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The Uniting for Peace Resolution: Is it Relevant Today?

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قرار الاتحاد من أجل السلم: مدى جدواه اليوم

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Abstract

The Charter of the United Nations was designed to strictly prohibit the use of force between states and allow it only in minimal situations. The fear of repeating the scourge of WWII urged the superpowers to accord the license for military intervention exclusively to a particular entity, namely the Security Council. They granted themselves sweeping prerogatives, one of which is the authority to cast a veto. However, it was not expected, or at least unprepared for, that superpowers can use this veto against themselves. A situation that would inevitably lead to looking for alternatives to legalize military actions outside the ambits of the Council. Among these alternatives was the Uniting for Peace Resolution. Even though this resolution was created during an era where the international community did not lend much importance to domestic gross human rights violations, it might still serve as a legitimizing tool to challenge today's compelling demands. But does it have enough legal cover to justify an act, which will otherwise be classified as aggression? If the answer is positive, has it been sought for other than for the purpose of its creation? If negative, what was the alternative when a situation demanding action was deadlocked in the Council? The article will try to seek answers to these questions.

Keywords: Uniting for peace, use of force, United Nations, Security Council, Veto, international law, international relations, humanitarian intervention, responsibility to protect.

الملخص

يتناول هذا المقال مدى الصلاحيات المخولة للجمعية العامة للأمم المتحدة في إصدار القرارات والتوصيات الخاصة بحفظ السلم والأمن العام الدولي والتي هي من بين الاختصاصات الحصرية لمجلس الأمن المنصوص عليها بالفصل السابع من ميثاق الأمم المتحدة. يركز المقال على قرار "الاتحاد من أجل السلم" رقم ٣٧٧ الصادر عن الجمعية العامة للأمم المتحدة في نوفمبر ١٩٥٠ لبيان مدى جدواه في الإذن أو التوصية بالتدخل المسلح لحفظ السلم والأمن الدولي في حالة فشل مجلس الأمن في أداء مهامه الموكلة إليه في هذا الشأن. يتناول المقال أيضاً الوزن القانوني لهذا القرار مقارنة بقرارات مجلس الأمن وكذا مدى صلته بمبدأ "المسؤولية عن الحماية" الذي أرساه اجتماع القمة العالمي للأمم المتحدة في ٢٠٠٥.

الكلمات المفتاحية: الاتحاد من أجل السلم ، المسؤولية عن الحماية ، مجلس الأمن ، استخدام القوة .

Introduction:

Since the establishment of the United Nations, the Security Council (UNSC) has been primarily endowed with the responsibility – under the UN Charter – to maintain international peace and security.⁽¹⁾ However, due to political motives, the Security Council might fail to fulfill its duties through a permanent member casting a veto. This situation first occurred in 1950 regarding the Korean War. The UNSC was impeded from taking any actions due to USSR exercising its right to veto as a permanent member. This incident led to the SC's failure to exercise its solemn role of maintaining international peace and security.

The United States (US) and other countries standing with South Korea encountered the predicament of how to promulgate a resolution in favor of the latter without the USSR's support. The former US Secretary of State Dean Acheson proposed an alternative solution to circumvent this dilemma by enabling the General Assembly (GA) to take actions and make recommendations on matters where the UNSC failed to act upon.⁽²⁾ Thus was born the Uniting for Peace Resolution (UfP) which successfully aided in the US procurement of an international decision on Korea's situation, which had not been obtained through the UNSC. This breakthrough brought about a major discord among both politicians and jurists as it was thought to plunder the UNSC competences in the domain of international peace and security and thus encroach upon the newly born UN Charter⁽³⁾. However, later scholarship including international jurisprudence noted that the Charter did not limit this responsibility to the UNSC and agreed that it grants the UNGA a share of this duty.⁽⁴⁾ This presumption can be said to undermine the power of a veto enjoyed by permanent members and will deem it useless therefore depriving them of their absolute legal right to cast a veto. Nonetheless, not every right considered as legal can be classified as also being legitimate. The clash between those two norms has sustained the tension between realizing stability within the system and seeking transformation to accommodate the new changes that will likely occur in the international field on the other. In other words, it is hard to assume that a veto can defeat an overwhelming international desire to put an end to an ongoing humanitarian crisis.

The UfP resolution was a perfect starting point to regulate the balance of powers within

⁽¹⁾Charter of the United Nations, Art. 24 reads: 'In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.'

⁽²⁾Christian Tomuschat, *Uniting for Peace*, United Nations Audiovisual Library of International Law (2008) at 1.

⁽³⁾The Charter of the UN was signed in October 1945, only five years before the Uniting for Peace Resolution was adopted.

⁽⁴⁾*Certain Expenses of the United Nations (Article 17, Paragraph 2 of the Charter)*, Advisory Opinion, [1962] ICJ Rep 151, ICGJ 221 (ICJ 1962), 20th July 1962, International Court of Justice [ICJ], 163.

the domain of international security by not making the final word exclusive to the primary actors of the UNSC and amplifying the voice of those representing the whole world. But did it fulfill this aim? The purpose of this article is to provide an analytical framework to address the legal questions that faced both the advocates and opponents of the resolution. It hopes to clarify the normative power of the resolution and whether it provides any lessons in today's challenges in the domain of international security. The article consists of six sections. The first provides a brief clarification of the UNSC's role and its powers to fulfill its responsibilities. The second part highlights the conditions of the resolution to be triggered and how they can be met. The third part examines the right to veto to observe whether it is an absolute legitimate right, and the implications of its misuse. The fourth focuses on the legal nature of transferring the UNSC's functions to the UNGA and the limits of the latter to exercise such functions. The fifth part assesses the justifying power of UNGA resolutions, and whether it can be followed if they call for violating existing international obligations. The final section depicts the point of intersection between the UfP and the doctrine of Responsibility to Protect (R2P), and whether the latter can be considered a self-contained regime or complements the Resolution for its purposes of creations.

