

## Examination of the effectiveness and limitation of United Nation Security Council, its role in promoting peace and security in international law

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**ABSTRACT:** The most effective way to diminish human suffering and the massive economic costs of conflicts and their aftermath is to prevent conflicts in the first place. The United Nations plays an important role in conflict prevention, using diplomacy, good offices and mediation. Among the tools the Organization uses to bring peace are special envoys and political missions in the field. Peacekeeping has proven to be one of the most effective tools available to the UN to assist countries to navigate the difficult path from conflict to peace. Today's multidimensional peacekeeping operations are called upon not only to maintain peace and security but also to facilitate political processes, protect civilians, assist in the disarmament, demobilization and reintegration of former combatants; support constitutional processes and the organization of elections, protect and promote human rights and assist in restoring the rule of law and extending legitimate state authority. Peacekeeping operations get their mandates from the UN Security Council; their troops and police are contributed by Member States; and they are managed by the Department of Peace Operations and supported by the Department of Operational Support at UN Headquarters in New York.

**Keywords:** Peacekeeping, human rights, conflict prevention, disarmament, mediation, diplomacy

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### INTRODUCTION

Despite all efforts at the international, regional, and sub-regional levels, the international community continues to witness unprecedented amounts of human misery. This is primarily due to some complex and often prolonged conflicts in which initiatives by the United Nations (UN), the international community, and a variety of regional and sub-regional organizations to address the challenges of peace, security, and stability have failed to demonstrate the efficacy of these organizations, which continue to fight for a lasting solution. Every society's current predicament is to achieve a reasonable degree of economic progress, a higher standard of life, and peace at any cost. Without a decent level of peace and security, no society can attain these goals. Peace and security are desirable qualities.

Tactics put in place by international, regional, and sub-regional efforts, the international community continues to witness unparalleled levels of human suffering. The current situation of any society is to achieve a reasonable

level of economic advancement, a greater standard of living, and peace at any cost. No society can achieve these objectives without a reasonable level of peace and security. Peace and security are desirable characteristics. Despite national efforts to maintain and promote peace and security, the international community has not relented in its efforts to ensure that peace and security are at their highest levels in all parts of the world. That the League of Nations was established to promote global peace and security. It failed in its mission, as seen by two world wars that resulted in enormous human and material devastation. In the perspective of the world community, the LON has lost legitimacy. The United Nations Organization was then established to replace the LON, with the primary goals of preserving international peace and security, Boger, (1977). The United Nations (UN) has done a lot to maintain and promote global peace and security through the Security Council Regional organizations, too, contribute to the preservation of world

peace and security. This was recognized, supported, and allowed by the United Nations' founders and charter drafters (UN), and is articulated in Chapter VIII. The Organization of Security and Cooperation in Europe, the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), the North Atlantic Treaty Organization (NATO), an alliance of 26 countries from North America and Europe, the African Union (AU), the Organization of American States (OAS), and others are among these regional bodies.

Kofi, A. A., (2002) *Prevention of Armed Conflict; Report of the Secretary General. UN Publication*, New York P. 36<sup>2</sup> Alan, B., (2000) *The Unfinished Nation*. Mc Graw Hill, Boston Massachusetts, 3<sup>rd</sup> Edn p. 69.

See also Boger, L. W., (1977) *Imperialism At Bay*; Oxford University Press; Oxford p. 263

See also The league existed from 1920 to 1946. The first meeting was held in Geneva, on November 15, 1920, with 42 nations represented. The last meeting was held on April 8, 1946;

Alan, B.; p 160 op. cit p.2

See also Boger, L. W.; P.864 Op cit p. 2

Art. 1(1) *UN Charter*; 26 June 1945. Available at <http://www.UN.org/aboutun/Charter> accessed on 3/4/2013 at 2:03pm

<sup>5</sup>ibid Art. 24

The Security Council has been taking various measures to arrive at its objectives of maintaining peace and security which is its principal task since it was created. Weapons monitoring and checks have been greatly embarked upon, sanctions applied in certain circumstances and military interventions in other circumstances, no fly zone, arms embargo etc. In some instances the Security Council has intervened in a country's territorial jurisdiction with tangible reasons to maintain and promote peace and security while in others, there has been no tangible and objective reason for intervention or interventions to protect the interest of a member (Libya, Iraq). At some instances, the Security Council has had a very tough time in getting a general agreement from its permanent members in intervening. The various interventions by the Security Council or any of the regional or sub regional bodies have been bedeviled by huge financial, material and human loss both at the level of the intervening body and the fighting groups. Mankind's efforts to achieve this have been plagued by terrorism, attack of smaller state (weaker) by bigger and more powerful states. Since the failure of the League of Nations and the creation of the United Nations, the Security Council has always had as task the maintenance of international peace and security. The big issue is that warring situations are still experienced in many parts of the world like Syria, Central African Republic and South Sudan; terrorism in Mali, Somalia,

Nigeria, Kenya etc. There is the quest and stockpile of Weapons of Mass Destruction (WMD) by some countries like North Korea, Iran, Israel, India, and Pakistan that is further rendering Security Council efforts in the maintenance of peace and security more difficult. All these situations and events bring to bear why the writer doubt the effectiveness of the Security Council for maintaining and promoting world peace and security. These and many other questions are the researcher's point of focus.

