

12 Why no UN Security Council reform?

Lessons for and from institutionalist theory

Erik Voeten

This chapter is based on the premise that institutional reform and the absence thereof are revealing about the effects of institutional design on outcomes, or at least how governments perceive these effects to be. In the past fifteen years, we have witnessed major institutional reforms and innovations in the international arena. The EU broadened, deepened, and moved increasingly towards a supranational decision-making structure. NATO accepted ten new member states and modernized its military command structure. The international trade system was transformed fundamentally by the replacement of GATT with the World Trade Organization (WTO) and its highly legalized dispute-resolution mechanism. The World Bank responded to pressure by non-governmental organizations (NGOs) and others to formally incorporate environmental issues into their decision-making procedures (Nielson and Tierney 2003). And, the creation of the International Criminal Court (ICC) and the Kyoto Protocol, while not embraced universally, signal that there is considerable appetite in many parts of the globe for new and extended institutional solutions to global issues.

At the same time, some institutional configurations have remained remarkably stable. The UN Security Council (UNSC) is an important example. What makes the UNSC's institutional persistence so interesting is that its activities have changed rather dramatically with the Cold War's ending. The Council has not only initiated many more sanctions and peacekeeping missions, but it has also broadened the scope of what it can do – at times not shying away from authorizing the use of force to topple regimes. Moreover, states, including great powers, are paying more attention to the UNSC than ever before. Whereas the absence or presence of UN authorization had little bearing on the use of force in the Cold War period, the absence of such authorization is now widely lamented and appears to affect the depth and breadth of multilateral co-operation in a non-trivial manner (Voeten 2005).

This upsurge in activity has not been paired with a “constitutive moment” similar to what occurred at the ends of World Wars I and II. At those junctures, multilateral security institutions were purposively designed by the

victors of the latest grand war, perhaps with the objective to ‘lock in’ favorable institutional structures that would outlast the immediate power advantages that resulted from the last war (Ikenberry 2001). The UNSC is the quintessential example of this: it granted permanent membership and veto power to the five ‘victors’ of World War II, while excluding the defeated powers¹ and raising an entry barrier for potential rising powers.

The antiquated nature of the UNSC’s institutional structure has invited incessant calls for institutional reform,² varying from carefully crafted diplomatic proposals to Thomas Friedman’s cavalier suggestion that veto powers ought to be elected by the fans of the UN such that France could be “voted off the island”.³ Discussing the latest reform effort, the December 2004 report by the High-Level Panel on Threats, Challenges, and Change (hereafter: the High-Level Panel), UN Secretary-General Kofi Annan argued that this is “most decisive moment for the international system since the UN was founded in 1945.”⁴ Yet, while governments have expressed consensus support to make the UNSC “more representative, efficient and transparent” in numerous anniversary UNGA (General Assembly) resolutions,⁵ the issue has barely advanced beyond discussions by blue-ribbon committees and low-level diplomats.⁶ Bruce Russett captures the general sentiment well: “been there and not done that” (Russett 2005: 155).

Why has the activity of the UNSC increased so much, but its institutional structure changed so little? The typical answers are that the end of the Cold War allowed the UNSC to become more active, while the persistence of the UNSC’s institutional structure can be attributed to institutional ‘stickiness.’ These accounts are not entirely inaccurate. Yet, they are limited. Most importantly, if institutional design matters, then it is problematic to rely on a theory that privileges continuity to explain institutional design while singling out a massive exogenous shock as the explanation for increased activity. Institutionalists argue that fundamental institutional change generally occurs in response to an exogenous shock that undermines the mechanisms that generate continuity (e.g., Pierson 2000). The end of the Cold War represents precisely the kind of external shock that could be expected to lead to a “critical juncture” for institutional change (Ikenberry 2001). Moreover, the very same factors that created an increased demand for multilateralism are likely to also create a demand for institutional adjustments. If the relevance of the end of the Cold War resides in a normative shift towards a set of global liberal norms that generate new demand for multilateralism, then we would surely expect this normative shift to be reflected in institutional changes. If the end of the Cold War is relevant primarily for the shift in the balance of power (or threats), then we would expect the institutional structure of the UNSC to be adjusted to that new power structure.

In this chapter, I evaluate various plausible explanations for the UNSC’s institutional persistence in the context of its increased activity. I argue that in order to understand these issues, we need a fuller appreciation of how the UNSC fits in its strategic environment. Strategic explanations should fare

well in the context of the UNSC: there are relatively few actors, with well-defined interests, bargaining over high stakes. Yet, analyses of the UN tend to assume away strategic behavior⁷ and/or look at the UN in isolation from the outside world. As Stanley Hoffmann put it:

It has always been a problem that specialists of international politics dealing primarily with the diplomatic and strategic scene dismissed the UN from their analyses, whereas lawyers and political scientists specialized in the study of the UN's political functions tended to lock themselves up, so to speak, within the UN and to look at the world outside only dimly, as it was filtered into and through the UN.

