

# Responsibility Shirking at the United Nations Security Council: Constraints, Frustrations, Remedies

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## Abstract

The United Nations Security Council is the primary international body in charge of upholding international peace and security. Permanent and nonpermanent member states share in the responsibility to avert great power conflicts and thwart asymmetric disputes, regional instability and civil war, but the former task has priority and the prerogatives and therefore the obligations of the five permanent member states widely exceed those of countries that hold two-year elected seats. The bifurcation of roles nevertheless produces 'responsibility shirking', which weakens Council performance on the latter type of tasks. This article suggests that responsibility shirking is underreported in the literature even though it is well known to diplomatic practitioners. It considers three types of remedies to the situation, arguing that amendments to the UN Charter or the Provisional Rules of Procedure are unlikely, but that piecemeal and pragmatic reform could precipitate a change of mindset. In particular, allowing nonpermanent member states to co-chair the drafting of resolutions is likely to engage all member states in the core business of the Council.

## Policy Implications

- Elected member states (E10) should be engaged in the core business of the UNSC by way of piecemeal and pragmatic adjustment to existing working methods and 'ways of doing things'.
- Permanent member states (P5), which in recent years have indicated they are prepared to charge the former with additional tasks, should facilitate this development.
- The notion of 'shared penholdership', which allows E10 countries to initiate and co-draft Council resolutions, ought to be a test case of such adjustment.
- P5 countries must nevertheless make sure that the quality of resolutions does not suffer and that a collaborative atmosphere at the UNSC is maintained.

The United Nations Security Council (UNSC) is the single international body vested with powers to adopt resolutions binding on all UN member states. The UN Charter specifically assigns the Council responsibilities in the realm of international peace and security, and the latter has since its inception in 1946 gradually elaborated a system of rules and practices that allows it to respond to a wide variety of challenges (Prantl, 2005; Hurd, 2007; Bosco, 2009; Sievers and Daws, 2014). Originally set up as a diplomatic device preventing, mitigating and resolving intergovernmental conflicts, in the late 1940s and 1950s the Council launched what came to be referred to as peacekeeping and, in the early 21st century, extended its activities to counterterrorism and so-called peace building – integrating aid and stabilization measures. While

the Council is widely perceived to successfully execute its 'concert' mechanism – averting great power conflict – it is frequently disputed that the same applies to the 'governance' mechanism, which is supposed to thwart asymmetric disputes, regional instability and civil war (Bosco, 2009; Hassler, 2013). It remains, nonetheless, the world's only international body whose executive is in permanent session (Calvo-coressi, 1985).

Both the ten elected member states (E10) and the five permanent veto countries (P5) are acutely aware of the heavy responsibilities associated with UNSC membership and therefore have incentives to diminish, deflect or shift at least part of that burden (Erskine, 2003; Boulden, 2006; Murray, 2011). As in any system of collective governance, individual states want to be seen as responsible yet will

pursue national interests or outcomes that generate little or no cost and thereby barely contribute to the common cause (Olson, 1965; Claude, 1986). In seeking to limit the substantive or reputational damage that the pursuit of national objectives might have on the collective institution, they often downplay their own influence or divert attention through referral to joint mechanisms that cannot resolve the issue without active political support from individual governments (Sartori, 2005; Press, 2005; Crescenzi, 2007). Actors may also collude in that they accept as reasonable a certain amount of collective 'responsibility shirking' rather than addressing its manifestations and causes.

Regardless of the level of such collusion, the most consequential type of responsibility shirking at the UNSC is arguably that which involves leaving unexploited formal or informal opportunities in a 'chasm' or 'grey zone' of responsibility that exists between E10 and P5 countries. Due to the asymmetric distribution of privileges and duties between the E10 and their P5 counterparts (with much greater emphasis placed on the latter), the chasm itself constitutes the burying ground of virtual and actual diplomatic initiatives that potentially could prevent, mitigate or solve conflicts, or simply improve the inner workings of the Council. The existence of such a chasm, where ambiguity regarding responsibility prevails, is often politically convenient to both sides. But it also reins in creative and pragmatic solutions: all too often E10 countries adopt an unjustifiably passive stance with reference to the greater prerogatives of their P5 counterparts, whereas the latter defer to the sensitivities of their peers and insist that the overall integrity of the UN-based system of international peace and security is paramount.

