economic or political

relations with the offending country. Military measures: The Security Council may use military force to maintain or restore peace and security. These measures may include blockades, military operations, or the use of armed forces.

The required military forces are provided by member states, although agreements to provide armed forces under Article 43 of the Charter have never been implemented due to the Cold War. The responsibilities of the Security Council within the framework of the United Nations Charter are carried out broadly and in two dimensions, peaceful and forceful, according to global conditions. (Falsafi, 1980, pp. 36-37; Albert Klyar, 1992, p. 214; Jafar Niaki, 1975, pp. 200-201).

8.2 Recommending appropriate methods for resolving disputes.

The Security Council has no restrictions in selecting and recommending appropriate methods for resolving disputes, provided that the methods previously accepted by the parties to the dispute for the settlement of disputes are taken into account and legal disputes are referred to the International Court of Justice with the consent of the parties (Article 36, paragraph 2, 3).

When the parties to the dispute have presented their complaints to the Council, the Council can propose a solution to the parties for the settlement of the dispute. This proposal is in fact a recommendation, and if the parties do not accept the Council's opinion, the Council can examine the issue using the provisions of Chapter VII (Falsafi, 1989, pp. 36-37).

The main feature of the Council's action in Chapter VI is the great flexibility of the methods of consideration and referral to subsidiary organisms to deal with any issue that arises in any case. (Alberd Klyar,

8.3 Action in Cases of Threats to the Peace, Breaches of the Peace and Acts of Aggression.

Chapter VII of the Charter of the United Nations, which consists of 13 articles (Articles 39-51), provides the Security Council with broad powers to maintain international peace and security. Article 39 authorizes the Security Council to identify threats to the peace, breaches of the peace or acts of aggression and to take measures to maintain or restore international peace and security in accordance with Articles 41 and 42.

Article 41 covers non-military measures such as the severance of economic, communication and political relations, which are known as economic or political sanctions and are only applicable to UN member states.

In contrast, Article 42 provides for military measures, which can include blockades or any other military operation, and the Security Council is responsible for commanding international law enforcement operations. (Alberd Klyar, 1992, pp. 216-217)

8.4 Initiative and innovation in maintaining international peace and security

Given the realities of the bipolar system and the outbreak of the Cold War, resolutions were issued in the United Nations Security Council and actions were taken based on those resolutions that differed from the predictions of the United Nations Charter. Due to this difference but not in contradiction with them, we have called these actions innovations and have integrated these innovations in two concepts in a thematic form and will examine them.

8.4.1 Issuing authorization to use force

In the absence of agreements in Article 43 of the Charter regarding the transfer of military force to the Security Council by member states, the Council issued an authorization to use force under the UN flag so that volunteer states could take action to maintain international peace and security.

However, due to the conditions of the Cold War, this possibility was rarely implemented and in only two cases did the Security Council succeed in sending armed forces to establish peace. The first case was the Korean crisis, which At the request of the United States, a military force under the UN flag was sent to South Korea to confront the North Korean invasion. On June 25, 1950, the Security Council recognized the breach of peace and asked North Korea to withdraw its forces behind the 38th parallel. (Moqtadir, 1991, pp. 369-370).

The second case was the Congo crisis, where after the country gained independence, the Security Council sent armed forces under the UN flag at the request of the new government of the country (Saghfi Ameri, 1991, p. 17).

These measures were only possible under special circumstances; for example, in the Korean crisis, the Soviet representative had left the meetings due to objections to the presence of the representative of the Nationalist China in the Security Council, and the United States carried out operations under the UN flag within the framework of the policy of "encircling communism" (Moqtadir, 1991, pp. 369-370)

8.4.2 Use of the mechanism of peacekeeping forces and military observer missions

This The method is another innovation by the Security Council in the use of military force that was not foreseen in the UN Charter. The Charter only refers to the use of military force under Article 42 and under the conditions of Articles 43 to 47, according to which, force operations were to be carried out under the command of a Military Staff Committee consisting of the Chiefs of Staff of the permanent members of the Security Council.