(Hoffmann 1998: 179)

I argue that the UNSC forms an institutional solution to two sets of problems that arise from the incompleteness of any contract that seeks to regulate uses of force, while not outright forbidding them. The UNSC is asked to make decisions on whether particular uses of force by states are appropriate and if (and how much) collective action should be produced in response to threats to international peace and security. From the perspective of institutional design, this solution is sub-optimal. The task of determining the appropriateness of interventions is best delegated to an independent (neutral) institution, such as a court, and the determination of public good production to a majoritarian (political) institution. Yet, the optimality of such a dual institutional solution collapses once we take into account the problem of enforcement: the UNSC cannot actually prevent individual states from going it alone in the absence of its blessing. Moreover, the willingness of individual states to go it alone can sometimes be critical for the production of collective goods.

I show how this availability of outside options profoundly affects issues of institutional design, and thus, reform. Perhaps most importantly, it curtails the extent to which formal institutional power translates into 'real world' power. Analyses of formal bargaining power in the UNSC typically conclude that the veto players distribute the gains equally among themselves and that non-permanent members are virtually powerless (e.g., O'Neill 1997, Winter 1996). If this were true, there would be little reason for non-permanent members to abide by UNSC decisions and help finance peacekeeping operations. Moreover, veto powers that possess more outside options have greater bargaining power than veto powers that have fewer resources, despite equal institutional status. Hence, in practice, informal decision-making practices reflect asymmetric capabilities, even if these are not reflected in the UNSC's formal institutional structure. This chapter then, points to the limits of the expected effects of formal institutions, and thus institutional reform, in the context of enforcement problems.

The chapter proceeds with a brief sketch of the increase in UNSC activity following the end of the Cold War or, perhaps more accurately, the start of

the first Gulf War. It then discusses various common explanations for institutional persistence. The following sections introduce the issues that arise in delegating decisions regarding uses of force to an international institution and provide some simple illustrations of how outside power affects bargaining in an institution such as the UNSC. The chapter concludes with some implications for institutionalist theory, as well as for the debates surrounding UNSC reform.

The post-gulf war explosion in UNSC activity

Figure 12.1 plots temporal variation in an important indicator of institutional activity: the occurrence of Chapter VII resolutions between 1946 and 2004. Chapter VII resolutions have the unique property among UN decisions that they are binding upon all member states of the United Nations, regardless of whether they have a seat at the UNSC. The UNSC can invoke Chapter VII in response to the “existence of any threat to the peace, breach of the peace, or act of aggression” (UN Charter, Article 39). Chapter VII resolutions are used to authorize sanctions as well as uses of force by UN troops, regional organizations, or individual member states. Hence, they can reasonably be understood as the most important decisions that the UNSC takes.

Between 1946 and 1990, the UNSC adopted only 22 resolutions under Chapter VII. The two most important cases were the Congo peacekeeping force (ONUC) and the Korean War (1950). In the latter case, authorization was possible only due to the temporary absence of the USSR in protest at the exclusion of the People’s Republic of China from the Council. In anticipation of deadlock when the USSR would retake its seat, the UNSC adopted the

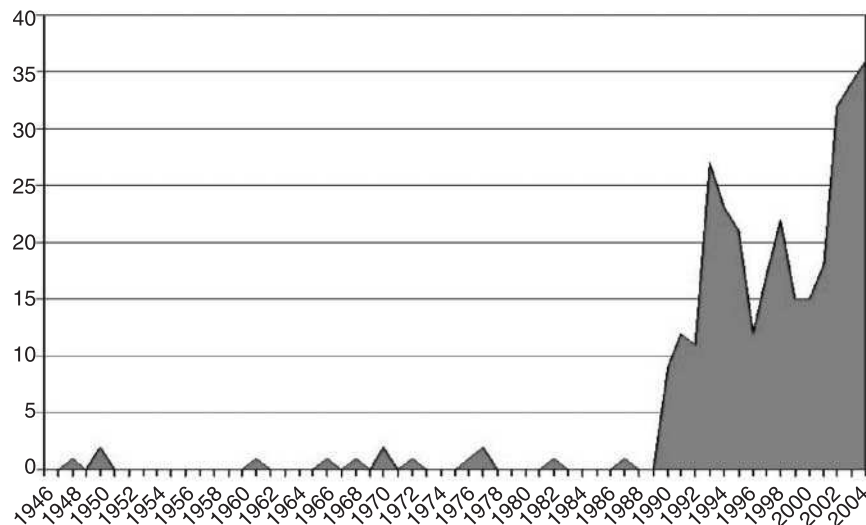


Figure 12.1 Annual number of Chapter VII resolutions, 1946–2004.

1950 “Uniting for Peace Resolution,” which allowed the UNGA to take responsibility in security affairs if the SC were unable to act. It has been invoked ten times, most notably in 1956 to order the French and British to stop their military intervention in the Suez Canal and to create the UN Emergency Force to provide a buffer between Egyptian and Israeli forces.

UN involvement in important international crises became increasingly rare after the late 1960s, a development that Ernst Haas labeled “regime decay” (Haas 1983). The UN had little or no say in the major Cold War interventions, such as the Soviet invasion of Afghanistan and the US military action in Vietnam, nor in smaller interventions, such as the US military actions in Grenada and Panama. Between 1977 and the start of the Gulf War, the UNSC adopted only two resolutions under Chapter VII. By contrast, between 1990 and 2004, the Council approved 304 Chapter VII resolutions. Moreover, these resolutions carried actual consequences. The main objectives of most of the Cold War ‘first-generation’ peacekeeping missions were to maintain a neutral position and monitor a situation. Many of the peacekeeping missions of the 1990s had much more ambitious mandates and operated in much more difficult environments. During the Cold War, there was only one UN-commanded mission that used force beyond traditional peacekeeping principles (Congo) and one in which the UNSC authorized interested parties to exercise force (Korea). Between 1990 and 2001, the UNSC authorized such extensive uses of force in 17 different countries across all continents (Jakobsen 2002).