In a recent scholarly attempt to develop a theory of responsibility in world politics – more widely conceptualized than this article – the authors highlighted the social constitution of international order. In this framework, '[t]he intersubjective understandings that define who has what responsibilities, and the discourses and practices that produce and reproduce them, shape social norms in profound ways' (Bukanovsky et al., 2012, p. 61). This is a promising beginning of a general theory of responsibility in world politics but arguably one that does not fully live up to the promise to account for 'the capacities actors gain from their locations within particular material and institutional structures' (Bukanovsky et al., 2012, p. 77). More specifically, it does not explain the logic of interaction between two categories of actors with starkly different opportunities to assume responsibility in an institutional body assigned to handle a particularly important set of problems: the UNSC.

So far the problems that the UNSC's two-tiered membership generates are better known to diplomatic practitioners than to the scholarly community, for reasons I will outline briefly. But dissatisfaction with the status quo

seems to be growing as geopolitical rivalry is accentuated, with new alignments forming behind measures to reinvigorate an institution many find gridlocked on pressing contemporary problems (Hale et al., 2013). This article seeks to contribute to that debate by examining responsibility shirking associated with the Council's two-tiered membership. It does so by outlining four structural constraints and discussing their sometimes frustrating implications for UN diplomacy, then goes on to analyze three types of reform designed to remedy the problem, two of which demand formal amendments of Council rules. The third reform type is less elusive, since it could take place through an evolving consensus to narrow the gap between the P5 and E10 countries. The article ends by illustrating how some steps have been taken in the latter direction but emphasizes that responsibility shirking is unlikely to be mitigated without a sustained and comprehensive effort by nonpermanent member states for years to come.

### Responsibility shirking in council practice

Why is the problem of responsibility shirking at the UNSC not widely discussed in the scholarly literature? First of all, during the Cold War era this was an institutional body facing much greater problems. The primary entity charged with international peace and security suffered from political obstruction and ideological antagonism that rendered it ineffective, except as an arena at which a rudimentary form of dialogue remained feasible due to the continuous presence of high-level diplomatic representation. Yet the record clearly shows that the Council was underperforming with respect to its mandate to maintain international peace and security and the spirit of the UN Charter. Several intractable conflicts, for instance in the Middle East, Cyprus or West Sahara, were left unresolved despite the Council's extensive prerogatives. As an illustration, while merely 18 peacekeeping missions were authorized between 1945 and 1990, in 2014 alone some 16 simultaneous peacekeeping operations and one police mission were ongoing.

Second, the problem of Council responsibility shirking is consistently underreported because incumbents have had incentives not to criticize the existing chasm between the rights and privileges of the two categories of membership. E10 countries get to serve on the Council for two years at a time only after announcing their candidacies and contesting an election – which until recently normally entailed rivals, as each candidacy is put to a vote in the General Assembly (Malone, 2000). Having successfully secured a two-year rotating seat, the nonpermanent member states are understandably uncomfortable about rocking the boat they just boarded, reversing course to complain of the competencies of the two categories or the rules that underlie the institution. Often the

sharpest objections to the inner workings of the Council were articulated by senior diplomats or UN officials soon after leaving the body. One example is Kishore Mahbubani, a former permanent representative of Singapore, who pointedly remarked that the UN Charter grants the P5 countries 'power without responsibility' and their E10 counterparts 'responsibility without power' (Mahbubani, 2004).

Third, the P5 countries are incumbents in a deeper and more meaningful sense in that they permanently inhabit the Council and realize that action as well as inaction carries consequences. Notably, P5 diplomats hardly ever express complaints regarding the setup and distribution of responsibilities and duties within the Council. Even though the effort to constantly stay informed and produce justifiable positions on a vast array of conflicts and crises throughout the world is very demanding, the five veto countries vigilantly defend their elevated position. Nor do they take lightly attempts to introduce changes they believe might impede the functioning of the Council and the opportunities of the P5 to exert influence on issues of peace and security, globally and in regions where they have stakes and interests (Price and Zacher, 2004). That being said, in their daily practice the P5 countries for the most part demonstrate a serious commitment to the Council and its objectives, especially since it was reinvigorated in 1989–90. In the past 25 years the frequency of Council meetings never reverted to Cold War levels, a trend underscored by the growing number of subsidiary Council bodies (Sievers and Daws, 2014).

But while the UNSC today is operational at a level unthinkable during the Cold War era, the buck rarely stops at UN headquarters in the way envisaged by the drafters of the UN Charter. This is in part due to the recurring geopolitical rivalries of the P5 and other major powers, and in part to the unfinished project of creating a potent UN with a military arm that could intervene in conflicts not engaging the former. Today the UN system of peace and security is reliant on the preparedness of numerous nations to prop it up, and on a complex array of formal and informal arrangements that frequently involves E10 member states as intermediaries between the five veto powers and the wider UN membership (Simma, 2002).

