

Working Procedure for the United Nations Security Council in the 21st Century

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Abstract

The world is facing significant security challenges. There is a war in Europe which is ravaging lives and has the potentiality of becoming a nuclear war. Civil wars are occurring spontaneously around the globe, the COVID-19 epidemic is still raging, terrorism is on the rise, global warming, and piracy are just a few of the problems that people must deal with on a daily basis. The organization responsible for upholding peace on a global scale is the UN Security Council, or UNSC/Council. However, the Council has become paralyzed in recent years and therefore unable to take control and carry out its Charter mandated duties. In light of these tragedies, the Council's organizational structure and methods have come under criticism. How does the UNSC function in order to address these urgent security issues? What challenges are standing in the Council's way to safeguard international peace? The steps the Council must take to accomplish the goal outlined in charter Articles 1, 24 and 28 through 32 as well as its obligations under Chapter VII. The P5/PM, or the Five Permanent Members, are unable to come together and lead the Council in addressing the agonizing problems that are rapidly undermining the UN/ UNSC's since World War II. This essay examines the Council's operational difficulties and raises awareness of the fundamental problems that keep the Council from moving forward. The article ends by urging the P5 to mend their fences, find a solution to the current Russia-Ukraine situation, and develop a road map and cutting-edge solutions to the numerous problems facing humanity before it is too late. The Council must act quickly because thousands, if not millions of lives are lost every day, and more priceless lives are on their way to the slaughterhouse.



IJSB

Literature review

Accepted 28 July 2022

Published 11 August 2022

DOI: 10.5281/zenodo.6983634

Keywords: UN Security Council, Working Methods, P5, Veto, efficiency.

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1.0 Introduction

Your output is greatly dependent on your inputs, so good input is crucial to the outcome. The UNSC's working procedures are of very poor in quality. Articles 28 through 32 of the Charter, which purported to set forth the working methods, are legally deficient or, at the very least, provide no encouragement for the Council to start or anchor quality operations standards. Due to its approach in accordance with poorly defined duties and operational standards and the fact that this unit is answerable to no one, the Council is legally or technically unable to fulfill its legal obligations properly. Numerous authors and academics have made significant progress in addressing the Council's method of operation, or the way it fulfills its duties but very few touched addressed the legal loopholes that make the Council answerable to no one.

Many supporters claim that changing working methods is more important than other types of reforms because they believe that output quality should come first above all other considerations. One could argue that by utilizing the format the Council chose to publish its decisions in, unlike laws and regulations, no legal hierarchy was created. Working strategy change has been promoted as a workable solution to the council's challenging circumstances. It frequently relates to issues involving the council's temporary system rules as well as ways to improve organization between the Council and NGOs and/or specialists.

2.0 Flaws of Working Procedures of UNSC

2.1 Working Procedures of the Council

In accordance with Article 30 of the Charter, which mandates that the Council creates its own procedural rules.¹ The Council is free to develop its own operational norms and implement them without interference from or direction from any other organ. On January 17, 1946, the Security Council adopted its Provisional Rules of Procedure, which has subsequently undergone 11 revisions. As a result, establish guidelines, put them into practice, and abide. How would you rate this task's performance standard or measurement, and on what criteria may we base that evaluation? Through notes from the President, the most recent of which is the extensive Note by the President² and subsequent notes addressing specific problems, the last time the Security Council has updated its working methods and procedure in 1982. Since the constitution allows the Council to establish its own regulations without supervision in accordance with Article 30, the Council is free to act or not act in even delicate situations, like as the Russian-Ukrainian conflict.

In accordance with the first clause of the charter, all members of the Council must work to prevent aggression and ensure the safety of all people. The Council may, however, use a different set of guidelines or strategies when dealing with related situations. How does that operate in a volatile world like the twenty-first century? The P5 were mandated or permitted to accord themselves with all rights since they are leaders and are seen as the best and most powerful States, or simply put the winners of the Second World War. However, they have become hurdles to achieving the UN's core goals somehow some of them are antagonists as far as breach of peace is concerned.

As a result, the Charter is legally responsible for the security flaws that have existed ever since it was created. The procedural fault is based in the 1945 constitution, which was ratified despite the skepticism and resentment of the international community at the time. It does not accuse the P5 or call into doubt their skills or talents, though.

¹ *The Security Council established its Provisional Rules of Procedure (S/96) in 1946.*

² *August 30, 2017 (S/2017/507).*

Since the legal framework was rife with flaws, everything was wrong from the beginning. The legal framework just wasn't sufficient to fulfill the precisely defined, high-quality mandates set forth in the Charter, the community's constitution as foretold by Bardo Fassbender, 2004.

According to the Charter, there are no checks and balances, which are foundation elements of every democratic system. Because the legal bottleneck flagrantly failed to establish this crucial tenet of democratic administration, it is neither surprising nor an accident that global security is precarious and unstable in 2022. It is not by chance that the world is currently confronting the greatest existential threat since World War II and one that is even worse than the Cold War since many States, including the P5, do not comply with the laws. The Russian-Ukraine conflict has the potential to escalate into a nuclear conflict, which would lead to the destruction of the world.

Unfortunately, influential Council members are to blame for this unfortunate circumstance. In addition to violating international law and Charter Articles 1, 2, 24, and 26, the scenario also represents a sub-par performance by the Council in light of Article 28, which calls for continuous UNSC operations. Since the events of February 24, 2022, the Council has made very few efforts or made very little progress. If the Council is a board of trustees or directors for a company, it ought to have been disbanded by this point based on performance. Therefore, the role of the P5 as mediators in conflict is called into question, and contrary to document.³ Over the years, the Council has shown itself to be powerless, unable to uphold world peace, and its operational requirements are far from ideal.

