

Differing State Perspectives on the United Nations in the Post-Cold War World by James O. C. Jonah, 1993

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Introduction

It is not a mere formality to say that it is a great privilege and distinct honor to deliver this year's John W. Holmes Memorial Lecture. I first met Mr. Holmes when I was a junior professional at the United Nations. Even then, I was keenly interested in the development and evolution of the United Nations system, and a speech in which Mr. Holmes spoke eloquently of the concerns of the "middle powers" at the San Francisco conference caught my attention.

I did not have the opportunity to work closely with John W. Holmes, but did meet him on several occasions when our paths crossed at gatherings pertaining to the United Nations. Over the years, we continued to discuss the development of the United Nations. In fact, I met Mr. Holmes shortly before his death when I came to Canada to deliver a lecture and was profoundly grateful when he made favorable comments on my presentation. Incidentally, I must confess that I envy John W. Holmes for completing the rites of passage that led him from the world of policymaker and bureaucrat to the rarefied air of academia.

In my own career, I have tried to conform to the standards of academic method and excellence, and the qualities of balance, caution, and neutrality required of an international civil servant. Indeed, I eagerly look forward to the day when, like John W. Holmes, I can leave behind the responsibilities of a secretariat official to comment fully on the vital

issues of the day related to the functioning of the United Nations system, or in broader terms of international institutions.

It is not an easy task to give a memorial lecture in honor of this distinguished Canadian scholar and diplomat. I have been asked to discuss the United Nations in the post-Cold War era, with emphasis on differing state perspectives. I agonized at great length over the most appropriate approach to this topic. Taking into account the bureaucratic and political constraints placed on me as an international civil servant, I was tempted to select a safe route that would not demand too much in terms of a personal expression of views.

However, the safe approaches that I reviewed did not appear to meet the standard that Mr. Holmes would have demanded. With some timidity, I concluded that I should tackle a subject very close to his heart and address the operation of the Security Council in the post-Cold War era.

The Security Council in the Post-Cold War Era

The role of the Security Council has been greatly affected by the changed international climate. Never before has the Council played such an indispensable role in the management of the international system, particularly in the resolution of the new types of conflicts that have emerged in the post-Cold War world. The first summit-level meeting of the Council in early 1992 was a dramatic affirmation of its new status. This meeting produced the request for the Secretary-General to prepare the report, *An Agenda for Peace*, that now provides the framework to reshape the role of the United Nations in the peace and security domains.

It is my intention to discuss the Security Council as the central executive organ of the United Nations. Those who lecture and pass on to the younger generation the goals of the United Nations have correctly stressed that the Security Council represents a unique institution in the conduct of multilateral diplomacy.

It is important to recognize that the Security Council represents a continuing conference since it can be called into session at any time and at any hour. This is no small achievement, as is well-known by those who have been involved in the Herculean task of convening an international conference. Usually the debate over venue, agenda, and participants is protracted and often frustrates efforts to actually convene a conference. Yet the Security Council, albeit with only Provisional Rules of Procedure, is readily available to governments to tackle international disputes at any time.

It is regrettable that, due to the Cold War, this remarkable institution was not used frequently, and when it was used, it was often as a receiver in bankruptcy. The use of the veto made the Security Council a laughingstock and a symbol of the futility of international efforts to resolve conflicts. Today we have reached a different plateau. The Security Council meets so often that practitioners of international affairs are beginning to ask what it is all about. The rate of

increase in activity by the Council seems to be accelerating. For example, in 1991 the Council held fifty-three formal meetings and adopted forty-two resolutions. In 1992 it held 129 formal meetings and adopted seventy-four resolutions. To date in 1993, eighty-one meetings have been held and forty resolutions have been adopted.

Over the past few months it has been an exception if the Council did not meet every single working day. Complaints are now being heard in the secretariat that the demands of servicing the Security Council are weighing heavily on a bureaucracy that is in all domains being asked to do more with less. The secretariat itself has been restructured to better cope with the volume of demands now being made on the United Nations.

Not surprisingly, the end of the Cold War has drastically changed the functioning of the Security Council. It is well known that the central principle of the Charter, embodied in the Security Council, is the concept of collective responsibility. Inherent in that concept is the expectation that the Security Council, or at least the five permanent members (Perm Five) acting as a corporate body, will harmonize their individual interests in dealing with international controversies and disputes.