One of several structural constraints producing responsibility shirking along the lines described here is lodged in the electoral process of candidate countries vying for a Council seat. Instead of running on explicit pledges and references to past foreign policy positions, during the Cold War many candidate countries sought the approval of their peers and the P5 countries by signalling their readiness to accommodate salient political or economic interests. The practice of subjecting the General Assembly vote to the logic of a business transaction, in

which the countries offering political support and/or economic aid could enhance their chances of being elected by two thirds of all UN member states, thus undermined the connection to the performance and standing of candidate countries (Malone, 2000; Kuziemko and Werker, 2006; Bueno de Mesquita and Smith, 2010). The P5 countries, whose consent was required for a successful candidacy, did little to stem this development.

The now evolving informal practice of regional groupings to jointly endorse candidates, based on a turn-taking norm that allows most UN member states to serve from time to time, may gradually do away with the 'popularity contest' dimension of the election to nonpermanent seats. Indeed, in the October 2014 elections real competition only applied to one grouping, the Western Europe and Others Group (WEOG), with New Zealand and Spain and defeating Turkey for the two WEOG seats available. As just pointed out, the performance criterion has in reality rarely guided the electoral process (Calvocressi, 1985). If regional peers step up to reinforce collegial monitoring and consultation among Council incumbents and diplomats representing regional groupings, clean-slate elections would not necessarily sever the connection to 'the contribution of Member of the United Nations to the maintenance of international peace and security', as prescribed by Article 23 of the UN Charter.

A second structural constraint producing responsibility shirking can be attributed to the absence of an institutional memory on the part of nonpermanent member states, which in most cases get to practise Council decision making infrequently or not at all (Sievers and Daws, 2014). This is a weakness aggravated by nontransparent working methods and inadequate opportunities for preparation that additionally prevent E10 countries from getting up to speed with the issues presently facing the Council. A recurring complaint is that the 'tourists', as they are colloquially referred to by P5 country officials sometimes, typically require several weeks, sometimes months, before becoming confident enough to engage fully in the work of the Council (Mahbubani, 2004; Hassler, 2013). This means that the five new member states that enter the Council in January each year risk temporarily weakening the capacity of the Council to respond promptly to fast-paced, novel and unforeseen events. The governments of E10 countries can only meet this challenge by rotating back to New York diplomats who served previously at the UN mission, and by attending the 'hitting the ground running' (HGR) program informally organized by the Finnish permanent representation together with NGO experts each fall (author's interviews).

A third structural constraint giving rise to responsibility shirking derives from the asymmetry in information-processing and policy-development capacity between the P5 and E10 countries. According to a 2011 inventory of the Council's own practice there are no less than nine different

meeting formats, ranging from formal, public meetings with TV cameras whereby representatives of UN bodies and nonmembers are given the right to partake in deliberations, to informal meetings of 'other than the whole' – that is, often including the P5 but not all E10 countries (UNSC, 2011). This reflects the information hierarchy of the Council with the P5 at the top of the pyramid, the UN membership at the bottom and the E10 as an intermediate category. The P5, with their accumulated experience of policy development and drafting of resolutions, are therefore in an extraordinarily strong position to articulate and justify elaborate positions regardless of the meeting format. Even though a 'flattening' of the information hierarchy has been visible in recent years, bolstered by new technological means to collect and spread information about conflicts and diplomatic initiatives and experimentation with formats in the Council repertoire, the position of strength that the permanent member states harness is also due to the near-constant flow of information passing between them (author's interviews).

However, the fourth and most consequential structural constraint producing responsibility shirking in Council practices stems directly from the asymmetry of voting rights between the E10 and P5 member states and the bifurcation of behavior that this two-tier arrangement precipitates. Whenever a representative of an E10 member state anticipates a veto from one of the P5 countries, his or her level of engagement is likely to stay low, as is the likelihood that a wider range of opportunities to remedy a given situation are explored (Bailey, 1988; Nahory, 2004). The same is true for each of the five veto countries, wary of pursuing conflict governance strategies that are unlikely to come to fruition or may strain long-term relations among permanent incumbents. For such reasons it makes perfect sense for E10 member states to stay away from contentious issues and focus on rallying support around one or two less salient and more mundane problems during their two-year mandates, in order to be able to score some tangible achievement in addition to the higher visibility in world politics to which nonpermanent member states normally aspire.