Relevant legal documents or Security Council's decrees as not adhered to for example,⁴ working method of the president and the monthly work procedures are just some of the legal documents with little practical application in both input and output measurement,⁵ working methods in extraordinary periods was not fully activated during serious conflicts such as the invasion of the former Yugoslavia in 1999, the Iraqi invasion of 2003 and the invasion of Ukraine in 2022 among other major conflicts which fall under the mandate of the UNSC. The implication or the precedent set by this unfortunate eventuality is that the veto wielding cannot disrupt world peace that they are obligated under the Charter to protect with little or no consequences. Thus, the world is unlikely to enjoy the purpose of the UN clearly define in the very first chapter (article 1) of the Charter and as outlined in S/2019/992.⁶

The risks posed by these deliberate architectural flaws in the law reinforce the numerous security issues facing our planet today, which are quickly leading to disaster and suffering. The majority of the UNSC's work consists of formulating resolutions on a range of subjects in accordance with the Charter. This primary activity, however, is plagued by inconsistencies and animosity. Vetoing of Resolutions highlight the rifts in the P5 fraternity, the allies and national interests. This crucial exercise under Chapter 5 of the UNC is not necessarily about defending the Charter or promoting world peace in line with the UN's values and aspirations.

³ S/2021/646,

⁴ S/2021/647, S/2021/648,

⁵ S/2021/1074,

⁶ Fassbender, B. (2004). *Pressure for Security Council reform*. In D. M. Malone (Ed.), *The UN Security Council: From the Cold War to the 21st century* (pp. 341–356).

2.2 Drafting of Resolutions: Pen-holding

Professionals at the Security Council are paying more and more attention to the practice known as "pen-holding," especially in light of the situation in Syria. According to Sievers and Daws,⁷ a "pen holder" is a Council member who arranges a casual gathering and a procedure for drafting a resolution. As a result of the Council's growing workload and obligations resulting from its statutory duty to be in charge of all security concerns globally, this atypical approach took on new relevance in 2008. The strategy wasn't intended to be used for political maneuvering, but it eventually came with significant challenges. The initiative taken when creating resolutions on a given subject. Only that nation has the right to assert ownership of a draft by initiating dialogue or taking other steps relating to the document's subject. "Power in practice: Negotiating the international intervention in Libya,"⁸ The agenda or the object remains inactive if the person holding the pen no longer starts a draft.

Although it is an unwritten law, this duty should theoretically be distributed among the council members in a rotating fashion. However, in reality, the majority of these crucial documents have been written at the P3's request, which has led to their domination in the creation of resolutions. Though it should be mentioned that the P3 operation's consistency and experience are comparably greater than those of their P2 counterparts, this difference may be coincidental or dependent on other variations of circumstances.

The P3's dominance in writing resolutions may be explained by Russian's prolonged absence or dormancy during the protracted Cold War era and the PRC's representation by its island province of Taiwan until 1971⁹ Since they are taking on the administrative duties, they unquestionably have an advantage over their counterparts.¹⁰ However, despite the fact that most of these initiatives of the Council's work and operations are motivated by strong national or personal interests, this rationale may not be a significant one. The pen holder practice allows them to frame a problem and create a strategy before contacting others¹¹. According to a former ambassador of Germany, the game is decided by the leader, the one who presents the text and takes a stand early in the day. After it has been organized, discussed, and improved among the permanent members, a draft is normally shared with the elected members. There might not always be much room for more feedback at that time, though. This method prevents the other Council members from expressing their views on crucial issues. Also, it does not follow the UNSC's notion of collective decision-making either.

This reported pen-holding tendency may irritate other members because it restricts their ability to express themselves freely and exercise their legal rights. Pen holding hinders thoughtfulness; nonetheless, for E10 practitioners, it is an endurance exercise to embrace. However, it came to represent competence and accepted practice. The ability of elected members to act quickly and effectively on a matter before the Council is constrained by this procedure. As a result, rather of "influencing," the work of NPM now involves "rubber-stamping" decisions. Additionally endorsed by Niemetz (2016) and Keating (2015). The Responsibility to Protect turns to be at the prerogatives of the P5, who are frequently the pen-

⁷ *Security Council Report, 2013; Sievers and Daws, 2014: p. 267.*

⁸ *European Journal of International Relations 20(4): pp.889-911 by Adler-Nissen and Pouliot 2014.*

⁹ *Allison R (2013) Russia and Syria: Explaining alignment with a regime in crisis. International Affairs 89(4): pp.795-823.*

¹⁰ *Pragmatism in International Relations, edited by Bauer H. and Brighi E., Routledge, 2009, New York, NY, and London.*

¹¹ *Security Council Report 2013, Tardy and Zaum 2016, Sievers and Daws, 2014-267.*

holders at the expense of the principle of R2P.¹² UNSC Report 2014¹³; The humanization of security?¹⁴ The weak accord that the P3 created on Resolution 1973 broke under conditions that must be understood because it was not a joint effort.

The P3's hierarchical and bureaucratic tendencies, which resulted in the reduction of the input majority of Council members, were used as a technique to address the complaints about how P3 administered Resolution 1973. Spectators' behavior not only discredits the R2P principle but also calls into question the UNSC's overall effectiveness.

Nevertheless, the process described in Articles 28 through 32 of the UNC did not take into account the majority of Council practices. The UNSC is expected to cooperate in bringing about peace. However, as the pen-holding study explains, the UNSC is severely divided on a number of fronts. This situation can result in frustration for stakeholders, who are already troubled by the symptomatic character of the discriminatory structures that are ingrained in Council processes. The situation at the Council is not changing the dogmatic or bureaucratic work system and hierarchical structures, as the situation does not change, it poses both legal and moral challenges as the Council is an organ was established legally and have legal obligations to achieve.