Explanations for institutional persistence

Why did the UNSC suddenly become so active without adjusting its decision-making structure? Most accounts, explaining why suboptimal institutional configurations persist, rely in some way on the notion of path dependence: the idea that the path of previous outcomes matters in determining current and future outcomes (e.g., Hall and Taylor 1996, Page 2006, Pierson 2000).

The most frequently-used argument along these lines is that the UN’s creators sought to lock-in institutional arrangements by raising a high barrier for change in the Charter (e.g., Russett 2005). Yet, on closer inspection, these institutional barriers are mild relative to most other international institutions. Charter amendments require approval from two-thirds of the members of the UNGA and ratification by two-thirds of the members of the UN, including the permanent members of the Security Council (UN Charter, Article 108). Virtually all international governmental organizations require unanimous ratification for amending their founding treaties. This includes the IOs, such as the WTO, that have been successfully reformed or created since the end of the Cold War. Yet, there are only five states that can individually block the ratification of an amendment to the UN Charter.

Moreover, the lessons from the 1963 Charter reform, which expanded ECOSOC and the Council, illustrate that the dynamics of the ratification

process can pressurize the permanent members. France and the Soviet Union voted against Council expansion in the UNGA, whereas the US and UK abstained. China abstained on the second part of the proposed amendment that expanded ECOSOC. Thus, all five permanent members expressed reservations during the Assembly votes. Nevertheless, all five veto powers had ratified the amendments within two years of these votes, presumably in response to pressures from the non-aligned states whose allegiance in the Cold War conflict was at stake (Bourantonis 2005, Luck 2003).

One may counter that institutional obstacles make certain reforms unlikely, if not impossible, in particular reform of the veto. Yet, veto power only transfers to real world influence to the extent that countries that do not possess it attach value to the UNSC's decisions. UNSC reform poses a problem of co-ordination: if the rest of the world agreed on a single proposal, it would be very difficult to refuse for the five veto powers, as long as the proposal remained within some boundaries that maintain the utility of the UNSC to the permanent members (see also Axelrod 1998). Although the permanent five are powerful, other states have considerable potential leverage. Japan and Germany could cease paying the UN's bill; India, Brazil, and South Africa could co-opt developing nations to ignore UNSC decisions. In response to such actions or the threat thereof, the UNSC's authority would decline rapidly, and with it the value of veto power.

Yet, we do not observe meaningful threats to discontinue co-operation with the UNSC in the absence of reform nor meaningful attempts at co-ordinating reform proposals. Instead, the leading aspirant members have largely relegated the issue to blue-ribbon committees and low-level diplomats (Urquhart 2005). Some leaders publicly claim aspirations to permanent member status, while privately admitting that the issue is not pushed or even that they perceive more downsides than upsides to permanent membership.⁸ The second and third largest contributors to the UN (Japan and Germany) continue to contribute to the UN and maintain laws that insist on UN authorization as a condition for active military participation in interventions, despite their exclusion from permanent membership.⁹ Thus, even though the institutional barriers to reform are real, we still need to explain why outsiders continue to value the UNSC's decisions and make only tepid attempts to reform the institution.

A second theoretical argument is that institutions tend to generate increasing returns, which in turn raise the cost of institutional adjustments (e.g., Pierson 2000). For example, Wallander argues that in the process of "keeping the Russians out, the Americans in, and the Germans down" NATO also developed a set of general assets that could be mobilized to deal with new security missions (Wallander 2000). These assets were not optimal, in the sense that the United States and the Europeans would probably have devised a different institutional structure had they designed one from scratch after the Cold War, but their availability helped ensure the preservation of NATO. While the UN developed some assets during the Cold War that were useful

afterwards, especially in the area of peacekeeping, it is difficult to see how these would foreclose changes in the decision-making rules that control the use of these assets.

A third, and more persuasive, line of reasoning follows from the path dependence literature's focus on issues of timing and sequencing (Pierson 2000). The concept of path dependence implies that individual incidents may turn out to be formative moments that shape a path of institutional development, while foreclosing others. It is plausible that the first Gulf War had a considerable influence on expectations about the role of the UNSC in the post-Cold War world. It is important to appreciate how sudden the shift was. When the United States invaded Panama in December 1989, it did not even consider asking for UNSC approval. A UNGA resolution deploring the intervention had no discernible impact on domestic public or elite support for the intervention, and neither did a UNSC resolution that the US vetoed (Luck 2002: 64). After the Gulf War, the UNSC became, as former US Secretary of State James Baker put it, the "natural first stop for coalition building" (Baker 1995: 278). *Ex ante*, the first Gulf War was highly controversial. *Ex post*, the war was widely cited as the most successful multilateral effort ever.¹⁰

It is thus conceivable that the Gulf War experience made the UNSC the focal point for future collaborative actions (Voeten 2005). Moreover, the event may have impressed upon elites and citizens that satisfactory multilateral solutions are possible even with unsatisfactory decision-making procedures. Nevertheless, we still need to explain why this institution could perform this role. The next section explores this issue, starting with the question why states would delegate authority to the UNSC in the first place?