The Cold War history of the Council is strewn with examples of responsibility shirking associated with the voting rights asymmetry between the two categories of members, as deference to great power privilege typically rendered E10 countries and the wider UN membership passive when individual P5 governments turned a deaf ear (Boulden, 2006). But a more interesting period to analyze closely is 1990–2014, in the wake of the ambitious intervention in the Cambodia peace process and the reversal of Iraq's occupation of Kuwait (both taking place in 1990). The first ten years of this dynamic period is one in which the P5 countries shouldered an extended understanding of responsibility compared to the Cold War, and during which the E10 continued to rely on the

incumbency of the former on issues of high political salience. In the major conflicts over international military intervention, such as in the case of Kosovo (1998–99) and Iraq (2003), the vast majority of nonpermanent countries seemed to respect great power privilege as inherent to the system.

In the early 2010s, however, the P5 countries repeatedly clashed over the overall approach to conflict governance, but without the E10 countries remaining as passive bystanders. Nonpermanent member states were often as diplomatically involved in the 'Arab Spring' events as were P5 countries; their engagement for democratization, the strengthening of human rights, economic and social development and the Israel–Palestine conflict at times eclipsed that of the latter. Although the main players in Council deliberations prior to the 2011 adoption of resolution 1973 – authorizing the use of 'all necessary measures' in Libya – were the P5, a coalition of industrialized countries this time pushed hard for a 'test' of the responsibility to protect (R2P) principle, if only as a political doctrine (Engelbrekt, 2014). As a result of the subsequent logjam over Syria – partly attributed to Russia and China charging France, the UK and the USA with overstepping the mandate of resolution 1973 – nonpermanent countries began exploring avenues to relax rigidities in the system and allow E10 countries an expanded, preferably concrete role in conflict governance.

The R2P principle is a particularly interesting device that recently provided opportunities to somewhat narrow the chasm between the two categories of members. The outcome document of the UN World Summit of 2005 charged states (primarily) and the international community (secondarily) with a 'responsibility for protecting populations from genocide, war crimes, crimes against humanity and ethnic cleansing, and their incitement' (UN World Summit Outcome Document, 2005). In so doing the conceptual space between the 'concert' and 'governance' mechanisms of the Council was provisionally bridged in that man-made, purposeful atrocities perpetrated against civilian populations on a mass scale were said to represent a threat to the international order, not be left unaddressed. Notably, however, the outcome document also entailed a blanket caveat that allows the 'concert' function to trump its 'governance' sibling. Not only must national authorities be 'manifestly failing to protect their populations', but the Council is only obliged to commit to action 'on a case-by-case basis' (Stahn, 2007, pp. 109, 120).

Had the R2P principle gained wider acceptance it could have ever so slightly circumscribed the prerogatives of P5 countries and remedied responsibility shirking in one important dimension, namely the proclivity to tolerate genocide and mass atrocities perpetrated against civilians on the territory of an individual state. With China

and Russia presently blocking that path with reference to the principle of sovereignty, other mechanisms to incentivize permanent and nonpermanent member states to narrow the said chasm would have to be explored. In the rest of this article three types of transformation are considered: major reform, minor reform and a 'change of mindset' among Council and UN member states.

### Major reform

Depending on the design of a major reform, responsibility shirking is likely to recede or expand as a phenomenon. A larger number of permanently seated, resourceful countries can assume greater responsibility, but potentially also discourage others from engaging in conflict governance. Attempts to expand and reform the Council have been ongoing since the early 1990s, first as an outgrowth of 'An Agenda for Peace' launched by Boutros Boutros-Ghali, UN secretary general at the time. The process gained momentum when the General Assembly passed resolution 48/26, endorsing the proposition, on 3 December 1993. An ambitious round of deliberations aiming to accomplish this lofty goal was subsequently undertaken by the then president of the UN General Assembly, Malaysia's Ambassador Razali Ismail (Freiesleben, 2013).

Razali, working with a team of national diplomats and experts, forged a well-balanced proposal that to this day shapes the debate on Council reform. It was as chair of the 'Open-Ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council' (OWG) that Razali made a lasting mark, not least because his expert team proposed the expansion of the Council by five permanent and four nonpermanent member states. A critical element was that one of either category would be drawn from same regional groupings within which two nonpermanent seats are selected every two years (the Asian Group, the African Group, the Latin America and Caribbean Group, the Eastern European Group and the WEOG). The only exceptions were that Eastern Europe would have one additional nonpermanent seat, and the WEOG two new permanent seats. Other key features were that new permanent members would lack the veto, that original permanent members must pledge to limit their use of the veto, and that a review conference would be held after ten years.