Without success, there were attempts made to reform these hierarchical practices through yearly meetings, groups that focused on work methods or procedures. How might a rigid work process assist the Council in navigating a variety of security related issues? The move, however, did not gain enough traction because of an existing sense of exclusion, which reared its ugly head once more. For instance, Argentina's dissatisfaction with the UNSC reform had an impact on its participation.¹⁵

The P3 accord fell short of expectations, and democratizing these techniques will unavoidably cause widespread horror. It was a moderate stance. It roughly follows the actions that Adler-Nissen¹⁶ and Pouliot (2014) identified as indicators of competence. In practice, it becomes difficult when we restore a normative standard that values the ability to domesticate and sustain a collective consciousness. It is challenging to achieve the collective security that is the cornerstone of the UN when millions of lives are at stake, as they were in Syria and are presently in Ukraine¹⁷. Why is it difficult to protect life in the face of pervasive atrocities? The process used by the UNSC, which is characterized by a P5 split that appears to have occurred, is directly held responsible for the resolution. Therefore, as long as there is a schism in the Council, the concept of preserving life is put on the back burner. Competent R2P international diplomats and players are not truly distinguished by their capacity to defend their preferences or feel safe in their options. By switching pen holders, a realistic approach that focused on ending the impasse opened the door for humanitarian aid in the context of a larger political dispute. It had been challenging for the Council to conduct itself in a more democratic manner due to the lack of transparency and P3.

¹² Bellamy AJ (2016) Pp. 112-133 in *European Journal of International Security, Volume 1(1): Towards a Global Protection System*.

¹³ *Ethics and International Affairs* 29(2): pp. 161–185.

¹⁴ Wenaweser, 2016; *International Politics* 51(1): pp. 23–44.

¹⁵ 2014 French draft resolution submitting the Syrian State of affairs to the ICC (Ralph, 2016).

¹⁶ Adler-Nissen R and Pouliot V (2014) *Power in practice: Negotiating the international intervention in Libya*. *European Journal of International Relations* 20(4): pp.889–911.

¹⁷ Resolution 2043, unanimously voted on April 21, 2012, created the UN Supervision Mission in Syria.

2.3 The P5's Role

When it comes to security operations, the UN's collective security response is one of its core tenets. The existence or formation of the most powerful organization in human history is supported by this idea, as well as its security operations. Without taking China and Russia's vetoes on Syria into account, the P3 bears a significant amount of responsibility for failing to act in a manner consistent with Libya's precedent.

Although it doesn't comply, the P3 had demonstrated ethical competence in the resolutions' preparation and R2P readiness. In order to assess a nation's practice at the UNSC, Adler-Nissen and Pouliot¹⁸ analyze the P3 judgment while authoring those resolutions because it enables making the critical judgment through metrics and the qualities of competence. With the phrase "Assad must fall," the P3's commitment to R2P killed out any recognition in a culture of norms. As they did in Libya, this method of operation does not or is unable to yield the desired outcome in terms of regime change. This is due to the fact that the outcome in Libya is evident and still fresh in the minds of other Council members, particularly the P2.

Instead of pursuing world peace, this method of operation serves the interests of a tiny minority. In the case of Libya, it wasn't just the P2 that opposed the P3 position; nearly the whole African continent, including more than 50 States, did as well. Therefore, their activity or action cannot be justified by collective effort, but rather by the stubborn and narrow-minded ambition of a few western powers to advance their own interests at the expense of world peace. However, it is conceivable to make the case that the P3 fails the R2P's built-in reasonability requirement, violates UN collective security policy, and has questionable ethical competence. The P3 researched and considered applying the same strategies used to overthrow the regime in Libya to the situation in Syria.

That argument, however, does not take into account the various reasons why it was not accomplished. The UNSC did not agree to these aspects of the Libya meeting because Iran and Russia wanted to keep Assad in power and were hesitant to intervene directly or indirectly to topple the regime. It should be argued that the P3 practice lacked solid judgment regarding what was practically practicable at the moment in light of the widespread clamor for Assad to leave. It may have also contributed to the perception that Western nations are "humanistic and set positive history," but it also made it more difficult for the Council to reach consensus on practical solutions for protecting the Syrian people. Once more, the R2P has abjectly failed to fulfill its mandate. This activity failed the competent R2P test. Britain unilaterally passed a resolution in October 2011 that denounced the Assad administration and demanded sanctions in accordance with Article 41. If the UNSC functions as a group, an agreement should have been achieved before the UK's resolution is written.

Whether the Russians would have opposed this resolution in light of their involvement in Libya is a topic worth discussing on its own merits. Russia's posture is definitely based on the precedent set in Libya, and the P3's actions and stance in Libya as well as its role in the Syria case linked the two cases. A number of circumstances, including larger opposition to the regime's collapse by outside forces through forceful demonstrations both at home and abroad, can be used to explain Russia's involvement.¹⁹ Russia's long-standing relationship with the Assad government and its financial stake in that country made a failed resolution inevitable²⁰. The P3 draft was not a forerunner to military action intended to overthrow the Assad

¹⁸ Adler E and Pouliot V (2011b) *International practices. International Theory* 3(1): pp.1-36.

¹⁹ Allison, 2013; Bellamy, 2014; Gifkins, 2012.

²⁰ *United Nations, 2011: pp. 3-5.*

administration, as this line of thinking implies. In every other circumstance, the Russians used various justifications and techniques to persuade the elected Council members to support their own national interests in Syria while disguising them as R2P. Regardless of one's point of view or reasoning, the reality that civilian lives were more at risk and that a sizable number of civilians have already died makes the UNSC's adoption of R2P mandatory. The events led to the activation of the R2P, but the UNSC was unable to act together. It was easy to connect the Libyan events to the rationale for the Russians' veto request by textually analyzing what they said. However, Russia found it simpler to maintain its veto as a result of the P3's actions in Libya and the resulting discontent generated by the Council as a whole.