Enforcement and optimal institutional design

Rationalist explanations of institutional design usually build on some version of contract theory. This is the branch of economic theory concerned with explaining why, when, and how authority relations emerge in a specific type of anarchical environment: markets (for an overview, see Bolton and Dewatripont 2005).¹¹ Contract theorists start with the observation that uncertainty, hidden information or more broadly "transaction costs" prevent otherwise beneficial co-operation (trade) from occurring. These inefficiencies occur in part because authority, generally defined as "the right to pick a decision in an allowed set of decisions" (Simon 1951), is not appropriately allocated. In response, actors may create contracts that define authority relationships and compensation schemes that provide incentives for improved levels of exchange. Questions of institutional design arise because parties to a long-term contract generally cannot anticipate all future states of the world to which the contract may apply and/or cannot agree on a common description of the complete state space. This implies that at the

contract stage, parties have to decide how control rights, decision-making rules, discretion, and so on should be distributed among the contracting parties.

When states contemplate how to regulate future uses of force, they cannot anticipate all future instances in which the exercise of force may serve the purposes of the contracting parties. Thus, although the UN Charter explicitly forbids the use or threat of force “against the territorial integrity or political independence of any state, or in any manner inconsistent with the Purposes of the United Nations” (UN Charter Article 2, para. 4), the Charter also explicitly recognizes two general circumstances under which the use of force does serve the purposes of the UN: when it is exercised as individual or collective self-defense against armed attacks (Article 51) or when it otherwise constitutes a collective action against the “existence of any threat to the peace, breach of the peace, or act of aggression” (Article 39). To continue the economic analogy, the exceptions allow the use of force to protect property rights (sovereignty) and to produce public goods (peace).

The UNSC can be understood as an institutional solution that addresses the inherent conflicts of interests that arise in interpreting these exceptions. The remainder of this section explores the demands on such an institutional solution.

Collective actions to preserve the peace

How do states determine that a threat to the peace warrants a collective response? Chapter VII of the Charter explicitly grants the Council authority over this. Article 39 states that “The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken [. . .] to maintain or restore international peace and security.” UNSC decisions can authorize uses of force by regional organizations or “coalitions of the willing,”¹² and they can authorize peacekeeping missions executed and financed by the members of the UN. Such missions deliver public goods, in that they produce something (peace/stability) that is non-excludable and enjoyed by most or all status-quo powers, although some benefit more than others in individual cases (Bennett et al. 1994).

Models of public good provision predict that poor nations will be able to free-ride off the contributions of wealthier nations and that the public good will be underprovided because contributors do not take into account the spillover benefits that their support confers to others.¹³ The UNSC may help alleviate underprovision and free-riding in three ways. First, the fixed burden-sharing mechanism for peacekeeping operations provides an institutional solution that helps reduce risks of bargaining failures and lessens transaction costs.¹⁴ Second, the delegation of decision-making authority to a small number of states may facilitate compromise on the amount of public good that ought to be produced (L.L. Martin 1992: 773). Third, the UNSC helps states

pool resources (Abbott and Snidal 1998). The existence of selective incentives induces some states to incur more than their required share of the peace-keeping burden. For example, Kuwait paid two-thirds of the bill for the UN Iraq–Kuwait Observation Mission through voluntary contributions. Australia proved willing to shoulder a disproportionate share of the peace-keeping burden in East Timor. States are more likely to make such contributions when these add to the efforts of others in a predictable manner.

From the perspective of contract theory, the main question of institutional design is: what decision-making rule yields the optimal level of public goods? A general result is that some form of (qualified) majority rule is *ex ante* Pareto efficient (e.g., Bolton and DeWatripont 2005). Before knowing precisely what issues will arise, participants have an incentive not to insist on veto rights. Under very general conditions, each actor is better off occasionally contributing to public goods that the actor would not have approved than to absorb the underprovision of public goods that would result from granting each actor veto power. The delegation of authority to an institution governed by (qualified) majority voting rules helps solve the time inconsistency problems that prevent actors from realizing this trade-off.

The *ex ante* efficiency of majority rule collapses, however, when institutional decisions are not enforceable (see Maggi and Morelli 2003). The intuition is that, in the absence of enforcement, the time inconsistency issue is not resolved: states may act upon their incentives to undermine individual unfavorable decisions. Expectations regarding such behavior undermine the willingness of other states to contribute more than they would under a voluntary scheme in the hope that the long-term benefits of co-operation exceed the short-term benefits of shirking. In the shadow of enforcement issues, the Pareto efficient solution is therefore to grant veto rights to those with the ability to undermine the institutions' decisions.

Two points are especially relevant. First, this argument implies not just that permanent members are unlikely to give up their veto power, but also that a more majoritarian or inclusive institution may not be better at producing public goods. The history of the 'Uniting for Peace' procedure is illustrative. As mentioned before, the Western powers used the temporary absence of the USSR in 1950 to grant the UNGA authority to take measures to preserve international peace and security if the UNSC were deadlocked. This procedure was invoked on ten different occasions. It could no longer be used effectively after the early 1960s, when the US and the West lost their near-automatic majority in the UNGA. After that, the UNGA still passed many resolutions related to security, but they were routinely ignored and produced few public goods. For example, US President Ronald Reagan famously claimed that the 1983 UNGA resolution condemning the United States for its intervention in Grenada "didn't upset his breakfast at all" (quoted in Luck 2002: 63).