The end of the Cold War provided the Security Council with an opportunity to put this concept into practice. The Perm Five and other Council members more often than not now work in agreement. Close observation of Council members over the past two years, in my case almost daily, would suggest that the Council has become something of a club. The high degree of tension so evident during the Cold War has all but disappeared. In its place, jostling, backslapping, and accommodation have emerged.

The Increasing Resort to Informal Consultations

This club-like atmosphere may have been encouraged by the Security Council's practice, which I personally find disturbing, of conducting business in informal consultations. The informal consultations of the Council now outnumber the formal meetings, which have become mere ceremonial events, typically of very short duration. As indicated above, in 1992 the Council held 129 formal meetings but held 188 informal consultations of the whole. In addition, there were many more informal consultations by subgroups of the Council, such as the Perm Five and non-aligned caucus.

Future historians might consider it unfortunate that the decision was taken to construct a special consultation room for the Security Council, equipped with all the paraphernalia of a formal meeting room, including booths for simultaneous interpretation. Those who defend this practice indicate that informal consultations may encourage Security Council members to search for solutions free from the glare of publicity, and that this alone justifies the practice. There may be some merit in this point of view. However, in the long run it is not sufficient that we now have formal "informal consultations," because of a number of serious drawbacks. First, the parties to a conflict may not have the opportunity to fully participate in discussion of an approach that may affect their vital interests. The best that can be

done in such circumstances is to seek out supporters on the Council who may represent their case. This, I believe, is not what the founding fathers had in mind when they made provision in the Charter ensuring that parties to a dispute or even non-members of the United Nations present their side of the story to the Security Council during its deliberations.

The tendency toward informal consultations also presents other difficulties. In addition to the informal consultations of the whole, there are frequent breaks in the deliberations for informal consultations of the Perm Five or of the non-aligned caucus of the Security Council. At times, these meetings of the "informal informals" can create an air of utter confusion. Another drawback of this practice, which should be of interest to scholars, is that the deliberations in these informal consultations, which usually deal with grave international issues, are not placed on the official record. It is, in fact, left to individual delegations to record what transpires at these meetings. The secretariat also prepares its own version of events, but this does not constitute an official record to which future historians can refer. It can, of course, be argued that future historians and researchers could, although the process would be laborious and time consuming, gain access to all the notes prepared by the various delegations. However, I very much doubt that this method would be as credible as the previous practice of producing official records of meetings.

No one knows what future scholars will find when they try to closely examine how the Security Council dealt with such sensitive issues as the breakup of the former Yugoslavia and the subsequent conflict in Bosnia and Herzegovina. No meaningful official records of the Security Council proceedings will exist on these and other important issues. In fact, the only recent lengthy formal meeting of the Security Council for which there exists an official record is the meeting held on 25 May 1993. This meeting provided a forum for members of the United Nations to officially voice their profound displeasure with the way the Council was handling the situation in Bosnia and Herzegovina. The record of that debate may not reveal any significant or creative ideas on how the United Nations should respond to such situations; some of these ideas were aired during informal consultations of the Council. Only by examining the informal debates and discussions can an observer begin to understand the difficulties faced by the Security Council in attempting to discharge its responsibilities.

These difficulties are not well understood by the general public. For example, when the Security Council met in informal consultations to examine the report of the Secretary-General on the Palestinian deportees, the general public received an erroneous picture of developments, mainly through the newspaper of record, The New York Times. The Security Council's reaction to this very sensitive and controversial report from the Secretary-General was to find a way to dispose of the report without dealing with its substance. This device enabled the president of the Council to call in the Israeli permanent representative and express to him the concern of the Council. In order to enable the president to do this, Council members had agreed to talking points for him during informal consultations.

I should point out that a practice has developed by which individual delegations brief the press on their perceptions of matters discussed in informal consultations. The Council at times also authorizes its president to inform the press of its conclusions. In the case of the Palestinian deportees, the impression was left in the public mind that the Council had decided to remove the issue of the deportees from its agenda. Such an impression very rightly antagonized a large body of opinion around the world. If the record of discussion during the informal consultations was available, a very different impression might have been created. In fact, the Council did not remove the item from its agenda.

With the full knowledge of the power of the media, some delegations have developed the custom of attempting to shape perceptions of the results of the Council's informal consultations by quickly relating a summary of these discussions to the media. The media have now gotten into the habit of waiting outside the consultation room with all of their required equipment to immediately record the impressions given to them by the various delegations.