Along with China and Russia, other nations that made the decision to abstain from the Resolution's vote included Brazil, India, Lebanon, and South Africa. The Council's basic divides are once again made obvious when confronted with rampant crimes in a UN Member's neighborhood. The rationale behind these votes essentially prevented the P3 from carrying out what they had already done in Libya the year prior by pulling the Council's strings. This demonstrates the Council's lack of ability to deal with a serious security crisis and its polarizing inclinations, which is certainly a violation of its mandate. The legitimacy of the UNSC is demonstrated by its capacity to manage crises, but what relevance does it have when it lacks respect, authority, and the ability to convene a quorum to discuss security threats? Reforming the UNSC is more important than ever because a number of factors are causing problems by utilizing the Council's inadequacies. Therefore, when the chance arises, the reform should be focused on correcting these irregularities. The Council is certainly inadequate and inept to carry out its enormous mission of averting human tragedies and fostering peace on a global scale in its existing shape and method.

Furthermore, Western nations had long insisted that Assad must leave in order to spur military action in response to Turkey's declaration that Assad's regime should cease to exist as the country's legitimate government. This established itself as a constant feature of Western discourse. Many diplomats in the Council compared the situation in Syria to that in Libya and predicted that similar strategies used by the P3 would likely be used in Syria while disguising themselves as UNSC resolutions. In the level of the P3, there was an air of absolute dominance. The situation in Syria became unique, but there was still a perception that a diplomatic process akin to that in Libya would be desired to prevent attacks on the Syrian people.

The P2 concludes as a result of this viewpoint that "they were seeing the exact procedures as were utilized at some level in the procedure of negotiating the Libya resolutions" and that the UNSC is understaffed and "was a vehicle for regime change" given how events played out in both scenarios. When it comes to collectivism during security emergencies, the 15-member Council is always divided into numerous factions and organizations, each with different underlying goals and tactics.

Although still intriguing, this argument has little to do with R2P competency, which is not necessarily significant. The rationale behind the "double vetoes" is far less relevant given that China and Russia oppose a regime change in Syria. This has no bearing on how crucial R2P knowledge is. Articles 39, 41, and 42 of the Charter allow the Council to take action to save lives in such situations, but they do not support overturning governments in order to further the limited interests of other nations. Regime change is not supported by the Charter, even though it does not expressly prevent it.

The P2 are highly experienced countries with independent minds who would not be easily persuaded in favor of a course of action that they perceive as the internal affairs of an independent member, especially relying on Libyan experience. In this regard, any P3 proposal that connected human protection to the regime does not meet the criteria for R2P competence since it is incompatible with the standard, which stipulates that the response to a mass atrocity must be coordinated through the UNSC. Because they haven't accepted that, the P3 keeps trying to at least go down in history as "saviors of mankind in terrible times."²¹ Here, it is understandable for the P3 to wonder how they managed to painstakingly construct a strong enough consensus designed to persuade Assad to think again.

In October 2011, July 2012, and May 2014, the P3 persevered in looking for their own preferred resolution while being clear that a draft decision would be vetoed. This enabled a small number of nations to portray themselves as being on the right side of history and the P2 as being against progress, as discussed in (Glasser, 2012). Antagonizing the P2 is nothing new at the UNSC, but the other elected Council Members' decision to abstain during the vote demonstrates how the Council's potential and achievements have been hampered by its dysfunctional working relationships. One may perceive the P3's effort, words, or posture in many ways depending on their personal preferences. The method probably wasn't just concerned with protecting P3 images.

Making Russia unpopular might be done in an effort to convince Moscow to modify its position. This can be deduced from the vetoes' remarks, which demonstrates that there were tactics at work. Even more forcefully and bluntly, the UK stated that it was "appalled by the P2's tactics used to veto the consensus resolution," adding that China and China "had failed in their duty as P5 members of the Council." For instance, the US claimed that its actions were preventing the Council from carrying out its sole mission right here in accordance with its constitutional responsibility to protect and save lives²². There are appropriate methods and solutions, and instead of blaming the other P5 members, they had used coercion (Pattison, 2015) It is unusual for the Council to issue a public condemnation of such sort.

If the P3 approach aimed to reduce Chinese and Russian backing for the Assad regime, it was unsuccessful. One might question the tactical judgment behind the shaming strategy in light of this and the fact that there were no other options that could have affected the preferred regime of the P3. The mission of the UN or the Council was put in jeopardy by the P5's turbulent relationship. As catastrophes involving people played out all around the world, the Council watched helplessly. If the UNSC's actions were the only means of protecting the Syrian people, then openly shaming crucial members did not amount to prudent diplomacy. The material presented here is not intended to belittle the P3 or any individual member, but it does reinforce the notion that the UNSC requires revitalization. The Council cannot carry it out in this manner at the expense of human life in order to achieve its goal.

This mode of operation is entirely the fault of the UNSC. Collectively, the Council is accountable for its egregious violation.²³ As much as it failed Syrian citizens, it is useless to point the finger or punish friends or allies who became enemies due to political expediency, national interest, or other factors. In order to implement R2P, the Council must cushion and save the upcoming generation as well as any other dangers that pose a threat to mankind as a whole. What purpose

²¹ February 2012, when Russian representative Vitaly Churkin stunned the Council by vetoing the document the morning of the vote.

²² United Nations, 2012: p. 5-7.

²³ Articles 39 to 42 of the Charter.

does the UNSC serve by continuing to exist in its current form and structure, if it is unable to carry out its primary mandate? Nothing is lost and nothing is significant enough to serve as a justification for utter failure in the face of the constitutional clauses under whose authority the UNSC operates.

2.4 Elected Members of the UNSC Role

For obvious reasons, the Elected Members of the UNSC differ from their Permanent Counterparts. As a result, R2P competency required a different approach to coordinating collective activity and human safety. This chance was presented by the so-called "humanitarian track." This aimed to negotiate access for aid workers to vulnerable groups. It may not be the greatest course of action to fulfill its legal obligations, but it works better since it is less contentious and, as a result, more practical or rational than a regime change.

For example, the Russians and Chinese did not object when the UK/Morocco draft resolution from February 2012 called for humanitarian access to the civilian populace under stress and urgent needs for supplies when the resolutions have been aiding suffering masses and confidence-building measures with UN observer missions. However, it wasn't until 2014 that the Council approved of humanitarian immigration. A change in the political climate and a change in who held the pen made it simpler to negotiate those resolutions. First, the P3's appeal for military action in response to the Assad government's alleged use of chemical weapons in September 2013 was unsuccessful, effectively ruling out a circumstance similar to that in Libya.