Second, it is important to appreciate that enforcement problems are the key to the limited effectiveness of majoritarian institutions in the international

system. As enforcement problems were solved, veto rights could be and have been lifted. For example, the EU has switched from unanimity to qualified majority rule on many issues where strong enforcement procedures of EU decisions have been realized, for instance through the ECJ, whereas unanimity rule is preserved on those issues where the institution has few enforcement capabilities, most notably issues of immigration and security.¹⁵

These arguments should not be taken to imply that the precise design of the UNSC is optimal from the perspective of public good production. The UNSC's voting rules contains clear inefficiencies from the perspective of an institution that produces public goods. The UNSC grants veto power to actors that should not have it. For example, China has temporarily blocked peacekeeping missions in Guatemala and Macedonia for the simple reason that government officials in those countries had interactions with, or made statements about, Taiwan. From an efficiency standpoint, China should not have the ability to single-handedly block those efforts given that it contributes very little to peacekeeping efforts. Similarly, Japan and Germany should be given more incentives to help produce public goods by granting them greater responsibilities.

If the UNSC was truly just about producing public goods, reforms along the lines suggested above should not be terribly controversial and could marginally improve institutional performance. However, the determination of whether force can and should be used also deals with considerable distributional conflict over the extent to which the missions are indeed in the public interest or reflect the needs and wants of a set of countries and/or governments. Those issues, discussed in the following sections, complicate matters considerably.

Self-defense

The self-defense exception is open to *ex post* opportunism: states may and frequently do resort to expanded conceptions of self-defense in attempts to justify unilateral uses of force (Schachter 1989). This issue could potentially be resolved by assigning an independent institution, such as a court, the task to evaluate the validity of the claims for self-defense. This has not occurred. There is little impetus in the High-Level Panel Report¹⁶ or elsewhere to grant the ICJ a greater role in this regard nor does the Panel favor rewriting Article 51 to identify more precisely when uses of self-defense are permitted. The Panel's treatment of the issue (paragraphs 188–192) pertains mostly to the question of whether preventive uses of force could be justified under Article 51, which the Panel rejects. The discussion is a thinly disguised judgment that the US invasion of Iraq was illegal. The Panel is clearly worried about the erosion of a norm (“allowing one to so act is to allow all”) but offers no suggestion for institutional reform other than to point to the necessity of UNSC authorization for such actions.

The UNSC has little formal authority on this matter. States must report

self-defense uses of force to the UN – something that they have not always done (Schachter 1989). The Council is not, however, assigned the task of assessing the legitimacy of self-defense claims. In practice, however, states do behave ‘as if’ Council authorization makes questionable uses of the self-defense concept more acceptable, as illustrated by Resolution 1373, which reaffirms the right of the United States to act forcefully in its self-defense against terrorist activities and de facto legitimized the US military action in Afghanistan.¹⁷

Presumably, governments care about UNSC resolutions authorizing force in the name of self-defense because they are concerned about their general reputation for upholding norms and rules that regulate uses of force. They may do so out of an inherent appreciation for these norms, to please domestic publics, or because they believe that others are more likely to co-operate with states that show a general inclination to comply with rules and norms. One should be aware, however, that the judgment whether a particular use of self-defense is permitted is ultimately a political one and not subject to judicial review. Thus, one should not expect judgments that are independent or consistent from a legal perspective and it is not entirely clear what the value is of lamenting the lack of such consistency – though it is a prominent theme in the legal literature.¹⁸

It is also unclear what the value would be of reforms that seek to institutionalize new rules for the use of force, given the necessary incompleteness of such rules and the absence of independent arbitration. Such rules will be upheld only if they become generally accepted norms outside the institutional setting of the UNSC (i.e., they must be self-enforcing). Any new institutional adoption of rules for the use of force will likely reflect, rather than instigate, such norm acceptance.

The fact that the acceptance or rejection of self-defense claims is ultimately determined through a political process also implies that some states will be more likely than others to obtain the blessing of a multilateral institution. To understand more precisely how this affects the functioning of the institution, we need to turn to an analysis of how the outside power of states interacts with formal institutional rules, an exercise that will be undertaken in the next section. Such an analysis is also important to better understand the manner in which the authorization of collective actions and the evaluation of appropriate unilateral uses of force are related. Collective action authorized by the UNSC has been most extensive and effective when there has been a strong lead state, such as Australia in East Timor or the United States in the first Gulf War (e.g., Fearon and Laitin 2004). The willingness of a state to ‘go it alone’ helps solve the free-rider problem in the production of public goods. Yet, generally states are only willing to do this if they are granted leeway in executing the intervention. As such, the UNSC cannot simultaneously restrict military interventions by outside actors to unambiguous uses of self-defense *and* be effective at maintaining international peace and security.