A second round of talks followed in the spring of 2005, when UN secretary general Kofi Annan urged the UN to seek a consensus on a plan called 'In Larger Freedom'. Borrowing several parameters from the Razali proposal in addition to size (24 members in all), Annan's High-level Panel on Threats, Challenges and Change advanced two contrasting options, each apparently

based on strong preferences on the part of a large community of UN member states. Annan's option A suggested six new permanent membership positions and three nonpermanent ones, whereas option B outlined a third category of membership with eight renewable, four-year seats and one additional in the nonpermanent category. The former option resonated with some of the major contenders for permanent Council membership states, spearheaded by the 'G4' countries (Brazil, Germany, India and Japan) widely acknowledged as front runners for an elevated status. The latter option was found to have merit among those who objected to extending great power privilege, insisting that resourceful states must compete for the four-year seats.

With Annan's plan further bifurcating the debating, the approach of the next secretary general was to pursue a compromise solution through negotiations. Complicating the process was the 'Ezulwini Consensus' forged in 2005, according to which African states rejected all formulae under which new permanent members would lack the veto (Swart, 2013). Acting as a facilitator at the helm of a new process, it fell on Afghanistan's ambassador, Zahir Tanin, to renew negotiations on Council reform in 2009. Tanin had come into this role when appointed vice-chair of the OWG and chair of the Intergovernmental Negotiations (IGN) on Security Council Reform during the 63rd General Assembly. Before handing over to his Jamaican colleague in late 2014, Tanin was able to preside over ten rounds of IGN deliberations. In 2013–14 the process suffered from frequent disputes regarding the proper role of the chair, the status of individual documents summarizing the state of play and procedural matters, suggesting that the original momentum had dissipated.

The obstacles facing the IGN process are formidable, primarily because major reform requires UN Charter amendments. A two-thirds majority of the UN membership must endorse any such amendment, which also needs approval from the Council itself, including the deeply vested P5 incumbents. Some expect that a near consensus in the General Assembly could erode the resistance among permanent members. In any case, the latter would inevitably lose relative power as a result of an expanded membership, and most likely clout in world politics at large. The overarching value on the other side of the debate is enhanced representativeness and possibly improved accountability and/or legitimacy, resulting from changes in the global configuration of power since the 1940s (Hassler, 2013). Needless to say, today's Council is reflective of the military, economic and political might of the industrialized Northern hemisphere in the mid-20th century, and neglects the growing influence of major powers in the South.

An important circumstance that the IGN chair can count on to work in his favor is that no single actor, including the P5 countries, wants to be seen as causing



the unravelling of deliberations. As long as negotiations continue and diplomats attend, even countries that clearly prefer the present state of affairs cannot be blamed for blocking the reform process. Meanwhile, many appear to be waiting for a major new initiative to break the impasse and take the negotiations forward, either articulated by small and mid-size member states using creative diplomacy or by some constellation of P5 countries. A numerically significant factor is that the number of African states in the UN today is 54, which means that this continent's views of the Council and the UN at large take center stage.

An often unspoken premise of major reform proposals is that a broader representation of geographic regions would enhance and deepen a sense of responsibility for international peace and security, and that responsibility shirking would therefore recede. However, because the primary advocates and skeptics of reform are great and middle powers, this cannot be taken for granted. By the same token, the reluctance on the part of the wider UN membership to endorse any proposal on the table indicates that many countries hold it equally likely that a new, enlarged Council could become a battle ground of interests between the world's currently most resourceful countries and those whose leverage has grown over the past ten to 20 years.

### Minor reform

A parallel reform agenda that occasionally has been linked to that of a major overhaul revolves around working methods. The UNSC working methods are regulated by the UN Charter, the Provisional Rules of Procedure (adopted at the Council's first session on 9 April 1946) and informal practices that have evolved during seven decades of Council activities. The Provisional Rules of Procedure have been amended five times, yet in most respects endure in their original shape (including the misleading adjective 'provisional' stuck to its name in 1946). But it is the complex combination of entrenched international law, procedural rules amenable to change through consensus at the Council, and more malleable informal practices and 'ways of doing things' that together form the institutional underpinnings of that key UN body.

The functional and procedural weaknesses that follow from, or are laid bare in, the Council's working methods are well known. Minor alterations in practices and 'ways of doing things' could conceivably mitigate responsibility shirking somewhat, but efforts to substantively reform the framework have consistently been resisted by the P5. A longstanding weakness is the lack of institutional opportunities for interaction between Council members and the parties to a particular conflict. Another deficiency derives from the unsatisfactory engagement of troop-

contributing states in the supervision and governance of UN peacekeeping missions (Cunliffe, 2009). A third problem is that the Council system of resource allocation breeds inertia since a formal vote is needed before resources can be transferred from one organizational unit to another. It is clear that the work of several sanctions committees created under chapter VII is much less relevant today than when they were formed, and that the money could be put to better use if the agenda of subsidiary organs was revised more frequently (Keating, 2011).