However, the failure of the Security Council to exercise its executive powers led to the emergence of peacekeeping forces and military observer missions (Shaygan, 1993, p. 50).

Regarding the legal basis for the formation of these forces, one can cite Article 29 of the Charter, which grants the Security Council the authority to establish subsidiary organs to carry out its tasks.

These forces are referred to as subsidiary organs assisting the Security Council. (Shaygan, 1993, p. 42). The first UN peacekeeping operation, under the name of the United Nations Cessation Supervision Operation (UNCSSW), was launched in 1948 after the Arab-Israeli War. This operation became a model for other peacekeeping operations.

After the Suez Canal crisis and its occupation by Britain and France, the UN General Assembly, under the leadership of Dag Hammer Schulte, the then Secretary-General, established the United Nations Emergency Force (UNEF-1). This force set the principles for future peacekeeping operations. (1990U.N., 42-15, pp. 15-16)

The UN Security Council is primarily responsible for authorizing peacekeeping operations. Although in two exceptional cases, the General Assembly has initiated peacekeeping operations, in practice, the Security Council must be responsible for authorizing, directing, controlling, and terminating peacekeeping operations in

order to be legally consistent with the UN Charter (Shaygan, 2001, pp. 6-7)

9. Sovereignty of States versus Security Council Actions

Based on the principle of sovereignty, each state has internal jurisdiction and independence, and within the framework of the principle of equal sovereignty of states, all countries enjoy equal rights and duties in international relations. As for the Security Council, this Council is primarily responsible for maintaining international peace and security

and carries out its actions in the framework of Chapter Six (peaceful settlement of disputes) and Chapter Seven (action in cases of threats to peace, breaches of the peace, and aggression). It should also be noted that in practice, according to Chapter Seven, there is no limit to the authority of the Security Council. (Mumtaz, 2008, p. 28)

9.1 The conflict between the principle of sovereignty and the functioning of the Council

The functioning of the Council, based on a broad interpretation of its competence in the form of initiatives and actions contrary to international law, involves a conflict between the principle of sovereignty and the functioning of the Council.

9.1.1 Domestic competence and the functioning of the Security Council

First of all, it should be noted that Article 2, paragraph 7 of the Charter, as we have already said, states: "Nothing in the present Charter authorizes the United Nations to intervene in matters which are inherently within the domestic competence of any state, nor does it oblige Members to subject such matters to such jurisdiction. However, this principle shall not prejudice the use of force as provided for in Chapter VII."

Despite this clause, domestic jurisdiction cannot be invoked against the coercive measures foreseen in Chapter VII of the Charter of the United Nations, but the conflict arose because the Security Council has taken measures that are not foreseen in Chapter VII and are in the form of innovations or violations of international law. (Article 2, Paragraph 7 of the Charter)

9.1.2 Initiatives of the Security Council

In Chapter IV, the innovations of the Security Council in fulfilling the task of maintaining peace were examined and their cases were determined, including the development of the role of United Nations peacekeeping forces in the post-Cold War period.

This development is one of the cases that is in conflict with domestic jurisdiction because in the post-Cold War period, peacekeeping forces have lost their previous characteristics and their role and characteristics have generally become subject to the will of the Security Council. Considering that these forces have sometimes been dispatched to the crisis-stricken region without the consent of the parties to the conflict, the dispatch of these forces is in conflict with the territorial jurisdiction of the relevant state over persons, property and matters occurring within its territory.) Resolution 743 Security Council)

9.1.3 Acts against international law Security Council

The most important action that can be taken in this regard is the violation of the provisions of the law on extradition of criminals by the Security Council. As we have already said, in relation to the case, Al-Karbi, in accordance with Resolution No. 748, has

requested the extradition of the two Libyan defendants to the US and UK governments and has requested the Libyan government to comply with this resolution.