Outside power and formal institutions

Institutionalists generally claim that power is “important,” but they rarely explicitly model its consequences for institutional behavior or design (see also Brooks and Wohlforth 2005 and Voeten 2001). This omission results at least partly from the perception that the toolkit of institutional analysis is unsuitable for the analysis of power asymmetries. For example, in a special issue on the rational design of institutions published in *International Organization*, the motivation for de-emphasizing the role of power was the absence of “compelling results” in the formal literature (Koremenos et al. 2001: 1067).

Here I will use insights from a very simple bargaining model to shed light on this issue (see also Voeten 2001). The illustration is based on a fairly straightforward situation of heterogeneous preferences over outcomes, as depicted in Figure 12.2. One of the permanent members, typically the United States, prefers to act militarily in response to some situation. At least one other veto power prefers a milder response, such as sanctions, or even no response. This describes the basic strategic dilemma that states faced for example in Iraq’s invasion of Kuwait, the removal of Aristide from power in Haiti, ethnic cleansing in Kosovo, or Iraq’s failure to comply with weapons inspections. When there is distributional conflict among the veto powers, no multilateral agreement exists that defeats the status quo (no action). Hence, any proposal between the ideal points of powers 1 and 3 will be vetoed, and stalemate is the result.¹⁹

Now suppose that veto power 1 has the ability to act unilaterally or with a few allies. In that case, she could just act alone and not bother with a multilateral institution at all. However, veto power 1 may have some incentive to sway others to co-operate. UNSC authorization may encourage burden-sharing, it may decrease the perception among citizens at home and abroad that the military action is threatening or it may in some other way enable the continuance of beneficial co-operation (see Voeten 2005).

Suppose for the moment that the benefit of UNSC authorization is exogenous and in utility terms equivalent to a policy compromise at point M. This assumption implies that everything else being equal, veto power 1 prefers to have UNSC authorization rather than not have it.²⁰ If this is true, then there exists a point along the continuum in Figure 12.2 where Power 1 is indifferent between the disutility of a compromise and the absence

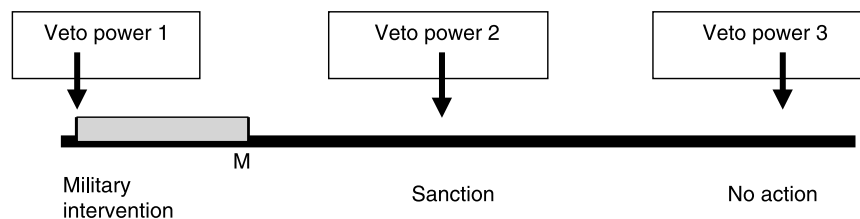


Figure 12.2 Bargaining with heterogeneous preferences: the effects of outside options.

of multilateral agreement. That is: Power 1 prefers any multilateral action between her ideal point and point M to going at it alone. Similarly, veto powers 2 and 3 prefer these multilateral agreements to unilateral action by Power 1, which would create a (from their perspectives) undesirable military intervention over which they would have no influence. Thus, the presence of a credible outside option and some incentive for co-operation combine to create a bargaining range where none exists in the absence of the outside option.

This very simple analysis has a few relevant implications. First, it points to a straightforward way in which the end of the Cold War increased UNSC activity. Two characteristics of the Cold War were that there were two veto powers that both had extensive outside options *and* who were reliably on opposite sides of the spectrum (like powers 1 and 3 in Figure 12.2). It is easy to see that in such a scenario UNSC action can do little but help maintain a status quo (first-generation peacekeeping), even if there were some inherent advantages to multilateralism. Asymmetric outside options, however, create the possibility that the UNSC can act in the absence of harmony among the five veto powers.

This is exactly the opposite conclusion from those who argue that unipolarity has killed the UNSC (e.g., Glennon 2003). The bargaining perspective suggests that unipolarity made multilateral actions possible in cases where bipolarity did not. The evidence for the latter view is that the most extensive UN authorizations of force were almost all in cases where the US either implicitly or explicitly threatened to act outside the Council. This is certainly true for the first Gulf War, Somalia, Haiti, Bosnia,²¹ Kosovo,²² and Afghanistan.

Second, the current UNSC is not just a forum based around great power consent for collective actions, but it has also become an institution that offers states the possibility of imposing some measure of constraint on a superpower. This is a rather different purpose than originally intended by the Charter. The value of veto power to individual states in exercising the latter task is at best mixed. In the world sketched by Figure 12.2, the policy preferences of a new veto power affect outcomes only under rare circumstances.²³ The new permanent member could potentially use its leverage to obtain some side-payments. But there might also be downsides to having the formal power to veto a multilateral initiative. For example, in the lead-up to the Iraq war, Gerhard Schröder was able to acquire the domestic benefits of opposing the war, while much of the US ire was directed at France, the country with the power to block UNSC authorization of the mission. Most states will want some measure of constraint on the US but few states will want to be in the position to apply that constraint. To current UNSC members, veto power confers some measure of status and influence that is difficult to give up,²⁴ but that status may not be sufficiently valuable to outsiders in comparison to the resources that would be necessary to acquire it.

Third, in the absence of bargaining failures, institutional reforms would be irrelevant. In the simple world of Figure 12.2, states would always be able to

achieve a multilateral compromise at point M and avoid unilateral actions. In reality, bargaining failures prevent this from occurring. The argument is essentially identical to rationalist explanations for war (Fearon 1995). Given that war is costly, there always exists some Pareto improving agreement that does not result in war. Similarly, if unilateralism is costly, then there should be some multilateral solution that benefits all.

