The UN Enforcement of Chapter VII and the UN Security Council

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Abstract

The Security Council has been criticized for failing to suppress acts of aggression. Some argue that this is due to the lack of the permanent UN force in Chapter VII of the UN Charter. How have these Articles, designed to give the Council authority and power fallen into abeyance? The paper examines whether, or not, the enforcement Articles of Chapter VII of the UN Charter and the Security Council, are fit for their current role. Through secondary sources the paper examines: The UN and it’s Charter; Chapter VII of the Charter; The Military Staff Committee, and; The Security Council. The paper concludes that: The Security Council’s role falls short of that originally anticipated; Original enforcement plans were for standby arrangements only; UN members now choose to ignore their standby force commitments, under Article 43, and the Uniting for Peace resolution; The Security Council is perceived as being dominated by the US; The Council requires reform to make it more representative of UN membership and more accountable; The Charter is a treaty and it is technically illegal for UN members and the Security Council to exercise their powers outside the Charter; If global civil society now demands that the Security Council conducts Preventive diplomacy, Peace-building, Peace-making, Peace-keeping and Peace-enforcement, then the UN Charter requires amendment.

Key Words: UN, UN Charter, UN Security Council, Military Staff Committee, Chapter VII

I. INTRODUCTION

Since it was formed in 1945 the UN Security Council has been subject to frequent
criticism. As the organ specifically responsible for international peace and security, it has been criticized for failing in its purpose to suppress acts of aggression. Recent examples of unfulfilled expectations have occurred in Rwanda, Somalia, Croatia and Bosnia. The extension of operations beyond the traditional UN peacekeeping tasks of the Cold War has proved more complicated and dangerous than some had imagined. ‘Those who drafted the Charter had in mind wars between states but today’s enormities most commonly occur within states. This is a grey area both in law and practice. But in recent years it has become commoner to acknowledge that the Charter does impose on UN Members a duty to intervene to stop atrocities in certain circumstances.’\(^1\) Some proponents argue that the unfulfilled expectations have occurred due to the lack of a permanent UN force, as stated in Article 43 to Chapter VII of the UN Charter. They claim that ‘Such a force would have an international legitimacy that the present ad hoc arrangements lack. Therefore any nations which, under the most severe international pressure, accepts the need for a UN force should have to accept the composition as agreed by the UN, representing the international community as a whole.’\(^2\)

As the UN enters into the 21\(^{st}\) century: How is it that the Charter Articles designed to give the Security Council authority and power have fallen into abeyance? How has the role of the Council changed and what are its prospects for the future? If the Articles of Chapter VII, drafted by political leaders more than 50 years ago, are in abeyance, should they now be reviewed?

This paper aims to examine whether, or not, the enforcement Articles of Chapter VII of the UN Charter and the UN Security Council, are fit for the role now demanded of them in qualitative approach. The paper draws on past and contemporary literature on the UN, primarily recent papers from the UN University in Tokyo and previous research papers. The Internet websites of the UN Global Policy Forum and the UN Association in Canada have also partially been used.

The paper is structured into three parts: First part introduces Chapter VII of the UN Charter, wherein Article 42 provides the legal empowerment to the Security Council to

\(^1\) See Peter Calvocoressi, *UN Force for Timor* (Letter to the Times, 17 Sept 1999).
\(^2\) Mary Unwin, Executive Director, Institute of International Studies, *UN Force for Timor* (Letter to the Times, 13 Sept 1999).