Now, if we compare this resolution with the personal jurisdiction of the Libyan government over its nationals and the fact that no state is obliged to surrender its national to another state for a crime committed abroad, the conflict between the Council's action and the aforementioned jurisdiction seems clear.) Security N .U)Council Resolution. 748 (1992). 31, Mar, 1992

9.2 Independence and Actions of the Security Council

Independence is the international dimension of sovereignty and means that a state is independent from the control and sovereignty of others and can only be controlled and limited by voluntary commitments and universal international law. In this section, the subject of discussion is the conflict of this dimension of sovereignty with the actions of the Council based on the broad interpretation of its jurisdiction.

9.2.1 Council innovations

It seems to create restrictions on the freedom of decision-making of the state and its independence of will in international behavior. The Council's actions in this regard have been mostly focused on the Bosnia and Herzegovina crisis.

9.2.2 Violation of international law by the Council

One of the cases of violation of international law by the Security Council has been the violation of the principle of freedom of will in accepting obligations. This action of the Council very clearly questions the principle of independence of states and imposes the acceptance of obligations on states. This claim is supported by reviewing part of Resolution No. 1687 (UN Security Council Resolution. 687 (1991). 3, 1991, Apr) That Council will be proven in terms of requiring the Iraqi government to accept membership in the Convention on the Prohibition of Microbial and Biological Weapons. The flaw in the rule of the seizure of property of nationals of the hostile state by the conquering state is also among the cases that are contrary to the principle of the independence of the will of the state in the international community.

9.3 Legal value of the conflict between the principle of equal sovereignty and the actions of the Council

It seems sufficient to prove that the principle of equal sovereignty is not an exception to the unlimited jurisdiction of the Security Council, and thus the violation of the principle of equal sovereignty and the conflict that has arisen will not undermine the legitimacy of the actions of the Security Council.

Because there is no need to repeat everything we have said, the structure of the United Nations Charter is such that it does not create a serious obstacle to the Security Council, as neither a reference is foreseen for evaluating the Council's actions and interpreting its competence, nor does it follow from the circumstances and circumstances prevailing at the San Francisco negotiations that the Security Council faces serious limitations. As we have said, limitations such as justice and international law or the purposes and principles of the United Nations, in accordance with the spirit of the United Nations Charter, are directed at the objectives of the Council's performance, not governing the details of its actions. In this context, no reference has been designated to determine this issue, and in practice the Council itself has undertaken the interpretation of its competence.

In addition, the constitutional interpretation of the United Nations Charter and the compliance of member states strengthen such an argument based on the legitimacy of the Security Council's actions. (Claude Albert-Calibar, 1992, p. 181)

Article 23 of the United Nations Charter recognizes five countries as permanent members of the Security Council and grants them special privileges in substantive matters. According to this article, the countries in question are China, the United States of America, France, Great Britain, and the Soviet Union, which was succeeded by the Russian Federation after the collapse of the Soviet Union (Claude Albert Calibar, 1992, p. 181). The mentioned countries have the right of veto, and by resorting to this right, each of them has the possibility of paralyzing the decisions of the Security Council, which acts on behalf of all members of the United Nations, by expressing a dissenting opinion. In simpler terms, despite such a right, the will of a single permanent member of the Security Council in some cases prevails over the will of all governments in the world (Arsanjani, 1969, p. 308)

10. Challenges to the legitimacy of the Security Council

Although the concepts of legitimacy (meaning public acceptance) and illegitimacy are incompatible and in some cases contradictory, given the wide range and Between the two poles of legitimacy and illegitimacy, these two concepts have relative meanings.

For example, any organization is established to achieve specific goals and is given certain powers in this regard. However, if an organization fails to act appropriately in the assigned responsibility for a long time, it will lose the acceptability, that is, the legitimacy of its actions. Or if the same organization, in order to achieve the set goals, behaves more authoritarian than necessary and the intensity of its actions leads to the abuse of the assigned powers, the performance of the organization in question and, as a result, the legitimacy of its actions will be questioned again.

In addition, in a situation, a political system or organization simultaneously has elements of legitimacy and illegitimacy in different proportions, and according to the superior ratio of each, legitimate and illegitimate beliefs about its actions have a heavier weight.