(I) The Role of the Security Council in a Glimpse:

The UN was undoubtedly designed for a noble cause following WWII for the primary purpose to 'maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace...'⁽⁵⁾ The Charter foremostly burdened the UNSC with the responsibility to maintain and fulfill this solemn role by granting it numerous powers under chapters VI, VII, VII, and XII. The duties range from passive dispute resolution through to the authorization of the use of force. The latter is said to be the most controversial and questionable responsibility of the UNSC due to its uneven application on similar events and the lack of due governance among the Council members authorizing such a power. For the purposes of this article, in this part I will focus only on the authorization of the use of force by the UNSC as being the primary cause for the birth of the UfP resolution.

As a general rule, member states are obliged to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of other states, or in any other manner inconsistent with the purposes of the United Nations.⁽⁶⁾

⁽⁵⁾Charter of the United Nations, Art. 1/1.

⁽⁶⁾Ibid, Art 2.

However, the Charter does recognize that an absolute ban of force cannot stand the test of reality. Thus, the Charter identifies two exceptions: the first being forcible enforcement measures within the framework of the organization's collective security system,⁽⁷⁾ and the second being the right to self-defense against armed attacks. In this sense, the Council has both the authority of legitimization and legislation. It legitimizes other states' actions by authorizing them on behalf of the UN and legislates by taking decisions which bind all member states.⁽⁸⁾

The mandatory nature of UNSC resolutions on situations other than the exercise of the Council's Chapter VII powers is sometimes questioned.⁽⁹⁾ Nevertheless, the ICJ put an end to this contention in its 1971 Namibia Advisory Opinion, where the Court held that:

It has been contended that Article 25 of the Charter applies only to enforcement measures adopted under Chapter VII of the Charter. It is not possible to find in the Charter any support for this view. It has also been contended that the relevant Security Council resolutions are couched in exhortatory rather than mandatory language and that, therefore, they do not purport to impose any legal duty on any State nor to affect any right of any State. The language of a resolution of the Security Council should be carefully analyzed before a conclusion can be made regarding its binding effect. In view of the nature of the powers under Article 25, the question whether they have been in fact exercised is to be determined in each case, having regard to the terms of the resolution to be interpreted, the discussions leading to it, the Charter provisions invoked and, in general, all circumstances that might assist in determining the legal consequences of the resolution of the Security Council.⁽¹⁰⁾

In this respect, it can be concluded that the drafters of the Charter granted substantial authority to the UNSC by combining the three constitutional authorities in one hand, namely the legislative, executive, and judicial. While the legislative and executive functions are self-evident, judicial power can be attributed to the lack of an appeal mechanism and the status

⁽⁷⁾Ibid, Art. 41 and 42, the latter explicitly authorizes the use of force.

⁽⁸⁾Ibid, Art. 25 of the UN Charter reads: "The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter."

⁽⁹⁾See for example: Orde F. Kittrie, *What UNSCR 2334 Could Mean Beyond the United Nations, and How the Trump Administration Can Respond* (2016) found at: <https://www.lawfareblog.com/what-unscr-2334-could-mean-beyond-united-nations-and-how-trump-administration-can-respond>, (last accessed in 4th of May 2021) noted that Resolution 2334 pertaining to the Israeli illegal building of settlements was not adopted under Chapter VII of the U.N. Charter and thus not legally binding.

⁽¹⁰⁾Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970) (Advisory Opinion) [1971] ICJ Rep 16, at para 113-114.

of its resolutions as being metaphorically ‘res judicata.’⁽¹¹⁾ As Madison famously remarked, “There can be no liberty if the power of judging be not separated from the legislative and executive power.”⁽¹²⁾ This centralization of power might serve some benefits, such as limiting the proliferation of international decisions, which might inflict harm rather than good if they destabilize the global balance of powers. However, it has proven ineffective in real practice, which has prompted states to search for alternatives even if they are among the core champions of the UNSC. The Uniting for Peace Resolution was the first attempt to find an alternative route to legitimize forceful actions outside the auspices of the UNSC which was thought to be the one and only key player in this sphere.

(II) What is the Uniting for Peace resolution?

First, it is important to highlight the UNSC’s decision-making mechanism to understand how a permanent member casts a veto to block any desired decision insofar as it does not relate to a procedural matter. The UNSC consists of fifteen members of the UN,⁽¹³⁾ five of which are permanent members, and the rest are elected for a period of two years.⁽¹⁴⁾ Decisions on all matters, other than procedural, are made by a minimum of nine members’ votes which must include the positive votes of all the five permanent members.⁽¹⁵⁾ The permanent member may choose to abstain, in this case, the resolution will be adopted if it obtains the required number of nine favorable votes.

The resolution entitled “Uniting for Peace” was adopted, as a whole, by the General Assembly at its 302nd plenary meeting on November 3, 1950 by a non-recorded vote of fifty-two in favor, five against, and two abstentions.

The key provision is paragraph 1 of section A of resolution 377A(V):

The General Assembly . . .

Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately

⁽¹¹⁾ Art 103 of the UN Charter reads: “In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.”

⁽¹²⁾ James Madison, Federalist no. 47.

⁽¹³⁾ Charter of the UN, Art 23/1.

⁽¹⁴⁾ Ibid, at Art 23/2.

⁽¹⁵⁾ Article 27/3 of the UN Charter.

with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven [now nine] members, or by a majority of the Members of the United Nations.⁽¹⁶⁾

The resolution aimed to grant the GA partially similar competencies to those which the UNSC enjoys under Chapter VII without granting full entry to the Council's exclusive domain of collective security. The main difference lies in the normative value of the parts relevant to the use of force. While the UfP resolution authorizes the GA to make appropriate recommendations for the use of armed forces, Chapter VII confers the UNSC to directly take coercive actions indicating their medium and modes of application.⁽¹⁷⁾ However, the drafters of the resolution sought to bestow international legal legitimacy on a military intervention which will otherwise not exist without the support of the UNSC. Thus, the Assembly's objective while acting according to the UfP is far from forcing member states to abide with its decisions or orders by requiring them to take collective measures. Rather, the end product is merely a recommendation which states are free to either follow or not.⁽¹⁸⁾ Nevertheless, from a moral standpoint, such a resolution might serve as a rallying point for voluntary collective action.⁽¹⁹⁾ In other words, the main purpose of the resolution is to place certain issues beyond the political vicissitude of the veto holders.