The climate within the Council dramatically and favorably improved when the P3 agreed to support Russia's plan to covertly remove chemical weapons from the battle zone. And a surrogate pen bearer in New York allowed the UNSC to act in this new political landscape. More importantly, rather than pen holders, it came from the E10 members. Some Council insiders were astonished by the E3's position, which was that a resolution without such wording would no longer be able to address the rational issue of how to improve the humanitarian situation. Even though it's possible that the politics had altered, the E3 nonetheless executed a masterful diplomatic maneuver. The political music has been revived by the Geneva II discussions, and the E3 also covered issues whose humanitarian implications might make the political music more difficult.²⁴

The P3 was particularly concerned that the E3 might adopt the Russian stance and that they would afterwards find themselves out manoeuvred. It is a testament to the bargaining skills of the E3 diplomats that they were able to walk this delicate line without alienating either the P3 or the P2. However, some Council insiders were referring to them as "incredible partners" to the P3, despite the fact that they were competent and had convinced the P2 that a resolution on a humanitarian entry route would not be changed into a Libya-style strategy that could result in a military-led regime change.

2014 saw Jordan accept their request to join their fraternity, which was key to their mission. Their addition of Jordan within their fold streamlined and made things simpler, even though she accepted a sizable number of Syrian refugees before joining the UNSC in 2014. Jordan's humanitarian burden of hosting numerous Syrian refugees gave her moral weight and legitimacy to the argument being made by Australia and Luxembourg in light of the political instability in various Arab governments. The Council's inability to supply the necessities for

²⁴ Several Council insiders were surprised when the E3 demonstrated a commitment to practical issue solutions that allowed Resolution 2165 to pass in July 2014.

preserving peace is demonstrated by the challenges and complexity that hinder its activities, even in contentious issues. Last but not least, insider information emphasized the significance of the practical approach employed by E3 pen holders.

The negotiations also took on a new dimension; instead of focusing solely on the humanitarian assistance effort and free from political undertones, they were based on political concerns or conflicts that were inherent in the Council. It is becoming more challenging for Council members and associated institutions to successfully deliver desperately needed aid to the afflicted due to the UNSC preference for comparable operating methods. Close observers concur with this viewpoint, noting that E3 management became crucial in bridging what was a P3-P2 split that was entirely real. From this angle, the P3's possession of the pen prevented the decision from being made. This is evidence that, even with equally capable member states, the P5's ability to resolve disputes will ultimately benefit world security.

The P3's stance that "Assad must go" is just one of many reasons why things would probably be different under their leadership. Having a situation in Libya that is already unfavorable. This position is explained in (Langmore and Farrall, 2016). This is significant because it serves as the competency guiding Adler-Nissen and Pouliot's conception of practice and P3 overall performance. Accordingly, expertise is a prerequisite for winning the competition to establish the timetable. The argument made here, however, is that when an ethical/R2P lens is used to evaluate UNSC practice, diplomatic competence needs to be reoriented and efforts to save humanity need to be redirected. Early in 2004, Resolution 2139 gained momentum, opening the path for a humanitarian entry point into Syria.²⁵ It was unfortunate that the Sochi Olympics were taking place at the same time, which some observers said led Russia to pass the resolution without considering using its veto. However, this accusation against Russia is unjustified because it appears to cast the country as the opponent of human aid. The political maneuvering of the P3 in Libya was still vivid in the minds of the Russian negotiators, in addition to Russia's proximity to Assad.

Therefore, it could be said that the P3's consequences had injured them in the long run. Resolution 2139's accomplishment indicated a step forward in the collection of R2P-appropriate data, but there were still concerns about its capacity to have an influence through implementation. Adoption of Resolution 2139. OCHA's frequent assessments and reports to the Council showed that neither Resolution 2139 nor the humanitarian situation had been activated. To the surprise of some Council insiders, the E3 once more demonstrated a pragmatic commitment to realistic problem solving by pushing for a decision that would permit pro-UN humanitarian groups and their partners to use humanitarian routes through conflict-torn areas and free passage of people without government restriction. The P3 enabled 2165 in this way in July 2014.

The Council adopted an R2P-appropriate resolution in a number of ways, but it was most successful because it made a distinction between humanitarianism and regime change and because E3 (as opposed to P3 leadership) facilitated a hands-on rather than an academic approach to the problem. This outcome challenges the competence attribution proposed in Adler-Nissen and Pouliot's theory in the account of Security Council practice. It provides additional proof that under the given conditions, the P3's R2P competency is not always guaranteed. Objective analysis concludes that there are still more difficulties for R2P proficiency under the existing UNSC processes. According to Adler-Nissen and Pouliot's review

²⁵ Resolution 2139 approved in February 2014, requesting access for aid workers.

of the UNSC practices framework, the P3 lack R2P competency. Theoretically, the P3 failed the competency test, but national interests have prevented or influenced how they have acted on these security vulnerabilities. Therefore, even if the Council is imprisoned due to a few states' interests at the expense of world peace, the Charter's objectives will still be respected. If lives were to be saved, the difficulty in achieving consensus in attempts to avert a mass atrocity needed to take precedence above national interest. This not preclude critical examination and scrutiny of the P3 practices. In fact, their own adherence to the R2P approach through their practice must be evaluated in line with the moral standards ingrained in that norm.

The traditional method of handling pen holding, in which the P3 has the upper hand, is detrimental to the development of the Council's collective wisdom and strategy. The Council will actually be affected by these exclusionary tactics in terms of how to respond to cases based on the P3's prior failures. The P3 had not been able to make headway on the political and humanitarian tracks on Syria, but the E3 had been able to make some movement, if not success, at the Council level in response to the humanitarian situation in Syria. It should be highlighted that the E3 pen holding on Syria's humanitarian road has encountered considerable challenges despite its potential to act quickly to break the impasse.