Legitimacy, regardless of its ideological dimensions, means the ability of the political system to create and maintain the belief among the people that the existing system is the most appropriate political structure for society. "(M.S. Lipsel, 1959, p77) At the very least, legitimacy can be said to be the belief that, despite some shortcomings and failures, existing political institutions are more suitable for society than similar institutions that may be established as a result of change, and therefore adherence to them is right and proper.) (Juan Linz, 1988, p65) While generally describing legitimacy as widespread support for a regime, in a systemic analysis of the legitimacy of a political system in the relationship between the inputs and outputs of a system, he considers the existence of at least three sets of factors and variables as follows, which were also mentioned in the definitions above: (1) the efficiency of the system; (2) the environment of the system has a political culture that has the capacity to tolerate and whose values value calm and calculated political and social reactions over aggression; and (3) the members of the relevant society, even if they have discipline and Loose consistency is preferable to irregularity (Eston, David, 1965, p. 278-288).

11. The impact of the structure and performance of the members of the Security Council on the legitimacy of its actions

In general, two structural factors and unequal opportunities of the permanent members of the Security Council, namely the veto right and their superiority and dominance over the Council, are the most important factors that have a negative impact on the legitimacy of the Security Council.

In principle, having the veto privilege indicates being powerful, which an individual or organization or country with power resorts to in order to take unilateral action to prevent the emergence of unwanted results. The veto right, if accepted on the basis of a multilateral international agreement, like the United Nations Charter, gains legitimacy within the countries that have accepted it, such as the members of the United Nations. Even if this acceptance is accompanied by reluctance, the negative effects of this reluctance can gradually and in the long term, especially with a qualitative change in global conditions, become apparent.

One of the reasons for granting the veto privilege to the permanent members of the Security Council, in addition to the matters mentioned in the introduction to this study, is that without the participation of powerful members of the Security Council, it will be very difficult to solve international problems. In the past, whenever the necessary cooperation between the permanent members of the Council regarding the maintenance of international peace and security was not established, the Council was unable to take effective action in this regard.

However, the reality is that even in cases where the great powers have cooperated with each other, the veto-wielding states have created a kind of oligarchy in the Security Council that has acted in its own interests and purposes without sufficient consideration for the interests of other United Nations members and with or without the cooperation of a group of its allies. (Behafar, 2017, p. 45)

12. Negative consequences of the illegitimacy of some decisions or actions of the Security Council

Regarding the negative impact of perceptions that question the legitimacy of the collective actions of the Security Council, first of all, it should be noted what international status and credibility the state that takes such action against the Council in some cases has and to what extent its position can be effective on other states. Secondly, which parliament or political and international spectrum are the states that believe that some of the Council's actions are illegitimate and what are their possibilities in general? In any case, the perception and perception that some decisions or actions of the Security Council are illegitimate will have the following negative consequences, depending on its extent and severity:

A- Lack of willingness and sufficient support among the members of the Council to adopt the resolution

B- Refusal of the members to adopt the resolution by an absolute majority, in which case, due to the lack of effective cooperation with the resolution, it is likely that the resolution will not be given much attention in practice,

C- It will be difficult to attract the support of the members of the Council for the proposed resolutions.

D- Council members will intentionally or unintentionally tend to not cooperate with the Council, which will ultimately lead to the Security Council becoming inactive and further weakened.

E- National governments will be unable to effectively mobilize their people's support for the resolution at home.

F- If the members of the Security Council are concerned about the impact of the resolution and the prevention of the permanent members of the Council from complying with the subsequent conditions due to the possibility of countries with veto power resorting to reverse veto, they may prefer to avoid making any decision in the cases presented, which in turn will cause the Council to become more immobile and will further exacerbate the crisis of its legitimacy due to its inefficiency. (Behfar, 2017, p. 60)

13. Ways to solve the challenges of the legitimacy of the Security Council's actions

Discussions and suggestions regarding ways to strengthen the legitimacy of the actions of the United Nations Security Council include political and legal dimensions, but it should be borne in mind that legal rules and rulings do not form by themselves, but rather their origin is in political decisions, and without a political decision, the initial legal rule will lack content and guarantee of implementation.