Two conditions must be convened in advance in order to fulfill the resolution's aim. The first one is linked to the main purpose of its creation, namely the UNSC's failure to adopt a resolution due to the lack of unanimity among the five permanent members required to take action. The second resembles Article 39 of the UN Charter, namely the existence of one of the following events; (i) threat to the peace; (ii) breach of the peace, and; (iii) act of aggression.

If both requirements are satisfied, the Assembly shall consider the matter immediately to make appropriate recommendations to members for collective measures to maintain or

⁽¹⁶⁾UNGA Res 377 (V) 'Uniting for Peace' (3 November 1950).

⁽¹⁷⁾Article 42 of the UN Charter reads: 'Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.'

⁽¹⁸⁾L. Johnson. "Uniting for Peace": Does it Still Serve Any Useful Purpose? (2014). *AJIL Unbound* 106, at 107.

⁽¹⁹⁾LH Woolsey, "The 'Uniting for Peace' Resolution and the United Nations (1951) *AJIL* 129, 134.

restore international peace and security.

Therefore, it is understood that this resolution was adopted to circumvent any obstacle the Security Council may face due to a veto against any substantive resolution that will otherwise contribute to the Council's primary objective of fulfilling peace and security. While the second condition seems to be straight forward, the first is quite the opposite. It is insufficient for the Assembly to act according to the UfP when a permanent member merely casts a veto, but rather the Assembly must also prove the Council's failure to exercise its primary objective because of this veto. In other words, if the veto itself resembles the *Actus Reus*, the intent to obstruct international peace and security comprises the *Mens Rea* which usually encounters a major evidentiary hurdle in the criminal law field.

It is uncynical that any permanent member who casts a veto believes that it conforms with the main purposes and principles of the organization and with its national interests. It is simply exercising a right given to it under the UN Charter to prevent the adoption of a proposal. Accordingly, it is arguably nonsensical to speak of an 'abuse' of the veto, insofar as it is an unassailable legal right that resulted from the post-war compromise reached at San Francisco.⁽²⁰⁾ Simply put, and in analogy to Margaret Wolfe Hungerford's famous quote, peace is in the eye of the beholder. However, what can be considered as legal, cannot always be classified as also legitimate.

(III) The power of veto: Is it always rightfully legal?

The only feasible reason why the drafters of the UN Charter granted the permanent five members the exclusive right to veto any UNSC decision was simply because they were the victorious states in WWII. It is not because these states are politically infallible, nor do they practice international relations better than the rest. Hence, the malicious use of the right to veto is possible, which brings about a crucial question of how a veto can be assessed, and which organs have the authority to do so.

Two related arguments operate in favor of evaluating the *bona fides* of the veto's employment as a precondition to determining the failure of the UNSC to exercise its primary responsibility.⁽²¹⁾ The first is based on both the textual and teleological interpretation of the Charter. Article 2(2) explicitly requires member states to 'fulfill in good faith the obligations assumed by them in accordance with the present Charter. By virtue of Article 24(1), the

⁽²⁰⁾K Hailbronner and E Klein, 'Article 10' in B Simma (ed), *The Charter of the United Nations: A Commentary* (OUP 2002), at 515.

⁽²¹⁾ Andrew J. Carswell. *Unlocking the UN Security Council: The Uniting for Peace Resolution*, at 470.

Council ‘acts on their behalf.’⁽²²⁾ In addition, article 24(2) requires the Council to ‘act in accordance with the Purposes and Principles of the United Nations, which includes the principal goal of maintaining international peace and security, enshrined in Article 1(1) of the Charter. By collectively considering Articles 2(2), 24 and 1(1), it can be deduced that the Permanent Five are obliged to act in good faith upon situations related to the maintenance of international peace and security. Thus, the requirement of good faith will not be met unless the veto is employed in a manner which coincides with this responsibility.

Second, an approach was proposed in determining the Security Council’s failure by applying the ‘abuse of rights doctrine, which requires that the veto-right holders not use this prerogative in a manner that causes harm to the community.’⁽²³⁾ This approach is derived from Lauterpacht’s assertion that ‘there is no legal right, however well established, which could not, in some circumstances, be refused recognition on the ground that it has been abused.’⁽²⁴⁾ Judge M. Alvarez also had a similar view of the abuse of rights doctrine. He affirmed that the right to veto cannot be kept absolutely unleashed and must be kept within proper limits.⁽²⁵⁾ He noted that: ‘Even if it is admitted that the right of veto may be exercised freely by the permanent members of the Security Council in regard to the recommendation of new members, the General Assembly may still determine whether or not this right has been abused and, if the answer is in the affirmative, it can proceed with the admission without any recommendation by the Council.’⁽²⁶⁾ Although the subject matter of the veto discussed by Alvarez is different than what the UfP is aiming for, the utilization of this right in a manner which might amount to an abuse is yet identical. Moreover, the ICJ frequently asserted in many occasions on the obligation to act in good faith, which in contrario indicates the existence of the doctrine within the court’s jurisprudence. Furthermore, the diplomatic memos exchanged following the Yalta Conference, which constitutes the Charter’s travaux préparatoires, contained a denunciation of willfully obstructing the operation of the UNSC by means of casting a veto.⁽²⁷⁾

A narrower approach to assess the failure of the Council to take action due to a veto is if it causes or might cause a ‘humanitarian stalemate’ which will likely cause a widespread

⁽²²⁾ Ibid.

⁽²³⁾ Michael Ramsden, “Uniting for Peace” and Humanitarian Intervention: The Authorizing Function of the U.N. General Assembly, *Washington International Law Journal*, Vol 25, 300.

⁽²⁴⁾ H Lauterpacht, *The Development of International Law by the International Court* (Grotius Publications 1982) 164.

⁽²⁵⁾ Competence of Assembly regarding admission to the United Nations (Advisory Opinion) (Dissenting Opinion of Judge M. Alvarez dissenting opinion) [1950] ICJ Rep p. 4., 20.

⁽²⁶⁾ Ibid.