A few proposed substantive changes in working methods featured in the 1997 Razali scheme (Freiesleben, 2013). If combined they could likely reduce responsibility shirking by enhancing transparency. Among the changes proposed in 1997 were open Council meetings in the beginning of crisis situations, monthly meetings between the Council and the president of the General Assembly and the chairs of its main committees, more frequent consultations between the Council and the chairs of the regional groupings and affected countries, plus distribution of sanction committee meeting protocols to all UN member states. Once on the table, these ideas have resurfaced in subsequent recommendations issued within the OWG and IGN frameworks. The latter two suggestions are today largely integrated into Council practices, whereas the former are still subject to fruitless efforts on the part of Razali's successors.

Interest in reforming existing UNSC working methods has not been widespread among resourceful UN member states, let alone the five veto holders. A 'Presidential Note 507', elaborated under Japanese leadership in July 2006, for the first time rendered transparent numerous practices not regulated in the Provisional Rules of Procedure. Four years later an expanded, updated version was produced by the so-called Small Five (S5) countries (Switzerland, Costa Rica, Jordan, Liechtenstein and Singapore). Dissatisfied with the patchy implementation of the document, in early 2011 the S5 embarked on a more ambitious General Assembly draft resolution. The S5 text, outlining 20 improvements including the sensitive points that permanent members should pledge to always expressly justify their use of the veto and refrain from using it in situations of mass atrocities, was ready to be put to a vote in late 2011. But the P5 countries took issue with the proposal, saying it would prejudice the project of Council enlargement (Chowdury, 2012). When top UN legal experts in the spring of 2012 stipulated that the pledge issue would require a two-thirds majority vote in the General Assembly, the S5 withdrew the draft resolution (Lehmann, 2013).

The latter efforts have nevertheless borne fruit in that non-P5 countries insist more frequently that they should contribute more fully to the work of the Council. Although E10 countries no doubt seek to 'shine' at the

pinnacle of international diplomacy for less than altruistic reasons, another motive is quite likely genuine concern that P5 states are failing to pay sufficient attention to conflict governance. After the thwarted attempt by the S5 countries to canvass support for changes to working methods short of alterations requiring amendments of the UN Charter, 22 countries established the ACT Group (Accountability, Coherence and Transparency). With the exception of Singapore, the ACT Group encompasses the S5 countries and has vowed to take an issue-based, gradual approach to improving working methods, especially in ways that strengthen the E10 countries and the wider UN membership in the work of the Council. This agenda, which is said not to compete with major reform, does not mean that ACT proposals are marginal or mundane (Pace, 2013). For instance, its idea of a merit-based, transparent selection of the next secretary general sparked widespread debate (Lehmann, 2013).

### Changing the mindset

A number of more subtle tendencies in the early 2010s may nonetheless be indicative of a trend that is associated neither with changes in the UN Charter nor with working-methods reforms in a narrow sense, and yet have possible implications for responsibility shirking. One tendency is that when most E10 countries announce their respective candidacies they articulate not just broader goals but specified, tangible objectives for their two-year terms. A second tendency is that nonpermanent member states have, to a higher degree than previously, sought actively to be involved in the early drafting process of Council resolutions, the assigning of chairs to subsidiary bodies and deliberations that frame the future handling of high-profile issues. A third tendency is that E10 countries increasingly utilize informal means to put their views across, sometimes coordinating activities with other nonpermanent members at the Council. Put together, this shows that E10 countries explore opportunities to voice their views – some but not all of which overlap with P5 interests – more strenuously than before. It also explains why they at times become deeply frustrated with an inflexible Council (author's interviews).

In turn, these tendencies may be indicative of a gradually changing mindset within the Council, not least associated with how E10 countries perceive their role in the Council. The practice of holding regular informal meetings among E10 countries that evolved in recent years (though not without interruption) may have contributed to this trend. A second factor may be the growing cohesion within several of the regional groupings, some of which are trying to keep up with accelerating intra-EU policy collaboration (UNSC, 2014b). A third factor is the accentuated great-power rivalry in the 2010s, within but also outside the P5, which is generally understood to

impede the Council's 'governance' function. Instead of remaining passive and accepting that one or several P5 countries prefer inaction, some E10 countries have chosen to exploit their temporary position of authority at the Council to try and move issues forward (author's interviews).