In fact, the E10's leadership on Syria's humanitarian policy depended on Jordan's continuing membership in the Council after Australia and Luxembourg left. Short-lived bids by Spain and New Zealand to join the E3 stopped the P3 from regaining control of pen-holding. The P3's continued misuse of their monopoly on the writing process is mitigated by improvements in pen holding technique.²⁶ The adoption of these humanitarian ideals is frequently seen as justification for the idea that victims are merely passive or apolitical actors. Garcia-Godos, however, fills in the blank and challenges this assumption (2016, 357). The UN's various doctrines and the organization itself support the idea that human security comes before all other considerations, and it places a legal obligation on the torch bearers to pursue this goal.

Pen-holding and other exclusive behaviors restrict the full participation and contribution of every Council member, which prevents the Council from developing a strong collective awareness. The Bourgeoisie-motivated practice theory runs the major danger of effectively correcting a practice like pen-holding in this situation while leaving the related competence attribution in place, as our argument underlines. Fortunately, a new perspective on practice mitigates this risk. This establishes a link between diplomatic ability and employing sound judgment to balance various normative commitments. This alternative method was employed in the analysis, which showed that P3 practice fell short of what R2P response required.²⁷

2.5 Legal Constrains of the Charter

Regarding its applicability and effects on the domestic or national legislatures of Member States, international law has flaws or inadequacies. Lack of coherent and practical legal framework or recommendations to assist Member States in drafting domestic legislation to reduce unwarranted tensions and conflicts threatening international peace and security. The UN Charter, which was drafted under pressure or under unique circumstances to prevent a potential third world war, cannot serve as the legal foundation for such a massive level of global security.

²⁶ Niemetz, 2015: pp. 115–116.

²⁷ Garcia-Godos 2016, p.357.

Instead of relying solely on the UNSC to issue routine directives whenever a security concern arises, relevant international legislation and regulatory institutions with binding effect are urgently required to assist in assimilation of domestic laws of Member States. Along with being disregarded by unconstitutional authorities, compliance with those directions also came much too late in light of the crimes and casualties in the fight. Boyer et al. (2011) and Dervis (2005) are two scholars who have advocated strongly for upgrading the Council's first-rate essential through operational technique ideas. They represent the idea that focuses on enhancing the effectiveness of the council through (a structural) voting mechanism. Strong arguments are made by proponents of working methods that include the ACT (about 22 states) and a wide range of non-nation entities that a smaller Council is more likely to reach consensus.

According to (Friedrich Ebert Stiftung, 2013), the UNSC's operational procedures have undergone a revolution as a result of which the Council is now transparent, coherent, and responsible. Their attempt was inspired by the so-called S-5, whose campaign for working method reform collapsed in 2012 with the help of the UNSC, which included the P5. The failure of the S-5 reveals the P5's entrenched position to maintain the status quo as far as managing the reform and member's interests are concerned. The five Permanent Members, who are unwilling to anchor the Council's growth pursuit, and the proponents, typically smaller countries with better chances of obtaining a desired permanent seat, both appear amenable to reforming the Council's working procedures. The effectiveness of UNSC operations The UNSC's ineffectiveness has been demonstrated un a variety of circumstances, including constitutional assignments. For instance, the Special Committee considered the issue of deleting the "enemy State" clauses from Articles 53, 77, and 107 during its 1995 session in accordance with General Assembly resolution 40/49/58.28

Surprisingly, no steps were made to comply with this crucial legal requirement, making the process invalid. The character of armed conflict, as well as that of war prevention, conflict resolution, and peace building, has changed, which is a crucial transition. The diverse ways in which the Council has responded to the crises in Bosnia, Rwanda, Somalia, Angola, Darfur, the Democratic Republic of the Congo, Ivory Coast, Libya, Syria, Ethiopia, Myanmar, Ukraine, and elsewhere raises concerns about the Council's effectiveness as well as its legitimacy in relation to other forms of power.

The Council's struggle to decide which crisis to respond to and what actions to adopt was made clear by its response to those conflicts. Nowadays, interstate wars between hostile states no longer make up the majority of military confrontations. Instead, they often include armed conflict between non-state entities across borders or civil wars. These types of armed conflicts have recently grown to worrisome levels. They have lately been classified as non-international armed conflicts (NIAC) by the International Law Association's Commission on the Use of Force, and their prevalence is on the rise. Additionally, they differ in many ways from conventional international confrontations. These confrontations are characterized by the use of illegal combat tactics and asymmetrical struggle strategies (e.G., terrorism, recruitment of infant soldiers, genocide, and ethnic cleaning). Most of the people who suffer in these armed situations are civilians, not combatants.

²⁸ For a more detailed discussion on the issue of the "enemy State" clauses, see *Repertory, Supplement 9, vol. III under Article 53; vol. V under Article 77, and vol. VI under Article 107.*

3.0 UNSC Power and Obligations

3.1 Responsibility to Decide

Accountability for choosing, disclosing, and asking for advice from others are the acceptable types of reforms to put into effect. Looking at the whole objective is necessary to find the solution. Accepting those responsibilities will help achieve that goal if the idea is to address the method by which the Council makes decisions for the reasons that will be covered in the following paragraphs. First of all, the adoption of the responsibilities to ascertain, disclose, and consult may, at the very least, give the United Nations Security Council a wider, more complete, and more carefully considered base for making decisions.

Increasing the Council's accountability to the United Nations and to the general public by standardizing its decision-making processes and compiling a record of the Council's non-decisions in conjunction with its resolutions is a step in the right direction. As a result, these components function as a specialized mechanism to urge the P5 to look for a compromise, just as was initially envisioned in the talks that brought about the composition of the Council. Second, the Council is a multi-faceted organization that transcends the realm of politics.²⁹

Due to the fact that it has the capacity to hand down judgments that are legally binding, it is subject to a number of obligations and responsibilities on account of its quasi-judicial role. One of these is the duty to determine things for oneself, sometimes known as decision making. Third, the outcomes for the Council do not impose an undue amount of pressure on its members. The fact that the Council is in charge of determining the precise character of the duty is the most important reason for doing this.