⁽²⁷⁾ Foreign Relations of the United States: Diplomatic Papers, 1945, General: The United Nations, Vol 1, Document 273.

deprivation of the fundamental human rights. This approach stems from the Charter mandate for the Assembly to recommend measures for the peaceful adjustment of any situation resulting from the violation of the principles and purposes of the UN.⁽²⁸⁾ The latter includes solving international problems of a humanitarian character.⁽²⁹⁾ It might seem that the phrase 'peaceful adjustment' contradicts with an Assembly's recommendation to a 'humanitarian intervention' which will include military presence. However, the UN itself labeled its police and military forces as 'peacekeepers' promoting security, stability, and security forces promote lasting peace.⁽³⁰⁾ Consequently, the Charter's wording does not necessarily entail the exclusion of deploying military forces as a peaceful means of settling a humanitarian crisis.

It is by now clear to infer that permanent states can misuse the right granted to them by which the maintenance of international peace and security is obstructed. The misuse of the veto can be practically deduced by observing some of the Council's responses to the dire situations that most demanded their action. The most prominent incidents where the Council misused the veto either by casting it or threatening to do are directly linked to humanitarian crises. Nearly all Israeli violations against the Palestinian people and its territories brought before the Council were blocked by a US veto without any plausible cause except the solid diplomatic ties between the two countries.⁽³¹⁾ Also, on the 12th of July 1995 amid the Bosnian war, the Council attempted to issue a resolution which called for the Bosnian Serb forces to cease their offences and immediately withdraw from Srebrenica.⁽³²⁾ A Russian veto then challenged the resolution. The result was a massacre which claimed the lives of 8000 unarmed civilians and the forcible displacement of about 30000 Bosniak women, children and elderly, which the Adhoc Tribunal characterized as genocide.⁽³³⁾ Not to mention the array of western attempts to cease fire and impose sanctions on Syria that Russia and China blocked.

This argument brings into attention another issue relating to the question of which organ has the authority to assess whether a veto is not in 'good faith'. In this regard, scholars are

⁽²⁸⁾Charter of the United Nations, Art 14.

⁽²⁹⁾Ibid, at Art. 1(3).

⁽³⁰⁾United Nations peacekeeping, <https://peacekeeping.un.org/en/military>, last accessed in 1st of December 2020.

⁽³¹⁾Some but not all draft resolutions pertaining to this situation are S/1997/241 Demanding Israel's immediate cessation of construction at Jabal Abu Ghneim in East Jerusalem, S/2001/270 on establishing a UN observer force to protect Palestinian civilians, S/2001/1199 on the withdrawal of Israeli forces from Palestinian-controlled territory and condemning acts of terror against civilians.

⁽³²⁾Security Council Draft Resolution S/1995/560.

⁽³³⁾Prosecutor v. Radislav Krstic, International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, 19 April 2004, 2.

divided into two different views. The first grants absolute discretion to the Assembly to assess a veto and autonomously convene meetings if deemed ultra vires.⁽³⁴⁾ While the second confines the said jurisdiction exclusively within the aisles of the Council.⁽³⁵⁾

Andrassy, one of the prominent advocates of the first view, textually interprets the Resolution and concludes that it does not target the dynamics of how a special session is convened, but rather the conditions of when the Assembly takes over one of the Council's competences. In this respect, he notes: 'It is the Assembly, and not the Council, which shall consider and decide whether the condition of its own competence is satisfied. The Council could and should not decide on the question whether the Assembly has or has not a competence which is vested in it by the Charter and in accordance with the Charter.'⁽³⁶⁾ Accordingly, the responsibility to decide the conditions that trigger the Assembly to intervene according to the Resolution only lies with the Assembly itself.

The other school reflects the narrow interpretation of the Resolution to be consistent with articles 12 and 24 of the UN Charter. The first Article bars the Assembly from making any recommendation regarding a situation already being discussed before the Council, while the other bestows upon the Council the primary responsibility of maintaining international peace and security. That being said, if the veto is found questionable by the majority of the Council members, a GA special session can be convened by a vote of 9 members with no regard to the 5 permanent members. Special sessions of the GA are considered by the Charter's label of Article 20 as a matter of procedure while Article 27(2) grants authority to the Council to vote on procedural matters with the majority priorly mentioned. In this respect, it is said that the Council possesses a self-regulating procedure in assessing a veto's validity.⁽³⁷⁾ Thus, as Carswell notes: "by the very construction of the Charter around the nucleus of the Security Council, it is argued here that the appropriate forum to determine that question must be the Council itself."⁽³⁸⁾

After reviewing both views, I argue that utilizing both organs in a manner similar to the constitutional doctrine of 'checks and balances' whereby each of the two authorities acts as a counterpoise to the other is more conducive. Accordingly, if the Council decides to refer the matter in question to the Assembly by a convocation of a special mission, the latter will

⁽³⁴⁾Juraj Andrassy 'Uniting for Peace' *The American Journal of International Law* 50, no. 3 (1956): 563, at 577.

⁽³⁵⁾LH Woolsey "The Uniting for Peace" Resolution and the United Nations (1951) 45 *AJIL* 129, at 134.

⁽³⁶⁾Juraj Andrassy 'Uniting for Peace' at 577.

⁽³⁷⁾Andrew J. Carswell 'Unblocking the UN Security Council: The Uniting for Peace Resolution' *Journal of Conflict & Security Law* (2013), Vol. 18 No. 3, 453, at 472.

⁽³⁸⁾*Ibid.*

be granted a supervisory role on the former which naturally possesses primacy in this realm. If not and the Assembly decided to act on its own, the Council under Articles 12, 24 of the Charter by a majority vote may nullify any resolution pertaining to its primary role within a certain period by analogy to Rule 1 of the Provisional Rules of Procedure of the Security Council.⁽³⁹⁾ An Assembly resolution making recommendations in the realm of international peace would be deemed *ultra vires* without a minimal support of the Council. According to my claim, this support can be a mere abstention from discussing this resolution, which would implicitly entail the Council's approval. Otherwise, the Assembly's powers in this regard will be in parallel with the Council's counterpart; a situation the drafters of the Charter certainly did not intend to transpire.

(IV) The referral to the Assembly: Delegation or Authorization?