In principle, the function of the policy is to allocate imperatively and with a minimum of serious effort to allocate imperatively values and resources in national and international systems, which means defining and creating

public order and In this regard, law establishes rules so that political intentions and behavior crystallize in form and content into a legal reality. Therefore, political decisions precede legal decisions and rulings, and legal rulings include political decisions.

In addition, according to objective reality, politics is a factor that influences all national and international considerations, and the scope of international law is also limited by the power and national interests of major international actors. Therefore, "international law must reflect the international life in which it was born, otherwise it will not be valid.

In view of the above, and regardless of the normative system of national actors or political analysts or the idealism of humanist experts, the discussion of strengthening the legitimacy and guaranteeing the implementation of Security Council actions should logically be proposed and examined based on the realities of the contemporary international system, meaning that idealism can be part of the content and to some extent a moral guide, and realism constitutes the main part of the content and form and format of the thought in question. (Werner Loewy, 1374, p. 12)

13.1 Amendment of the Charter in relation to the issue of veto

Veto is one of the characteristics of power, which is the unilateral ability to prevent the formation or occurrence of undesirable results by a country, although this action may be carried out in conjunction with multilateral efforts. Therefore, veto is a manifestation of the ability of a state in the international arena. If this is accepted by the public or the majority of national actors through an international agreement and convention, then veto will not only be a manifestation of power, but also a sign of authority and dominance. This is because in the international system after the Cold War, it is said that the three permanent and Western members of the Security Council have practically formed an oligarchy in the United Nations, at the head of which is the United States government.

In the past half century, despite some opposition, especially from non-aligned states, discussions regarding the elimination of the veto between realists and experts who believe in extensive international cooperation have gradually subsided due to the impossibility of eliminating the veto privilege in the current international conditions. This is because the holders of the veto privilege do not intend to give up their privilege, and on the other hand, Article 108 of the Charter also stipulates that any change in the Charter is subject to the consent of the five permanent members of the Council.

In addition, the veto privilege itself is not fundamentally amendable, meaning that either the veto right must be accepted or rejected. Resorting to middle ground solutions will not be practical due to the lack of an authority to monitor and control the behavior of the holders of the veto privilege, as in the Security Council, the distinction between procedural matters and substantive matters is made through the possibility of a double veto. (Article 27, paragraphs 2 and 3 of the Charter)

Each of the five permanent members of the Security Council has become weak, so unless there is a fundamental change in the structure of the international system, it seems unlikely that the veto issue can be resolved. However, in the current circumstances, the Security Council can limit the use of the veto to some extent with two corrective measures:

A- By providing a precise definition of the ambiguity in the demarcation between matters related to the "procedures of work" and "issues" Remove the "substantive" to prevent double veto,

B- Specify the characteristics of being a party to the dispute in paragraph 3 of Article 27. (Paragraph 3 of Article 27)

13.2 Amendment of the Charter in connection with the increase in the number of permanent and non-permanent members of the Security Council

The very low probability of removing the veto power from the Charter has led many reformist governments and experts to the idea that by increasing the number of members of the Security Council, the scope of its representation can be expanded and thereby the legitimacy of the Council's actions can be strengthened. However, it should be borne in mind that increasing the number of members of the Security Council by itself cannot eliminate the problems arising from the illegitimacy of the Council's actions. Previously, in the 1960s, for this purpose and some other considerations, the number of non-permanent members of the Security Council was increased from 6 to 10 members. In addition to expanding the scope and representation, two other points were also considered. First, the non-permanent members should also be able to collectively enjoy the right of veto, which the past history of the last 30 years has shown to be unrealistic because in order to use such a veto, at least 8 out of 10 permanent members must have a unanimous opinion, which is unlikely to be achieved given the diversity of opinions, views, and tendencies of the non-permanent members. Secondly, the issue of rotating the presidency of the Security Council among its members, which would cause the presidency of the Council to be held by non-permanent members for a longer period, cannot be a decisive factor, because in any case, the permanent members, and especially the three Western powers, determine the overall policy of the Council.