Bargaining failures can have many causes. I discuss two. First, states may have asymmetric information.²⁵ For example, veto power 1 may know how much it is willing to compromise in exchange for UNSC authorization, but others may not. Player 1 will have difficulties credibly communicating her willingness to compromise, given that she has incentives to under-report her willingness to do so. Second, domestic politics may interfere. For example, the rise of nationalism made it virtually impossible for Russia to publicly agree to the Kosovo intervention. At the same time, Russia worked hard to avoid an intervention over which it had no say. Russia's foreign minister Igor Ivanov traveled to Belgrade on 12 March to try to persuade Milosevic to accept a peacekeeping force – the same force the Russians had been objecting to so far in the UNSC.²⁶ Some newspaper reports even suggested that Russia effectively participated in the NATO force by allowing its vessels to transport military supplies.²⁷

A similar story applies to French opposition over the Iraq war. A French general met with General Command staff on 16 December 2002 to discuss the details of a French contribution of 10,000 to 15,000 troops and French President Jacques Chirac told his troops to prepare for action in a speech at the Ecole Militaire on 7 January 2003 (Cantaloube and Vernet 2004; Cogan 2003). Clearly there was room for a compromise, but things changed, apparently at least in part for domestic political reasons.

Given that bargaining failures are likely, adding more states with veto power would surely make the UNSC less able to act. Similarly, reforms that enhance the transparency of UNSC debates may increase stalemate. Public speeches in formal settings tend to raise the cost of withdrawing from a position, while generally having only minimal persuasive impact. There is some value to negotiating behind closed doors (Goldstein and Martin 2000).

Conclusions

What does all this tell us about the extent to which institutional reform could make the UNSC perform better? One major hindrance to improving the UNSC is that the institution is called upon to solve two rather distinct political problems: the initiation of collective actions to produce public goods (e.g., Sudan) and the imposition of some measure of constraint on the exercise of force by a superpower (e.g., Iraq). From an efficiency perspective, the two tasks pose different demands on institutional design. Moreover, the extent to which an individual use of force fits either case is a matter of

fierce contestation. Hence, there is no straightforward way to redesign the institutional structure that would address the concerns separately.

First, consider the case of the Sudan (Darfur). The UNSC's failure here is its inability to produce an extensive response that potentially could have prevented genocide. To a large extent, this failure results from a lack of willingness among the great powers to contribute resources. We could, however, redesign the UNSC to marginally improve the incentives for participation. For example, a country with a low general willingness to contribute to global public goods should not be able to block resolutions out of private concerns (China). Also, giving wealthy countries such as Japan and Germany positions of responsibility could plausibly enhance their perceived interest in attempting to stop genocide far away.

In the case of the latest Iraq war, it is much less clear if and how the UNSC has failed. To some, the UNSC has failed in that it did not prevent the US intervention. More realistically, the UNSC can achieve two things in a case like Iraq. First, if a multilateral solution fails, this failure should be perceived as costly by the offending state. If this is so, then it raises the cost of future unilateral actions. From this perspective, the UNSC may not have failed at all. Second, a multilateral compromise could have been achieved that would have given other states more control over the intervention. Depending on the outcome, this might have been perceived as a failure or as a success. Regardless of this, the demands on institutional design are clearly different from the Sudan case. For example, whereas China has, despite some recent changes, not been a major contributor to collective actions, it is obviously a necessary participant in evaluating the political expedience of an intervention.

What institutional reform is necessary, then, depends strongly on what function we expect the UNSC to perform. One could argue, for instance, that a body that decides by weighted majority rule and that would consist of only democratic states, would be respected more in the US and hence could impose greater constraints on it (greater value of M in figure 2). Yet, it is unclear why we would expect such a body to respond more effectively to global crises. Moreover, a majoritarian body runs the risk of making itself irrelevant by making decisions that are not enforceable.

The main implication for the institutionalist literature is the need to go beyond the 'power also matters' approach towards institutional design. If power matters, then it should be modeled explicitly, rather than separated from the effects of institutions. This chapter has illustrated some extremely simple ways to do this. I would contend that the toolkit of formal models is very suitable to explicitly model the impact of power asymmetries. In game theoretic terms, power resides in the ability to commit oneself. This is not mere "cleverness" (Krasner 1991), but may stem from having the military capacity to pursue interventions unilaterally. At the same time, power does have other sources, such as the ability to raise audience costs, ability to delay, and specific institutional features such as agenda-setting or veto power. How

formal institutional power transfers into actual bargaining power should be higher on the agenda of institutionalist research.

More generally, the analysis points to the limits of the impact that institutional reform and design have when decisions need to be self-enforcing and non-institutionalized power asymmetries matter. When we take into account the interaction with its external environment, the stakes for institutional reform appear to be much lower than when we lock ourselves up inside the UNSC. This may explain, for instance, why the push for institutional reform comes primarily from high-level bureaucrats within the foreign ministries of countries such as Germany and Japan, rather than from the executives of those countries. The bureaucracies may care a great deal about the prestige attached to formal membership, while the executives care more about actual influence and may be wary of the additional responsibilities attached to permanent membership.