The issue of the UNSC referral to the GA raises another crucial question about the legal nature of transferring a particular authority to another UN body. By referring a matter pertaining to international peace and security to the GA, it might seem that the Council is offering a *carte blanche* to the Assembly to act in accordance with Chapter VII which the Charter inferred its powers only to the former. However, the legality of such an action is not straightforward as it might seem. Satoshi defined the delegation of powers in the law of international institutions as 'taking place whenever an organ of an international organization which possesses an express or implied power under its constituent instrument conveys the exercise of this power to some other entity.'⁽⁴⁰⁾ He further claims that powers which involves a coercive or forceful element cannot always be delegated due to the differences in nature and institutional structure between the delegator and the delegate.⁽⁴¹⁾ Additionally, he sets certain prerequisites to guarantee the legitimacy of such a delegation. First, the delegator must expressly state their intention to delegate their powers, and this can be done – within the UNSC – only through a resolution.⁽⁴²⁾ Second, the Council must determine the existence of threat to peace, or act of aggression according to Article 39 of the Charter before delegating its powers under Chapter VII.⁽⁴³⁾ He then perceives such a delegation to be non-procedural and thus is subjected to the requirement of the veto under Article 27(3).⁽⁴⁴⁾ In addition to these arguments, it is not possible as a rule to delegate discretionary powers

⁽³⁹⁾UN Provisional Rules of Procedure of the Security Council (1983) UN Doc. S/96/Rev 7.

⁽⁴⁰⁾D Sarooshi 'The United Nations and the Development of Collective Security: The Delegation by the UN Security Council of its Chapter VII Powers' (OUP 2000), at 4-5.

⁽⁴¹⁾Ibid at 5.

⁽⁴²⁾Ibid, at 8.

⁽⁴³⁾Ibid.

⁽⁴⁴⁾Ibid, at 9.

where the delegate is conferred to effect and supervise such powers, and thus the SC must remain responsible.⁽⁴⁵⁾ Satoshi afterwards draws a line between delegation and authorization to determine the applicable legal framework. He notes that an authorization ‘may represent the conferring on an entity of a very limited right to exercise a power, or part thereof; or the conferring on an entity of the right to exercise a power it already possesses but the exercise of which is conditional on an authorization that triggers the competence of the entity to use the power.’⁽⁴⁶⁾ In other words, when the UNSC refers a situation on international security to the UNGA, it triggers the latter to decide upon this matter by virtue of Article 10 which lets the ‘Assembly’s functions embrace all the tasks of the United Nations under the Charter which cover almost all sectors of international relations.’⁽⁴⁷⁾

By scrutinizing the two definitions set by Sarooshi for the delegation and authorization of powers, it can be concluded that the UNSC referral to the General Assembly lies within the realm of authorization and thus the conditions set by him is hardly applicable. Delegation presumes that the delegate possesses no authority over the delegated power and creates a quasi-body that performs in the same way as the delegator. While authorization presupposes the existence of an acting power of the authorized body, however conditional upon the latter’s approval. The decoding of article 24(1) of Charter will smoothly lead to the conclusion above. First, it acknowledges that UN member states are the principal source of the UNSC responsibilities. Second, it implicitly confirms the existence of another body carrying such responsibilities, although not primarily as the UNSC. The latter assumption has been affirmed by the ICJ *Certain Expenses Advisory Opinion* in which the Court stated that the ‘responsibility conferred is not exclusive’, and ‘the General Assembly is also to be concerned with international peace and security.’⁽⁴⁸⁾ In addition, in case of a veto, it is not possible to assume that the UNSC can delegate one of its power to another organ which at the time of delegation does not possess those powers because of the exercise of a legitimate constitutional right.⁽⁴⁹⁾ It is simply an invocation of the old Latin maxim “*Nemo dat quod non habet*” which also has been utilized in the realm of international law.⁽⁵⁰⁾ However, if the

⁽⁴⁵⁾Case 9/56, *Meroni* [1958] ECR 133, 152.

⁽⁴⁶⁾D Sarooshi ‘The United Nations and the Development of Collective Security: The Delegation by the UN Security Council of its Chapter VII Powers’ (2000) at 13.

⁽⁴⁷⁾Juraj Andrassy ‘Uniting for Peace’ at 565.

⁽⁴⁸⁾*Certain Expenses of the United Nations (Article 17, Paragraph 2 of the Charter)*, Advisory Opinion, [1962] ICJ Rep 151, ICGJ 221 (ICJ 1962), 20th July 1962, International Court of Justice [ICJ], 163.

⁽⁴⁹⁾D Sarooshi ‘The United Nations and the Development of Collective Security: The Delegation by the UN Security Council of its Chapter VII Powers’, at 9.

⁽⁵⁰⁾See *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nig.)*, 1999 I.C.J. 1029 (Order of Oct. 21), at para 204.

UNSC referral is considered to be an authorization, the action will be a mere activation of the GA's secondary responsibility to maintain international peace and security. By doing so, the UNSC bestows a degree of moral legitimacy on that secondary role.⁽⁵¹⁾ That being said, the referral by the UNSC to the GA can hardly be characterized as delegation because the latter consists of the UN members who conferred the said responsibilities to the UNSC, and who also owns a share of competence in the domain of international peace and security.

(V) The Justifying Power of General Assembly Resolutions:

The previous part focused on the legal nature of referring a case from the UNSC to the UNGA. We concluded that 'authorization' is the most suitable norm to describe such a process based on previously mentioned reasons. This part will focus on GA resolutions' power of justifying member states to take coercive measures promulgated based on a UfP resolution. To put it differently, this part will try to find an answer to the question of whether the GA can make a recommendation to justify its violation of otherwise existing international legal obligations. First, it is of a paramount importance to look at the existing state practice in this regard and whether *opinio Juris* galvanizes this practice. By searching the UN database, only ten emergency special sessions were convened based on the UfP resolution.⁽⁵²⁾ Four of which imposed collective sanctions. These sanctions called states to:

(1) lend every assistance to the United Nations actions in Korea, and to refrain from giving any assistance to its aggressors;⁽⁵³⁾

(2) refrain from the direct and indirect provision of arms or other materials of war and military personnel and other assistance for military purposes;⁽⁵⁴⁾

(3) render increased and sustained support and material, financial, military and other assistance to the South West Africa Peoples' Organization to enable it to intensify its struggle for the liberation of Namibia;⁽⁵⁵⁾ and

(4) refrain from supplying Israel with any weapons and related equipment and to suspend any military assistance which Israel receives from them.⁽⁵⁶⁾

The GA also recommended another two sanctions albeit without reference to the UfP, in

⁽⁵¹⁾ Andrew J. Carswell, 'Unblocking the UN Security Council: The Uniting for Peace Resolution, at 466.