The Changing Nature of Council Decisions

Upon reviewing the enormous output of the Security Council over the past two years, John W. Holmes would have been impressed by the many resolutions approved unanimously and not just by consensus. There is a difference. As many have noted, voting in the official sessions of the Council has now become a mere formality. Each element of the resolutions is discussed and agreed to in advance during the informal consultations. Some, of course, make the disparaging remark that the Council is manufacturing resolutions without any concern for their implementation, a criticism often leveled against the General Assembly.

The great efforts made in the Council to avoid the use of the veto are encouraging. It has become an almost sacred principle of the Perm Five not to resort to the veto. This was clearly evident during the sessions of the Council when the current Secretary-General was elected. Remarkably, each of the Perm Five refrained from exercising the veto, although it certainly loomed in the background.

In a rare recent case over the issue of the financing of the peacekeeping mission in Cyprus (UNFICYP), the Russian Federation gave ample notice to all colleagues on the Council of its intention to use the veto. Russia opposed changing the voluntary method of financing the operation, which was agreed upon in 1964 in a typical Cold War compromise, to a method of assessed contributions, the preferred process of financing peacekeeping operations. Interestingly, no sense of bitterness was evident in the Council when the Russian Federation finally and formally exercised its veto to block the proposed change. It was noted by some that the use of the veto in this case reminded the world community that this was still an option available to the Perm Five. An added bonus was that shortly thereafter the Council was able to reach an accommodation that constituted an improved method for the financing of UNFICYP.

Apart from the broad consensus and harmony that now prevail, it is important to take note of other very significant changes in the Council. A careful review indicates that we are crossing a threshold by enacting real international legislation. The Security Council today is taking action on issues that would have been inconceivable only five or six years ago. It is now almost normal to resort to Chapter VII measures; before 1987 this rarely occurred. It was always the conventional wisdom that action under Chapter VII was virtually impossible. Today the Council may be too hasty in invoking Chapter VII enforcement actions. It has, in fact, become difficult to determine in all cases precisely what the Council has intended by taking such steps. Even the imprecise way in which the Council has resorted to Chapter VII measures demonstrates that the international community is prepared to use coercive measures to reach compliance from recalcitrant parties.

When the Council resorts so often to Chapter VII measures, it is seldom clear what the full impact will be. There is an assumption by some observers that action under Chapter VII allows the international community to do whatever it wishes. But is this really the case? Scholars may ask themselves whether new ground has been broken when the Security Council invokes Chapter VII in situations where there is no central government. What are the limits of UN action, apart from authority to use force to bring about compliance? Some talk of "assertive multilateralism," but what does that mean? It is no clearer than the undefined concept of the "new world order" that emerged after the Persian Gulf War.

As the recent events in Somalia have demonstrated, operating under Chapter VII is fraught with misunderstandings. United Nations actions in Somalia have been perceived, among other things, as violations of international humanitarian law and as an excessive use of force. It is apparent, however, that the underlying difficulty is that the public has not made a clear distinction between peacekeeping and peace enforcement. What is of some interest is that the public at large and perhaps some member states do not readily accept that the use of force is permissible under Chapter VII.

Among other recent Council decisions that indicate a threshold of renewed vigor has been reached, two are of particular significance. The first was the decision of the Council, in Resolution 788 of 2 October 1992, to seize Iraqi assets. Such action would have been unthinkable to those who always assumed that the Charter was based on the concept of inviolate national sovereignty. The second striking decision was to establish an international tribunal to try those accused of war crimes in Bosnia. Both of these decisions, and what they portend, should be welcomed as an indication that the Security Council is now a vibrant institution.

The Relationship Between the Council and the Secretary-General

One cannot fully understand the great strides being made at the United Nations without bringing into focus the relationship between the Security Council and the Secretary-General. I am certain that many who followed the great debates of the Cold War era will recall the insistence of the Soviet Union and its allies that the major role of the

Secretary-General should be that of the chief administrative officer of the Organization, Articles 98 and 99 notwithstanding. Gone are the days when the political role of the Secretary-General was challenged. Indeed, Council members now insist that the Secretary-General and the secretariat play not only a central role, but the leading role in devising solutions to international crises. Those who have been at the United Nations for many years are still somewhat taken aback when, for example, the secretariat is asked by members of the Security Council to prepare drafts of resolutions. This is a task that previously would not have been entrusted to international civil servants. This stage has been reached only gradually. Although former Secretary-General Dag Hammarskjöld frequently consulted members of the Council, including the middle powers, Secretary-General Javier Pérez de Cuéllar began the process of engaging the Perm Five and prodding them to take action. His approach was most clearly evident in arranging the Iran-Iraq and Afghanistan ceasefires.