A changing mindset concerning the proper division of labor within, and a slightly adjusted purpose of, the UNSC could evolve in two main directions. One direction is toward an enhanced role for regional organizations under Council auspices (Sievers and Daws, 2014). Much of the necessary infrastructure for such a development already exists in Europe (through the EU, the Council of Europe and the Organization for Cooperation and Security in Europe), Africa (through the African Union and the Economic Community of West African States), and partially in Asia (through the Association of Southeast Asian Nations and the Asia-Pacific Economic Community) and Latin America (through Mercado Común del Sur (MERCOSUR) and the Organization of American States). The growing reliance on clean-slate elections for E10 slots within regional groupings, as well as tighter consultations within regional groupings and between all New-York-based diplomats, should strengthen that connection. In some ways this is a promising development, as it is poised to render pernicious election campaigns obsolete. But, as Stewart Patrick has pointed out, 'burden sharing between the UN and regional organizations can easily devolve into burden shifting, as the world invests unprepared regional bodies with unrealistic expectations' (Patrick, 2014, p. 67).

The second direction is toward a 'procedural flattening' of relations between the two membership categories, so that nonpermanent countries participate more fully in Council affairs. Presidential Note 507, in its current version adopted in July 2010, serves the long-term purpose of potentially redressing the balance between the P5 and the E10 by providing a reform menu. From this menu E10 diplomats can select an area of practice in which to seek to bring about change as a result of a sustained effort. If the S5 proposal for a General Assembly resolution was a grand project wrapped in a foil of humility, the ACT approach breathes patient pragmatism. With reference to the 78 points agreed in Presidential Note 507, E10 members appear well positioned to achieve over time – with the support of the ACT community – a 'quiet revolution' along the lines once envisaged by Secretary General Annan (Müller, 2001).

In fact, Presidential Note 507 and the ACT program overlap in that they are, above all, aspirational documents. The three verbs used most frequently in Presidential Note 507 are 'encourage', 'invite' and 'intend to', leaving no ambiguity that progress relies on the commitment of the E10 and the wider UN community. It is also a document that reaffirms the asymmetry of the original institutional setup, as it acknowledges the centrality of

the Provisional Rules on Procedure for all public and private meetings, and envisages no significant change in how the latter are conducted (UNSC, 2010).

The key areas in which the permanent five veto countries struck a compromise with their nonpermanent counterparts in Presidential Note 507 concern transparency of documentation (especially the protocols of subsidiary bodies), the speaking order in informal consultations, attendance of member-states-elect prior to taking up their seats, wider consultations of draft resolutions, and 'shared penholdership' on draft resolutions between P5 and E10 members (UNSC, 2014). On each of these matters nonpermanent member states will need to be vigilant and consistent in their efforts to wrest influence out of the hands of their permanent counterparts, for the latter will easily revert to their old ways. On the other hand, a change of mindset might actually become entrenched if shared penholdership takes hold as a 'way of doing things'. In one of my interviews a seasoned E10 country diplomat acknowledged as reasonable that P5 countries exert control over the assignment of 'penholders' due to the need to cultivate an institutional memory that only they can sustain. But, he then added, if we accept the full consequences that follow from that, 'what are the others doing there?' (author's interviews).

To be sure, the potential problems associated with shared penholdership should not be dismissed out of hand. One danger is that shared penholdership negatively affects the quality of the resolutions, which constitute authoritative sources of international law and ultimately determine jurisprudential development in this area. Another risk is gradual disengagement of the P5 countries from the drafting process, which in turn might weaken the commitment of permanent member states to the Council and its pivotal function in world politics. A third risk is that serious disagreements between the countries and/or senior diplomats co-drafting a resolution render conflict governance more complex than otherwise, and that severe or repeated disputes undermine a painstakingly established culture of collaboration on matters of peace and security.

In other words, an institutionalized practice of shared penholdership places novel demands on both categories of Council members, demands that must be matched by a renewed understanding of relations between the two. The nonpermanent countries need to demonstrate that they are prepared to carry the weight of responsibility for two years, and accept that their role is to bring in fresh ideas but also that they are likely to be most successful if they can work within established frameworks instead of reinventing the wheel. They should also not be wedded to the notion that a two-year mandate necessarily is enough time to bring about a solution that is in the best interest of the parties to a particular conflict, and that they may have to pass the baton along to the

incoming team. The permanent countries, for their part, need to be attentive to the desires and capacities of individual E10 countries and diplomats to make a difference during their two-year term, yet try and draw on the specific interests and skills of the latter to move a particular issue forward.