While the impact of institutional design is constrained, the particularities of formal institutions are certainly not completely irrelevant. Outcomes realized through multilateral institutions look different from outcomes that are not, though not in ways that we can understand without a proper analysis of power asymmetries and enforcement problems. Moreover, the current decision-making procedures do contain certain inefficiencies that increase the chance for bargaining failures and lead to an underproduction of public goods (peace). Nevertheless, the benefits of clever constitutional engineering will likely be relatively small both for the production of public goods as well as for the private interests of individual states.

Notes

An earlier version of this paper was presented at the workshop Assessing Multilateralism in the Security Domain, Delphi, 3-5 June 2005. I thank the participants at that workshop, especially Dimitris Bourantonis and Arturo Sotomayor, for useful comments and suggestions.

- 1 This exclusion was formalized in the Charter through the so-called Enemy Clauses, which have never been repealed.
- 2 For extensive analyses of the history of UN reform, see Bourantonis (2005) and Luck (2003).
- 3 Friedman, T. (2003) 'Vote France off the Island,' *New York Times*, 9 February 2003.
- 4 These precise words are from a speech given at the Banqueting House, Whitehall, London, 10 February 2005 (<http://www.una-uk.org/10feb05/sgspeech.html>) and refer explicitly to a similar statement in his 4 December 2003 UNGA speech in which he installed the Panel.
- 5 See the 2005 *World Summit Outcome*, the 2000 *Millennium Declaration*, and the *Declaration on the Occasion of the Fiftieth Anniversary of the United Nations* from 1995. The 2005 text reads (point 153): "We support early reform of the Security Council – an essential element of our overall effort to reform the United Nations – in order to make it more broadly representative, efficient and transparent and thus to further enhance its effectiveness and the legitimacy and implementation of its

- decisions. We commit ourselves to continuing our efforts to achieve a decision to this end and request the General Assembly to review progress on the reform set out above by the end of 2005.”
- 6 As Brian Urquhart writes, on the High-Level Panel report: “In the past many excellent and forward-looking ideas have died a dismal death being torn to pieces by junior diplomats in the committees of the General Assembly” (Urquhart 2005: 185). From the UNGA session following the 2005 World Summit, there is little evidence the High-Level Panel report will experience a different fate.
 - 7 For example, by assuming that states engage in “role-oriented” behavior and hence are not opportunistic (Frederking 2003).
 - 8 This statement is based on conversations with various long-time participants in negotiations over UN reform. The latter part of the statement holds especially for countries such as Mexico and Argentina, who would prefer not to have Brazil become their permanent representative but at the same time see little benefit in obtaining an institutional position that would likely bring them into unwanted conflict with the US, given that domestic public opinion would likely force these countries to frequently offer resistance to US initiatives.
 - 9 For Japan, see Law Concerning Co-operation for United Nations Peacekeeping Operations and Other Operations (the International Peace Co-operation Law) originally passed in June 1992. For Germany, see especially the ruling by the *Bundesverfassungsgericht* [Federal Constitutional Court] 90, 286, 12 July 1994.
 - 10 For instance, having voted against the war became a serious liability for 2004 Democratic presidential candidate John Kerry.
 - 11 Even though the nature of the anarchical environment in international politics differs from that of a market, international relations theorists have long recognized that the existence of transaction costs and asymmetric information provide a compelling *raison d'être* for international institutions (for an overview, see Martin and Simmons 1998). As such, scholars have used the tools of contract theory, in particular principal-agent theory, to explore if, when, why, and how states delegate authority to IOs (e.g., Pollack 1997, Nielson and Tierney 2003).
 - 12 There is some debate as to the legal standing of this (Blokker 2000).
 - 13 This paragraph is adopted from Voeten (2005).
 - 14 A fixed burden-sharing system was put in place in 1973 by UNGA Resolution 310.
 - 15 I have taken some liberties in interpreting Maggi and Morelli, who argue that the EU uses qualified majority rule on issues that are less “important.” I believe that the enforcement interpretation more accurately reflects their formal results and the data.
 - 16 The ICJ receives one mention, on page 12, acknowledging that “disputes were remedied under the International Court of Justice.”
 - 17 UNSC Resolution 1373, 28 September 2001.
 - 18 For example, on the application of the self-defense concept in Resolution 1373, see Farer (2002).
 - 19 For a discussion of how vote buying may alter this, see Voeten (n.d.).
 - 20 We may show how this benefit arises endogenously either from domestic interactions or from reputation effects through repeated interactions, but such an analysis would contribute little to the issues at stake here and unnecessarily complicate matters.
 - 21 The most forceful UN resolutions were adopted only after the US threatened to unilaterally lift the arms embargo against Bosnian Muslims (see Christopher 1998).
 - 22 The authorization of KFOR after the intervention had taken place. This is a somewhat different case from the others.
 - 23 They only matter if the new veto power’s ideal point is smaller than M. For more, see Voeten (2001).

24 For example on Russia, see Bourantonis and Panagiotou (2004).

25 For a formal analysis of this argument, see Voeten (2001).

26 'Igor Ivanov rectifies mistakes of Americans', *Izvestia*, 12 March 1999.

27 'Russia is already participating in NATO operations in Balkans'. *Izvestia*, 10 March 1999.