In any case, two points should be noted in the discussion about increasing the number of Council members:

1. Improving the status of the Council's representation with the United States and
2. Not reducing the efficiency of the Security Council. (Amin Rad, 2014, p. 56) According to the above, there are suggestions for strengthening the legitimacy of the Security Council, which are as follows:
 1. Selecting non-permanent members based on geographical or civilizational areas (Valipour, 2009, p. 69)
 2. Increasing the number of Council members without reducing efficiency (Gholipour, 2013, p. 23)

It is proposed that countries be elected to non-permanent membership of the Council based on their responsible performance so that in each term of the Council, countries try to leave a more positive record of their activities and help improve the efficiency of the Council.

This will lead to strengthening the legitimacy of the Security Council. 13.3 Establishing a close and permanent relationship between the Security Council and the United Nations General Assembly

In this context, it is necessary to pay attention to two important points: expanding the possibilities and making it permanent The activities of the Office of the President of the General Assembly: It is proposed that the Office of the President of the General Assembly be permanently active and that a permanent commission of the members of the General Assembly be established to be responsible for establishing direct communication with the Security Council in cases where the Council intends to use Chapter VII of the Charter.

This measure is intended to establish a continuous understanding between the General Assembly and the Security Council so that the Council cannot unilaterally and under pressure from one or more of its members take action against other members of the United Nations.

The experiences of the Security Council in issues such as the Rhodesia (Zimbabwe) case, the Arab-Israeli war, the Iraq-Iran war, the Iraqi invasion of Kuwait, the Karbi case, the Bosnian war, and humanitarian interventions in Somalia and Rwanda show the importance of this issue.

Precise definition and explanation of threats to peace: The Security Council should provide a clear and comprehensive definition of threats to peace, which is mentioned in Article 39 of the Charter, so that the freedom of action of the permanent members of the Council in interpreting this article is minimized.

Regarding the concepts of "violation" "Peace" and "Aggression", General Assembly Resolution 3314 has provided a suitable framework that should be relied upon by the Security Council. (General Assembly Resolution 3314)

13.3 Establishing rules to ensure procedural and open decision-making in the Security Council

The most important factor in strengthening the legitimacy of the Security Council's actions is the adoption of an open and democratic decision-making process. This process means that the Security Council deals democratically with the performance of its assigned tasks and responds to the concerns of the least developed countries. To establish an open decision-making process, four key indicators should be considered:

Formal and transparent meetings: All major discussions and decisions of the Security Council should be held in formal and transparent meetings, in such a way that all members of the Council are aware of the decision-making process. Secrecy and informal meetings reduce the legitimacy of the Council. Continuous cooperation with the General Assembly: The Security Council should be in continuous contact with the General Assembly and the Office of the President of the General Assembly and pay attention to the decisions of the Assembly.

This cooperation should not mean unilateral compliance with the decisions of the Assembly, Rather, constructive and reciprocal relations should be established between the two bodies.

Appropriate use of military forces: If the Security Council needs to use military forces, it should utilize different countries with different capabilities and avoid dependence on one or more specific countries in order to prevent undue influence.

Multilateralism: The most important feature of the democratic process is the use of multilateral methods. This method is based on general and non-discriminatory principles and allows the Security Council's decisions to be taken collectively and with broad acceptance. Multilateralism allows decisions to be made with a realistic understanding of the international system and common interests, which will help strengthen the relative legitimacy of the Council (Valipour, 2009, p. 62)

The concept of legitimacy in international relations should not be defined based on abstract and general principles, but on a precise and specific criterion. Legitimacy is not a fixed and static concept, but a dynamic and process that depends on the conditions of time and place.

There is no absolute and fixed concept in international relations, because all political phenomena, whether at the national or international level, are changing and evolving. Therefore, legitimacy should be explained as a process that is defined at any time and place according to the specific conditions of that period. Ultimately, contemporary humanity has no other way to solve national and international problems except through peaceful methods and dialogue.