⁽⁵²⁾ All General Assembly emergency special sessions found at: <https://www.un.org/en/ga/sessions/emergency.shtml>

⁽⁵³⁾ UNGA Res 498 (V) 'Intervention of the Central People's Government of the People's Republic of China in Korea' (1 February 1951).

⁽⁵⁴⁾ UNGA Res 1474 (ES-IV) 'Question Considered by the Security Council at its 906th Meeting on 16 September 1960' (20 September 1960).

⁽⁵⁵⁾ UNGA Res (ES-8/2) (14 September 1981).

⁽⁵⁶⁾ UNGA Res (ES-9/1), (5 February 1982).

which the first imposed an oil embargo against South Africa during the apartheid,⁽⁵⁷⁾ and the second issued on the same session called states to increase the pressure on the apartheid regime through measures by, for instance, suspending future investments, and the granting of financial loans.⁽⁵⁸⁾

At first sight, these measures might not seem to contain any violations of international law obligations, thus entailing no state practice. However, imposing embargoes and refraining from engaging in economic relations can constitute a violation, especially in the presence of trade agreements. Andrassy reinforces this viewpoint, noting that UNGA resolutions have a legal effect that can violate existing obligations.⁽⁵⁹⁾ He afterwards solidifies his argument by stressing the ability of the UNGA to recommend the interruption of economic relations with a state engaging in acts which threaten international peace and security.⁽⁶⁰⁾ Their action will be deemed legitimate, even though there might be an existing bilateral or multilateral trade treaty between these states. He then makes an analogy to his proposed example by stating that: 'In the same way, the recommendation on collective measures with armed forces gives to the armed action of the Members the character of an action of the United Nations, while otherwise it would be a warlike action forbidden by modern international law.'⁽⁶¹⁾

Although the state practice in this domain is not excess enough to be customary, it can denote a paradigm-shifting development in which new rules of customary international law emerge with unusual rapidity and acceptance. In other words, it forms a 'Grotian moment' where prolonged state practice is unnecessary. In this respect, the ICJ has affirmed on several occasions that UNGA resolutions can be regarded as evidence of customary international law. In its advisory opinion on the construction of a Wall, the Court considered UNGA resolutions relevant to the UN Charter as among the rules and principles of international law used to assess the legality of measures taken by Israel.⁽⁶²⁾ The UfP itself can be considered as creating a Grotian moment regarding the powers it confers to the UNGA. The vote of 52 members for the resolution, 5 against, and only 2 abstaining can be considered as establishing 'an acceleration of the custom-formation process due to states' widespread and unequivocal response to a paradigm-changing event in international law.'⁽⁶³⁾ The language

⁽⁵⁷⁾UNGA Res 41/35 F, (10 October 1986).

⁽⁵⁸⁾UNGA Res 41/35 H, (10 November 1986).

⁽⁵⁹⁾Juraj Andrassy, 'Uniting for Peace, at 571.

⁽⁶⁰⁾Ibid.

⁽⁶¹⁾Ibid.

⁽⁶²⁾Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory (Advisory Opinion) [2004] ICJ Rep 136. 171.

⁽⁶³⁾Scharf, Michael P. (2010) "Seizing the Grotian Moment: Accelerated Formation of Customary International Law in Times of Fundamental Change," Cornell International Law Journal: Vol. 43: Iss. 3, 446, citing how the ICJ in the North

used in the drafting of a resolution is also a very important indication of whether member states intend it to issue a mere recommendation, or a firm obligation. Rosenstock, in his assessment of the GA Friendly Relations Declaration noted that the language can entail that the states involved intended to assert binding rules.⁽⁶⁴⁾ Accordingly, the key paragraph in the UfP granted the GA full authority to make recommendations used the word “shall” rather than other phrases which could indicate merestates’ aspirations.

The Collective Measures Committee established by the UfP also included an immunity-like clause that creates some sort of protection while acting according to the resolution. A move which clearly presupposes the probability of violating existing international obligations when a state shows compliance to the resolution. Its guiding principles states that:

(14) In the event of a decision or recommendation of the United Nations to undertake collective measures, the following guiding principles should be given full consideration by the Security Council or the General Assembly and by States:

(d) It is of importance that States should not be subjected to legal liabilities under treaties or other international agreements as a consequence of carrying out United Nations collective measures.⁽⁶⁵⁾

Moreover, the ILC’s Draft Code of Offences against the Peace and Security of Mankind issued in 1954 exempted a state’s employment of its armed forces against another state from being classified as an offence against the peace and security of mankind if done in pursuance of a decision or recommendation of a competent organ of the UN.⁽⁶⁶⁾ Some scholars argue about the ambiguity of the text, especially the fact that the article did not specify which organ is competent to make such recommendations. However, this argument is not strong enough to be upheld. First, if the drafters foresaw that the sole player in the realm of international peace and security is the UNSC, they would have mentioned it explicitly instead of stating ‘a competent organ’. Second, Articles 41 and 42 of the Charter, which enumerate both non-coercive and coercive measures available for the UNSC, did not include any words such as ‘recommends’ or ‘make recommendations’ but used ‘decide’, ‘call’ and ‘take such action’ instead. The nature of the wording used by these two articles implies that when the UNSC acts according to Chapter VII, especially the deployment of armed forces, it will do so in

Sea Continental Shelf cases foresees the Grotian moment.

⁽⁶⁴⁾Rosenstock, Robert: *The Declaration of Principles of International Law Concerning Friendly Relations: A Survey*. The American Journal of International Law, Vol. 65, No. 5 (Oct., 1971), pp. 713-735. 715.