Before this, Secretary-General Kurt Waldheim insisted that at a crucial stage the Secretary-General had a right to participate in the informal deliberations of the Council, on the grounds that the Secretary-General is asked to implement Council decisions and must be able to offer views in this context. The practice of the formalization of informal consultations, and the decision to construct the meeting space for these consultations followed logically.

The present Secretary-General, Boutros Boutros-Ghali, has taken a different approach. He began his term of office by attending all informal consultations of the Council, but he quickly concluded that he could not do his job properly if he spent so much time in these deliberations. He then made his senior staff available to attend the informal consultations and to respond to questions of delegations, but this also proved too time-consuming. To meet the concerns of delegations for secretariat participation, the Secretary-General has now designated one senior official of his office to attend all informal consultations on a continuous basis and thereby to provide vital information to members of the Council. The Secretary-General, through public statements and messages to the Council, continues to provide information on current conflicts and provides early warning of incipient disputes. He occasionally attends some informal consultations.

New Role for the Secretary-General

One should not, however, be left with the impression that the relationship between the Council and the Secretary-General is entirely harmonious. The media have reported instances of tension and divergence of views, but most members, I believe, respect the Secretary-General and are grateful for his courage and leadership. This respect may account for a major transformation in the role of the Secretary-General, marked by the Council's approval of the transition from UNITAF to UNOSOM II in Somalia. In that decision the Council entrusted the Secretary-General with an executive function in peace enforcement measures. And this action indeed represents a breakthrough. The drafters of Chapter VII of the Charter intended that the command and control of military operations be carried out by the Council with the assistance of the Military Staff Committee, composed of the chiefs of staff of the Perm Five. As the Organization gained experience in peacekeeping over the years, it has become evident that command and

control cannot easily be exercised by a committee or by the Military Staff Committee. As was demonstrated in both the Korean and Persian Gulf experiences, a clear commander in chief is needed. I should add that I am not opposed to a thorough study of the Military Staff Committee, whose potential should be carefully examined. My point is that, having experience with different models for command and control, the Security Council has come around to assigning this role of commander in chief to the Secretary-General. I doubt that many at the San Francisco conference in 1945 would have foreseen that the Secretary-General would be asked to exercise command and control of military operations that involve instructions to open fire.

Scholars should examine the implications of placing the Secretary-General in this rather delicate situation. It is worrisome that the Council has not yet found the best way to carry out its enforcement measures. The membership as a whole is somewhat inclined to rely on American capabilities. At present no country other than the United States has the military capacity--logistical and operational--that would lend credibility to enforcement action by the United Nations. At times this rather embarrassing factor leaves the impression that the United Nations is being used to further the foreign policy objectives of the United States.

One alternative that has been discussed is for the Council to make better use of Chapter VIII of the Charter. This idea is fully supported by the Secretary-General, who himself has written extensively on regional organizations. This idea is also highlighted in *An Agenda for Peace*. But to seriously consider this option the Council must be prepared to give financial and logistical support to those regional organizations that do not have capabilities for peacekeeping or enforcement activities.

In the recent cases of Somalia and Bosnia and Herzegovina, the Council has, in separate resolutions, called for full cooperation with regional organizations. Thus far the Council has not grappled with how to finance these efforts. The refusal, some years ago, by the Security Council to give the Organization of African Unity (OAU) support for its peacekeeping mission in Chad, or to the Economic Community of West African States (ECOWAS) for its current undertaking in Liberia has been extremely disappointing to the regional and subregional organizations involved.

When action was contemplated to implement the Vance-Owen peace plan in Bosnia and Herzegovina, great effort and consideration were given to use the North Atlantic Treaty Organization (NATO) as an implementing agent under Chapter VII. At that time, the conditions put forward by NATO for its participation included operating under a United Nations mandate and flag. NATO also asked that financing come from the United Nations. These arrangements may represent a model to enable the United Nations to assist regional organizations in carrying out the overall objectives of the Organization. It is essential that the Council carefully consider how best to "contract out" some of its responsibilities in view of the increasing number of tasks now being assigned to the United Nations.

One of the problems faced by many members of the Council relates to the cost of peacekeeping operations, which now amount to nearly U.S. \$2.6 billion per annum. This explains why the Council appears reluctant at times to authorize new peacekeeping operations. Nevertheless, the concept of subcontracting should not be seen only as a cost-saving device. Cooperation with regional organizations in accordance with Chapter VIII of the Charter has many other attractions as well. This also raises another extremely important issue--that of priorities. Although it may turn out to be a difficult or impossible task to set priorities for the Security Council, this is discussed with increased frequency in the corridors of the United Nations and within the Council itself. Deliberation is taking place over the ability of the Council to handle all of the issues now being brought to its attention for action.