It is also not necessary for this to threaten the fundamental reasons behind the veto privileges, which originated from the desire of the P5 members "The purpose of inserting the veto clause, which explains why it was done, was to ensure that it would be impossible for a majority of other states to change their obligations without the approval of the P5. In a nutshell, to ensure the stability of the cooperative basis for their collaboration "The responsibility to determine what could potentially increase efficiency as measured by the potential to make decisions in a timely manner because it would impose a deadline, prompting the Council to do so. This measure of effectiveness is known as the potential to make decisions in a timely manner. As a result, the process of making decisions ought to be improved by the use of pertinent ideas.

Those who are skeptical of the value of structuring the decision-making process can argue that the compelling argument for not including them in the founding of the UN Security Council is still valid. Article 27 of the United Nations Charter "hopes for unanimity but offers with confrontation," which points out that if the P5 are unable to come to an agreement, then nothing will take place. This is one explanation of the reason why Article 27 of the UN Charter exists.

According to this point of view, it is preferable for the Council not to take up a decision at all (and instead conduct informal consultations as a substitute) rather than risk alienating a member and causing a rift within the Council. This is described in Charter Article 27(3), which states that in order to arrive at decisions that are not related to procedures, a majority of the

²⁹ Bellamy, A., 2013. *The Responsibility to Protect*. In: ed. Williams, P. *Security Studies, An Introduction*. Routledge: New York, 2013, pp.486-503.

elected members as well as a vote from all five members of the P5 must concur. This is done to ensure that the decisions made by the Council are acceptable to at least all of the P5 members.

However, the Council's work is fundamentally driven by the obligation of making decisions. The Security Council's authority to make decisions is demonstrated by Article 25, which calls on all UN members to adopt and implement the Council's decision. Despite the fact that this issue is of the utmost importance and urgency in the context of a global environment where the Council's role also includes preventing armed conflicts or battles between the powerful nations themselves, there are numerous and widespread threats to world peace in the present.

Due to the myriad of security concerns that exist in the modern world, the Council no longer has the flexibility and range that it did in the past. In the past, certain Council members would refuse to take certain decisions because they were in conflict with their national interest. In order for the Council to carry out its responsibilities as outlined in Chapter V of the Charter, it is absolutely necessary for it to make decisions about important matters. Unless it adopts a mechanism that holds it accountable for not doing so, the Council, in its capacity as an entity whose mission is to ensure the peace and security of the world, has no incentive to accept decisions based solely on national interests or to decide to act whenever they feel it is appropriate without adhering to specific standards.

In addition to this, we need to see through the illusion. The Council has made a decision simply by deciding not to make a decision. When the Council fails to take action, it leaves a leadership vacuum, which is then filled by other actors. The establishment of an obligation to decide on the UNSC has a number of benefits, one of which is the creation of a precedence that is legally binding. This will, in the event of a future situation, help decide on issues that, if left unresolved, could derail efforts to protect lives or even lead to genocide; the situation in Rwanda in 1994 comes to mind as an example of this. It places a strong focus on the significance of the responsibility to decide, and as a result, it needs to be treated very seriously.

3.2 Voting Under Article 27

The only nations with veto power are Permanent Members. The inference is that, regardless of geography, only these 5 states have the authority to veto significant decisions that affect global peace and security. It is sometimes asserted that the P5's extended eyes and arms cannot see every part of the globe all the time, much less comprehend and analyze the true security dangers and implications of a location thousands of miles away from them. Each UN member state is a sovereign state, and no other state is permitted access to its military installations or secrets.

The unilateral position frequently adopted or led by the United States, most notably the Iraqi invasion, renders the incorrect diagnosis and misconceptions that characterized various UNSC measures, sanctions, and especially the Iraqi invasion. This theoretically usurps the geographical authority of a member state or head of state who may be wrongfully accused. It is obvious that this arrangement violates international law. The recent acquittal of Mr. Laurant Gbagbo, the former president of Cote d'Ivoire or the Ivory Coast, who was recently cleared and released by the International Criminal Court after nearly ten years in prison, is a case example of such incorrect evaluation of war scenario. The current P5 has the ability to veto non-procedural resolutions thanks to the veto power. This circumstance has occasionally allowed

the veto prerogatives to be abused. The existing system violates,³⁰ which declares that all Member States are equal and have one vote each.

As a result, the veto is a significant obstacle to the reformation agenda, if not the biggest difficulty, because simply the prospect of a veto can scuttle or disrupt the entire process at nearly any level, especially the ratification level. Voting is a crucial activity that has caused problems for the Council ever since it was established. Acrimony and other unfavorable traits marked several significant choices.

The Yalta Formula, which specifies the voting criteria, frequently makes things more complicated. It is never a myth that the United States represents a different world order, just as the idea of bipolarity or multilateralism is slowly losing credibility in light of the unmistakable global reality of the United States' continued hegemonic dominance, which is frequently exercised through the proxy hegemonic world order established after World War II. Since UN-led military actions can only proceed with "Washington's sanction," there are essentially only two international organizations: the UN, which has a "global membership," and the US, which has "global reach and authority." The US invasion of Iraq and Russia's annexation of Crimea, to name just two, are examples that illustrate the view that voting has no importance since national interests take precedence over the actual concerns and the attitude of the majority of Member States.