⁽⁶⁵⁾Report of the Collective Measures Committee, General Assembly Official Records: Sixth Session, Supplement No. 13 (A/1891), 33.

⁽⁶⁶⁾Yearbook of the International Law Commission, Volume II, United Nations, 135.

the form of decisions, not recommendations. Thus, a recommendation of a competent organ to employ armed forces stated in Article 2 of the Draft Code of Offenses obviously can be issued from any organ but the UNSC.

(VI) Uniting for Peace and the Responsibility to Protect:

Amid the mass human rights atrocities in the late 20th century, the international community needed to find groundbreaking solutions to the impotence of the UN system, which led – indirectly – to the proliferation of such crimes. While the UfP was born during inter-state wars, the Responsibility to Protect (R2P) considered intra-state wars as inflicting the greatest harm to international peace and security. However, both documents addressed the alternative options available to resort to the use of force outside its ordinary course. Following Kofi Anan's denunciation of the view that state sovereignty transcends humanitarian intervention,⁽⁶⁷⁾ the International Commission on Intervention and State Sovereignty (ICISS) was established in 2000 to examine the legality of external intervention as a response to internal atrocities and to divert the discourse from the 'right to intervene to the 'responsibility to protect, the latter being a modernized reflection of the well-known international law norm of 'obligations erga omnes'. The Commission realized the superiority of the UNSC in the invocation of this doctrine.⁽⁶⁸⁾ Nonetheless, it advocated for a broader applicability of the said doctrine to include other UN organs such as the UNGA. The report states that a decision by the General Assembly in favor of action, if supported by an overwhelming majority of Member States would provide a high degree of legitimacy for an intervention which subsequently took place, and encourage the Security Council to re-think its position.⁽⁶⁹⁾

In 2009, the UN adopted a document that reiterated the core principles drafted in the ICISS report, which rendered the UN document less effective than its predecessor. First, the threshold criteria for the intervention adopted by the ICISS report is much lower than that of the UN document. The ICISS report used broader language such as 'large scale loss of life' to justify an intervention and did not put any prerequisites regarding the intention of perpetrating such crimes.⁽⁷⁰⁾ Conversely, the UN report mentioned an exhaustive list of crimes which justify the intervention, namely genocide, war crimes, ethnic cleansing and

⁽⁶⁷⁾See U.N. Secretary-General Kofi Annan, Address Before the Commission on Human Rights in Geneva, Switzerland (Apr. 8, 1999), available in 1999 WL 15758163.

⁽⁶⁸⁾International Commission on Intervention and State Sovereignty, The Responsibility to Protect (Report of the ICISS December 2001) at para 6.14.

⁽⁶⁹⁾Ibid, at 6.30.

⁽⁷⁰⁾Ibid, at 4.19.

crimes against humanity.⁽⁷¹⁾ Thereby, the ICISS report avoided any potential legal intricacies that will certainly occur if the crimes were explicitly named as in the UN report. The crime of genocide alone is defined by several international legal bodies which differ in its elements, conditions, and magnitude. Second, the UN document in its preamble expressly confined the power to authorize an intervention within the ambit of the UNSC. It states that ‘we Heads of State and Government are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter...’⁽⁷²⁾ Nonetheless, it did not totally deny the UNGA’s functions in the realm of peace and security. It admitted that diplomacy can be a delaying factor, arguably referring to a UNSC veto. The document asserted on the UNSC’s responsibility to maintain peace and security as primary, but not total.⁽⁷³⁾ Then, it explicitly mentions the UfP procedure as a means for the UNGA to delve in this realm when the Council fails to act.⁽⁷⁴⁾ But did this wide range of applicability help take any international collective measures towards an ongoing humanitarian crisis? Let’s take Syria as the most recent example.

Four attempts were made within the UNSC to take actions against the crimes committed by the Syrian regime, all of them were unsuccessful due to a Russian, or Chinese veto, or both. The first was in 2011, addressing the threat to take measures against Syria if it does not immediately cease its military crackdown against civilians.⁽⁷⁵⁾ The second was in 2012, which called for an immediate end to all violence and reprisals.⁽⁷⁶⁾ The third was also in 2012, which called for a complete cessation of armed violence accompanied by a threat to impose sanctions.⁽⁷⁷⁾ The fourth, in 2014, was a proposal to refer the crimes committed in Syria to the ICC.⁽⁷⁸⁾ This was the first time the UNSC blocked an ICC referral request as both the Darfur and Libyan situations were successfully referred, albeit the former witnessed two permanent members abstaining from voting. Despite all these UNSC failures, not a single recourse was made to the UfP mechanism to overcome the hurdles imposed by the permanent members, or to confer international legitimacy over the already sought military interventions.

This odd situation led some states to seek unilateral interventions lacking international

⁽⁷¹⁾ UNGA ‘Report of the Secretary-General: Implementing the Responsibility to Protect’ (12 January 2009) UN Doc. A/63/677, para 1.

⁽⁷²⁾ *Ibid.*, at 1.

⁽⁷³⁾ *Ibid.*, at para 63.

⁽⁷⁴⁾ *Ibid.*

⁽⁷⁵⁾ UN Doc S/2011/612 (4 October 2011).

⁽⁷⁶⁾ UN Doc S/2012/77 (4 February 2012).

⁽⁷⁷⁾ UN Doc S/2012/538 (19 July 2012)

⁽⁷⁸⁾ UN Doc S/2014/348 (22 May 2014).

legal support, albeit justifying their actions on both the core principles founded in R2P, UfP and International Humanitarian Law (IHL). In 2013, the UK issued a guidance regarding the legality of any military action in Syria following the chemical weapons attack in Eastern Damascus.⁽⁷⁹⁾ The document first considered the use of chemical weapons as a war crime and a crime against humanity.⁽⁸⁰⁾ This characterization represents the 'just cause' for intervention mentioned in both the ICISS and UN documents on R2P. The statement then justifies the UK's exceptional measures due to the UNSC's impotence in taking action,⁽⁸¹⁾ which reflects the main cause for the UfP's creation. The pronouncement then set down three prerequisites to be met for the intervention to be legally considered as 'humanitarian', two are conditions before taking any action, while the last one relates to the action itself: (i) the presence of convincing evidence accepted by the international community of extreme humanitarian distress; (ii) the absence of any other alternative other than the use of force; and (iii) The necessity and proportionality of the action to its aim of humanitarian relief.⁽⁸²⁾ The first condition aims to search for international legitimization of the intervention by a global accreditation of the existing severe humanitarian situation while neglecting the international community's stance on the intervention itself. The second reflects the widely accepted international law norm of the use of force only as a last resort which has been also included in the UN R2P document.⁽⁸³⁾ The last condition portrays rules 15,⁽⁸⁴⁾ and 40⁽⁸⁵⁾ of customary IHL which prohibit the excessive use of force and destruction beyond military necessity in both international and non-international armed conflicts.