On the latter point, though, it may be useful to remind ourselves of the sometimes extraordinary contributions that nonpermanent member states have made historically when it comes to the 'governance' mechanism of the Council, similarly underscoring the point that individual diplomats do make contributions of lasting importance. For instance Lester Pearson, a Canadian diplomat who went on to serve as prime minister of his country, was the main architect behind the concept of peace-keeping in the mid-1950s. Another example is Venezuelan Ambassador Diego Arria, who in the early 1990s pioneered the 'Arria formula' meetings to which outside experts and advocates were invited to discuss specific cases of conflict governance (Sievers and Daws, 2014). A specific contribution toward reducing the asymmetry between the P5 and E10 categories on procedural matters was provided by Japanese Ambassadors Toshiro Ozawa and Kenzo Oshima, who penned the first Presidential Note 507 in mid-2006, and thereby initiated a debate that today expands beyond that of working methods and interrogates the state of relations between the two categories of membership.

## Conclusions

Responsibility shirking at the UNSC is a problem that lacks a comprehensive solution, especially in a short- to mid-term perspective. A 'major reform' option that would entail UN Charter amendments and the enlargement of the Council, in particular by extending the veto to additional permanent member states, remains an unlikely prospect with unclear implications for Council procedure and practice. The P5 members are at best deeply skeptical of large-scale reform, and the same applies to a number of small and mid-sized countries. The G4 countries are the strongest advocates of major reform because they have a direct interest in enhancing their leverage in world politics. Although a sizeable portion of the UN membership is prepared to endorse the latter proposition, in many cases they would only do so under specific conditions such as Council members pledging to relinquish the veto. In sum, there is no majority for a comprehensive and ambitious deal; in turn, that agreement would not necessarily alleviate responsibility shirking at the Council.

To the extent that a significant part of the problem stems from the chasm between the P5 and E10 categories of members, what has been called 'minor reform' might on the other hand be a source of improvement. Working



methods are integral elements of the practices and 'ways of doing things' that shape Council action. A number of changes that would substantively increase the transparency of both procedure and documentation, a more predictable speaking order during Council meetings, as well as frequent use of wider consultations and informal meeting formats, could likely nudge the onus of responsibility toward nonpermanent member states. Unfortunately, however, the decision by the S5 group to withdraw its proposal for amended working methods from the agenda of the General Assembly in 2012 undermined the prospects for the rapid implementation of measures on which many UN member states already agree.

Still, a great number of the adjustments suggested by the S5 and other proponents of working methods reform are now available as a menu of feasible remedies in Presidential Note 507. In conjunction with the ACT constellation gathering 22 countries that support the notion of working methods reform à la carte, this document constitutes an authoritative list of best practices. Because this process is being driven by the nonpermanent member states, it seems only logical that primarily E10 countries will need to mobilize support among each other for realizing these measures, and will help explain to other UN member states how implementation can be accomplished. Nonpermanent states, in other words, cannot let the P5 countries do their bidding or expect that the latter will take full charge of the 'governance' dimension of the inevitably broad peace and security agenda confronting the Council.

Understandably, P5 governments have long viewed their commitments at the Council in connection with an overarching responsibility for international peace and security, generating not just privileges but obligations. On that premise, P5 countries have acted assertively and in unison to protect their privileges as guarantors of the 'concert' mechanism. However, subtle changes in the dynamics between the two existing categories of Council member states, as described earlier, indicate that things may not necessarily stay the same in the future even though sweeping reform is not on the cards. Today there seems to be less acceptance of the proposition that pressing matters of international peace and security fall 'below the radar' of the P5 yet remain 'above the pay grade' of the E10. Furthermore, the latter seem more prepared than before to seek to affect directly the way in which high-profile issues are handled, either in crisis situations or through well-prepared policy initiatives, alternatively drawing on the powers of the presidency, the opportunities provided by the 'Arria formula' or modern means of communication to exert pressure on the Council at large.

In becoming more proactive inside the Council as well as in consultations with the wider UN membership, it would therefore appear that E10 countries will continue

to gently tilt the balance and seek to be more than a fig leaf for UN multilateralism and intra-P5 deals based on the lowest common denominator. As the history of important innovations at the Council shows, E10 countries have always had an opportunity to raise issues that previously were downplayed or ignored, and with regard to which they possess exceptional expertise and/or experience. But, equally importantly, attempts to explore such opportunities in the past only ever succeeded in improving Council procedures and practices when they were followed up by a sustained political and diplomatic effort consisting of well-crafted, constructive and forward-looking proposals. The latter remains to be seen.

## Notes

This article draws on the author's interviews with 20 national diplomats and international civil servants with direct experience of UNSC deliberations, conducted in New York between 2010 and 2014.

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