The era of war and military policies is over, and the international community, especially the United Nations Security Council, must achieve a common and convergent understanding and vision through exchange of views and dialogue. (Valipour, 2009, p. 63)

14. Consequences of Security Council Reforms in Increasing Its Legitimacy

The transformation in the structure of the international system has caused fundamental changes that have also affected the United Nations Security Council. With the disruption of the distribution of power and balance in the Council, many of the previous deterrent or balancing mechanisms are no longer effective.

These changes, along with the end of the ideological confrontation between competing blocs and the expansion of the influence of the West, especially the United States, at the global level, have led to an increase in the activity of the United Nations and the Security Council.

At the same time, many less developed countries were deprived of the benefits of the competition between the two global blocs and gradually turned to internal reconstruction and national development.

In these circumstances, the contemporary international system is witnessing the strengthening of the national interests of advanced and less developed countries and the simultaneous expansion of the process of economic globalization and human thought. These changes represent diversity and synchronicity in the unity of the global system. (Alinejad-Asl et al., 2019, p. 27-52). Factors The following structural factors have weakened the legitimacy of the Security Council:

1. Ambiguity in the articles of the Charter, especially the definition of "threat to peace".
2. Limitation of the scope of representation of the Council due to the ineffective distribution of membership.
3. Lack of continuous working relationship between the Security Council and the UN General Assembly.
4. The behavior of the permanent members of the Council, especially the United States, after the end of the Cold War.
5. To increase the legitimacy of the Council, the following measures have been proposed:
6. Practical observance of the UN Charter and removal of ambiguity from the articles of the Charter.
7. Establishing a permanent relationship between the Security Council and the General Assembly through the Office of the President of the Assembly.
8. Increasing the representation of the Council by adding non-permanent members and a more equitable distribution of seats.
9. Recourse to multilateralism and the adoption of open decision-making systems to eliminate double standards and increase consensus in securing peace.

As a result, the legitimacy of the Council should be related to the efficiency and guarantee of the implementation of decisions, and all these variables should be examined in a systemic analysis and with regard to time and place conditions. (Hejazi, 2019, pp. 46-9). (Hejazi, 2019, pp. 46-9)

Conclusion

The UN Security Council is the sole authority responsible for maintaining international peace and security and, according to Chapter VII of the UN Charter, has the authority to use force or delegate it to other countries. However, despite the existing legal instruments, monitoring the functioning of the Security Council has not been effective in practice, and only judicial supervision is possible through the International Court of Justice.

In its decisions, the Court emphasizes compliance with the principles of international law and human rights, but since most of the Court's decisions are advisory and non-binding, their legal impact on the decisions of the Security Council is limited.

Some lawyers believe that external supervision of the Security Council can be carried out through other UN bodies, such as the General Assembly or the Sanctions Committee, but this supervision is also more political and not mandatory.

The UN Charter itself, due to the lack of a precise definition of the term "threat to peace" and the lack of an authority to interpret the jurisdiction of the Security Council, has provided the basis for a broad interpretation of the Council's jurisdiction.

In this regard, conflicts between the sovereignty of states and the actions of the Security Council will be resolved in favor of the Council. The constitutional theory of the UN Charter also

emphasizes a broad interpretation of the Charter, and in the event of a conflict between the sovereignty of states and the Security Council, interpretations that are in the interest of the effectiveness of the UN are accepted.

However, monitoring the functioning of the Security Council in practice faces challenges.

Some legal scholars suggest that UN member states can adopt resolutions in the General Assembly that politically oppose the actions of the Security Council, although these resolutions are not binding and may be contrary to the Charter.

After the end of the Cold War, with changes in the structure of the Security Council and the increase in its controversial actions, the need for more monitoring mechanisms has been felt. However, in cases where there is no effective legal monitoring, great powers may abuse the law to their advantage. Therefore, it is necessary for the Security Council to adhere to the principles of the Charter and international law in its decisions and for its decision-making process to be more transparent and disciplined.

This analysis shows that challenges to the legitimacy of the Security Council stem more from the broad interpretation of the Council's jurisdiction and the lack of effective and transparent oversight, which raises serious concerns about compliance with international law and the sovereignty of states.

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