The United States also took a similar position when justifying its airstrikes on Syrian military sites said to be used for launching chemical weapons attacks against civilians in Khan Sheikhoun.⁽⁸⁶⁾ Although the strikes lacked a definitive legal explanation, the justifying grounds can be traced from the US government's proclamations following the attacks. President Trump's initial remarks on the attacks relied on the preemptive self-defense

⁽⁷⁹⁾Policy Paper on the UK government legal position on chemical weapon use by Syrian regime, Prime Minister's Office (29 August 2013).

⁽⁸⁰⁾Ibid, at para 2.

⁽⁸¹⁾Ibid, at para 4.

⁽⁸²⁾Ibid, at para 4.

⁽⁸³⁾UNGA 'Report of the Secretary-General: Implementing the Responsibility to Protect', at 40.

⁽⁸⁴⁾CRC, Customary IHL Database, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule15, last accessed 17/12/2020.

⁽⁸⁵⁾Ibid, https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule50, last accessed 17/12/2020.

⁽⁸⁶⁾Statement from Pentagon Spokesman Capt. Jeff Davis on U.S. strike in Syria (6 April 2017), <https://www.defense.gov/Newsroom/Releases/Release/Article/1144598/statement-from-pentagon-spokesman-capt-jeff-davis-on-us-strike-in-syria/>, last accessed 17/12/2020.

doctrine as a preventive measure to preserve the 'national security interest of the United States.'⁽⁸⁷⁾ From a different perspective, the US Ambassador to the UN, Nikki Haley, noted that the attacks responded to Syria's breach of international obligations, namely UNSC resolutions and Chemical Weapons Convention.⁽⁸⁸⁾ US state officials also mentioned humanitarian grounds. In a White House press gaggle, Sean Spicer said that it had a 'huge humanitarian component to it when asked about the attacks.'⁽⁸⁹⁾ It is worth mentioning that an informal document was circulated outside the government that is said to have been developed within the administration.⁽⁹⁰⁾ The document contained the main legal justifications for the strikes, namely: (i) severe humanitarian distress; (ii) widespread violations of international law by the Syrian government; (iii) indiscriminate use of banned weapons to kill and injure civilians; (iv) Regional destabilization and international security concerns; (v) widespread international condemnation; (vi) A convincing body of reporting that the Syrian Government has committed widespread violations; (vii) the exhaustion of all reasonably available peaceful remedies before using force; (viii) the use of force is necessary and proportionate to the aim of deterring and preventing the future use of chemical weapons.⁽⁹¹⁾ The legal grounds in the document mentioned above seem to clearly match most of those enunciated in the UK's equivalent policy paper.

Although both the UK and US proclamations included various legal norms that match those embedded in both the R2P and UfP, they chose the easier and swifter track to launch military strikes rather than seeking the available international instruments which would probably yield the same results. Perhaps a new norm of customary international law is about to emerge that legitimizes unilateral military intervention for humanitarian purposes. But if this is the case, what is the point of all the legal debates and hassles around the international documents which serve this cause? In fact, what is the purpose of the UN's existence as a whole?

Conclusion:

No one can deny the noble aims of drafting the Uniting for Peace resolution by the

⁽⁸⁷⁾ Trump Speaks About Strikes in Syria, The NY times (6 April 2017), <https://www.nytimes.com/2017/04/06/world/middleeast/trump-UNSC-video-trump-airstrikes-syria.html>, last accessed 18/12/2020.

⁽⁸⁸⁾ Olivia Beavers, Haley: Attack on Syria 'one of the president's finest hours' (9 April 2017), The Hill; <https://thehill.com/homenews/administration/327997-haley-attack-on-syria-one-of-the-presidents-finest-hours>, last accessed 18/12/2020.

⁽⁸⁹⁾ Press Gaggle by Press Secretary Sean Spicer (7 April 2017), <https://www.whitehouse.gov/briefings-statements/press-gaggle-press-secretary-sean-spicer-7/>, last accessed 18/12/2020.

⁽⁹⁰⁾ Marty Lederman, (Apparent) Administration Justifications for Legality of Strikes Against Syria (8 April 2017), <https://www.justsecurity.org/39803/apparent-administration-justifications-legality-strikes-syria/>, last accessed 20/20/2020.

⁽⁹¹⁾ Ibid.

UNGA. It has been clear to all that the Security Council's behavior since its establishment relies mainly on each permanent member state's policies. These policies can – and already have – adversely affect the primary role of the Council in maintaining international peace and security. The UfP was a successful step in limiting the consequences of permanent member states' biased behavior, which could hinder the Council's performance of its primary role. Although there is much literature supporting the legal formulation of the draft, it can also be said that there are certain issues that if the resolution has endorsed could have increased its international eligibility and therefore its effective utilization. The drafters could have expressly stated that such a resolution is a nascent interpretation of the UN Charter in which the General Assembly has a secondary role – the primary being that of the Security Council – in maintaining international peace and security. A step that would have increased the recurrence of the use of the resolution by the international community, especially in cases of humanitarian concern. The resolution could have also set the parameters of the rightful practice of the Security Council so that it could be easier to detect when there is 'abuse of rights' committed by one of the permanent members. Such a step would have eliminated any discussions regarding the General Assembly acting *ultra vires* when operating on behalf of, rather than failure to act of, the Security Council. To sum up, the UfP was a true reflection of the international community's intentions to override the excessive authority granted to the permanent members, however it lacked the legal alleviation that could have otherwise led to its full functioning.