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The Composition of the Security Council

I cannot conclude this lecture without mentioning a highly controversial issue--the composition of the Security Council. To do so would not be in keeping with the courage and incisiveness of John W. Holmes.

The membership of the Council has been changed only once, in 1965, when it was enlarged from eleven to fifteen members. Considering the vastly expanded role of the Council, it is not surprising that there have been calls for its democratization. Lingering in the background of this discussion is the reduced role of the General Assembly, which is the reverse side of the expanded role of the Council. A large number of member states, not all of them from the Third World, in fact resent the manner in which the Security Council has asserted its prerogatives in the post-Cold War era.

When the annual report of the Security Council was recently debated in the General Assembly, a large number of criticisms of the Council were made by those member states taking part in the discussion.

In this context, questions were raised just after the Persian Gulf War and the ballyhoo over the new world order about the composition of the Security Council. Most member states began to question whether the newfound vigor of the Council and the leading role of the remaining superpower, the United States, indicated that the international community would now be controlled by an international directorate.

The so-called "hidden veto" of the non-aligned seemed to be a feeble response to the charge of a great power directorate, and in any case the current composition of the Council does not provide for a hidden veto. Attention was drawn to the fact that the Perm Five were not representative of the global distribution of power and that the Europeans, in particular, were grossly overrepresented. The main question is whether the United Nations will continue to leave unrepresented other key states that wield enormous power and influence in the conduct of international affairs.

In this context, both Germany and Japan have received widespread attention, especially now that the United States has indicated it would support granting them permanent seats on the Council. There are valid reasons for this change, but many observers fear that such action may open a Pandora's Box, with other states from different regions requesting similar status. It is difficult to envisage that the alteration of the Council's membership could be restricted only to allow Japan and Germany to become permanent members. It is also difficult to logically identify which other countries should be considered for equal treatment. In Asia, should it be India, Pakistan, or Indonesia? In Latin America, Brazil, Mexico, and perhaps Argentina would be contenders. Among African countries, reference is made most often to Nigeria, but other countries may have strong claims, including perhaps a democratic and non-racial South Africa. It is this jumble of possibilities that frightens some Council members into concluding that no action should be taken at this time.

Is the option of essentially ignoring the issue realistic at a time when the overwhelming majority of member states are calling for a change in the composition of the Council? The Secretary-General has been asked to present a report on members' views on this question to the forthcoming session of the General Assembly. There can be no doubt about the views of most member states.

It does not appear likely in the short term that this question can be resolved by consensus. The Charter gives the existing permanent members of the Council a veto over changes in its composition. The United Kingdom and perhaps France presently show every indication of being opposed to either expanding the membership of the Council or altering its composition. It is certain, however, that this issue will not disappear. In view of the central role the

Council is now playing in the conduct of international relations, the United Nations at some point must seriously consider revising the membership of the Security Council.

Conclusions

In conclusion, what can be said of the future? Regrettably, I cannot leave you with a firm assurance that the most encouraging performance of the Security Council in the past years can be sustained indefinitely. The history of the United Nations has been one of ups and downs. Great hopes dominated the period of Dag Hammarskjöld's very active tenure as Secretary-General. This was followed by a long interregnum in the doldrums and a profound crisis of credibility not only of the Security Council but also of the United Nations.

At the moment all the signs are positive, but it is also clear that the Council must still come to grips with its unfinished business and continue to adapt itself to changing times. In this endeavor, it is hoped that scholars interested in the study and revitalization of the United Nations will take an active role in suggesting further modifications.

An example of specific questions that need to be addressed are the implications of Article 43. Should the United Nations move in the direction of assembling a permanent volunteer military force to be called upon in emergencies? Another issue to be revisited is the legal implications of the numerous Presidential Statements of the Security Council, of which there were eighty-three in 1992 and fifty thus far in 1993. Are member states obligated to adhere to these statements, which are the object of intense negotiation and scrutiny in informal consultations of the Council, and which any member of the Council can block by withholding consent? How do they differ from consensus resolutions of the Council, and how can nonpermanent members be meaningfully involved in its work when many crucial questions are first discussed by the Perm Five in other forums?

These are the types of questions John W. Holmes would ponder if he were with us today. Urgent attention should be given to these and other issues so intimately related to the role and functioning of this most important organ of the United Nations, the Security Council.