The Security Council Reform faces more challenges and impediments than most people could have anticipated because every significant issue must be voted on. In 2020, out of 57 resolutions, 44 (or 72% of them), were adopted unanimously, compared to 84.6 (or 84.6%) in 2019. (a 7.4 percent decline) There were thirteen resolutions that were not unanimously accepted, including one each for the Sudan and South Sudan, the Central African Republic, Haiti, Western Sahara, Somalia, and the Democratic Republic of the Congo. One of them dealt with the state of affairs in the Middle East, three with the situation in Libya, and three with the situation in the Middle East (Syria). Five countries vetoed three proposed resolutions in 2020 that dealt with the Middle East (Syria) and threats to world peace and security posed by terrorism, particularly in reference to foreign terrorist fighters. Lack of support prevented the adoption of four draft resolutions on the Middle East (Syria), non-proliferation, notably in connection to extending arms-related limitations on Iran, and women and peace and protection, on the 20th anniversary of the Council's historic decision 1325. (2000). Between 2011 and 2020, the Council passed 594 resolutions, 530 of which were unanimously approved.

During the time period in question, 25 draft resolutions received 36 vetoes. The vote results for all resolution drafts filed between 2011 and 2020 are shown in the graph below. It lists how many resolutions were adopted unanimously and how many weren't, as well as the variety of proposals that were vetoed or didn't receive the required number of votes to pass. Critical analyses of the vetoes that have been cast reveal a trend or pattern.³¹ It is essentially predictable which resolutions will be vetoed; why? Since those who individually rejected draft resolutions on issues with substantial significance for international security did so, this situation cannot be explained by coincidence or objectivity. Between 2011 and 2020, the UNSC adopted 594 resolutions, 530 of which were adopted unanimously.³²

³⁰ Article 2 of the Charter

³¹ <https://voxeu.org/article/buying-votes-un-security-council>.

³² Weiss, T., and Kuele, G., 2014. *The Veto: Problems and Prospects* online. *E-International Relations*. Available at: <https://www.e-ir.info/2014/03/27/the-veto-problems-and-prospects/> Accessed July 10, 2022

3.3 Scrutiny of Rules of Procedure

Despite the fact that the Council is allowed to establish its own rules under Article 30 of the Charter in order to carry out its mandate, Rules 38 and 39 of the temporary rule of procedure, which are meant to clarify how Article 30 applies, are ambiguous and broad. They are merely formalities and concern people the Council may probably meet while carrying out its duties. The UNSC is therefore reduced to a fact-hearing institution in the lack of specifics regarding the issues to be handled and how they should be handled. There are no legally enforceable guidelines to subpoena people under in the interest, and there are no formal legal procedures to routinely prevent security breaches under Articles 39-42. The UNC part that outlines the circumstances and reasons involved in a breach of peace is intended to go further by establishing guidelines to broaden the scope of these legal provisions' applicability. As things are, states and individuals are free to violate international peace agreements or pursue their own interests at the expense of the safety of humanity. The situation in Russia and Ukraine serves as a case in point to support this assertion because neither the Charter nor the Council, unfortunately, possess the legal authority necessary to stop the atrocities, much less enforce its standards or defend the peace. The sad war that is raging in the heart of a great civilization like Europe well into the 21st century is one of the consequences of these legal and council duty failures, with repercussions felt all over the world.

It also contradicts Article 25 of the UNC, which states that all UN members must agree to abide by the UNSC's rulings. So why are UN members engaged in a protracted battle that lasts for months? The Charter's Article 27 which grants some member States the right to veto decisions is the cause. The UN's goals and purposes are thus all but unattainable as a result of these legal obstacles. The topic has been dominated by legal definitions, typically those provided by the UN and the relevant national legislation in post-conflict nations. Who is accountable for the Council's appalling performance? The answer is "none," yet due to the Council's inefficient work and lack of initiative, priceless lives have been lost. The Council is endowed with enormous power from the Charter, which intends allows it to decide its work procedure or rules, this is manifested in Rule 58 and 60, where the onus to admit a new States commands legal ratification from the Council.³³

4.0 Conclusion

The UN Security Council's work is, as always, of the utmost importance to maintaining global security; however, the legal requirements and procedures remain inadequate. The Council's work ethic falls short of the level of output required of it. This is because the P5 have varied interests and are obligated to serve their allies rather than the goal of world peace per the Charter. The Council is unable to resolve security-related matters decisively and amicably due to the many groupings that exist and its NPM. The P5 enjoy an unfair advantage over the other members of the Council because they have the ability to veto resolutions in the UN Security Council. The United States of America, the United Kingdom, and France have established a method of working known as "pen-holding" when drafting resolutions, which frequently falls short of the norm of impartiality required by the United Nations Council.

The steps taken in the settlement of conflicts are occasionally disregarded in the pursuit of national goals or the settling of personal scores. This was the circumstance in Libya in 2011, which led to the overthrow of the Qaddafi-led dictatorship. Both the working process and the way resolutions are drafted have been monopolized by a small number of prime ministers. These prime ministers put protecting their countries' interests ahead of safeguarding people's

³³ *United Nations Security Council Provisional Rule of Procedure*

lives. In addition to causing friction among the P5, this situation has also caused a disrespect for the contributions made by the Council's elected members. The impasse has led to opposition to resolutions in the Council from the opposite side. Another issue that makes it challenging for the Council to carry out its obligation under the R2P principle to stop future casualties is the use of the veto when mass crimes are occurring.

The United Nations Security Council (UNSC) not only needs to change its working methods, but also needs to mend their fences, they need to close their ranks and pursue the aims of the United Nations (UN). This is an urgent concern. If the contentious relationship between the PM and the NPM and the neglect of the NPM do not pave the way for collectivism, the United Nations runs the risk of falling apart. It's possible that many nations would choose to join alliances in order to fight imagined adversaries or rivals. The crisis between Russia and Ukraine ought to be discussed in private settings under the auspices of a UN based organization. In a sum, a robust legal standards and framework are essential to set the operations standard for the Council to enhance efficiency, transparency and ethical standards to facilitate the discharge of its duties per the Charter.

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Cite this article:

Andrews Amenyo (2022). Working Procedure for the United Nations Security Council in the 21st Century. *International Journal of Science and Business*, 9(1), 123-140. doi: <https://doi.org/10.5281/zenodo.6983634>

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