### **Aim and objectives**

The purpose of this study is to look into the efficiency of the Security Council's functions in sustaining global peace and security, as well as some of the limitations that impede its success. The purpose of this research is to reveal the complete role of the UN Security Council in maintaining and promoting global peace and security. That is, the extent of its commitments in the event of a breach of peace, a threat to peace, or an act of aggression, as well as the essential measures taken in such situations. It is also to investigate the various steps adopted by the UN Security Council to promote global peace and security.

### **Statement of the problem**

The Security Council of the United Nations (UN) since the signing of the UN Charter into law on October 24, 1945, and the assignment of various tasks by various members, the Security Council has been hard at work performing its own role of safeguarding peace and security. Many notions, ideologies, philosophies, and customs have changed as a result of changing human activities, interests, priorities, and time. Some international law scholars believe that members of the Security Council pursue the work given to them in their own self-interest. According to these experts, if the Supreme Court had done her job properly, the world would not be in the position it is in today. The Security Council has faced a variety of problems in carrying out its mandate of promoting and sustaining global peace. Some challenges include Israel-Palestine, Russian-constant unrest, and the number of UN resolutions Israel has ignored or broken international laws. The challenges of Cooperative Security and National Interest, the issue of the veto, which is the largest obstacle to the agreement signed, and the UN Security Council reform issue are also to be addressed. The effectiveness of the UNSC in fulfilling its duties under the UN Charter has been called into doubt by the researcher as a result of these challenges.

### **METHODOLOGY**

This study employs a theological methodology. Relevant provisions of international law, international law text

books, United Nations papers, international law journals, regional instruments, legislation, law reports, resolutions, UN Charter, treaties, protocols, conventions, and online materials are consulted here.

### Literature review

While a considerable number of studies have been conducted on the UN Security Council, they do not address, at least in comprehensive terms, a proper functioning of the Security Council and whether it is succeeding in its mission and to what extent the commission is engaged in her mandated. This literature review focuses mainly on recent material on this topic, including text books, edited books and journals written on peace and security issues of the UN. It also lists relevant articles on peace and security in the UN Charter. Few of such literature will be reviewed below. Oppenheim, L., in his book "The Future of International Law" looks at the present peace and security state of the world today basing his idea on the Charter of the UN. He wrote that the authors of the UN Charter proposed that the organization should seek to save succeeding generations from the scourge of war II understandably, they had in mind avoiding world wars and other large interstate conflicts. Sixty years later, there have been hardly any horrifying wars among the militarily strongest states. This fortunate outcome probably has had less to do with the functioning of the United Nations system than with the perceived costs of interstate war in the nuclear age, and increasing doubts about the economic advantages of conquest. According to this writer, the major threats to international peace and security are radically different today from those anticipated by the framers of the UN Charter. Today, international institutions must be modified to confront two major types of security challenges. The first in the North is terrorist use of weapons of mass devastation (particularly nuclear weapons) in big cities. The second is in the South, where there is internal conflict, state collapse, and consequent personal insecurity; violently oppressive government; and, in some circumstances, the risk of attack by powerful states or neighbours. What worry the most today are these weapons that are frequently being used by terrorist and insurgents. They do not manufacture them. They are manufactured and sold by these big powers and they are obviously used by these inhumane fellows. During situations of breach of the peace, strong and powerful states benefits from the smaller and militarily weaker states and subject them to annexation, according to Roht-Arriaza, (1995), direct control exercised by major powers playing great games in the international community or fighting wars with each other. Nonetheless, the same technological advances that have helped to bring about major power peace have created a new security threat that will grow worse as technology improves and scientific knowledge spreads. This writer

points out that interstate war is generally disfavored by WMD, but the horrific destructive potential of these weapons makes them more attractive for terrorist use by non-state or state-supported actors, and also a vastly greater concern. The main security threats in the rest of the world Oppenheim, L., points out are quite different. According to million people have died as a direct result of civil wars, almost entirely outside the economically most developed countries. This figure does not include the many millions killed in one-sided massacres orchestrated by governments, such as in Rwanda, Argentina, Cambodia, and Uganda under Amin and Obote. By comparison, about 3.3 million people were killed in interstate wars in this period. These three problems are internal war, mass killing by governments, and interstate war and represent the major security risks for much of the developing world, in decreasing order of global severity. These latter problems are indirectly related to one of the early successes of the United Nations system; the promotion and management of mainly peaceful decolonization in Africa, Asia, and the Middle East. The UN Charter was signed by 51 countries in a world with about 60 independent states. Today there are 191 members, half of whom gained independence since 1960. Decolonization filled the international system with new states whose economies and administrative structures were often fragile and underdeveloped. These states have been especially prone to civil war and abusive rule. This author argues that the UN system, or a redesigned parallel or alternative system with some similar basic commitments, is potentially more valuable for promoting peace and security now than it ever was during the Cold War. Whether the UN in its present form is the best body to perform these functions is a difficult question that this research attempts to give a response to. On the one hand, the thrust of what is required to meet the new international security threats runs against two premises of the UN Charter. The Charter sought to regulate interstate relations, but not internal matters such as civil war and its effects, or national decisions about armaments programs. Second, the Charter conceived of the UN as an organization open to all states irrespective of the form of government. This writer argues that some of the new security challenges such as preventing human rights abuses by governments, and authorizing the use of force might be better met by an organization with membership limited to democracies. On the other hand, the UN Charter has proven a powerful yet flexible document. It may be possible to suggest effective solutions to the new challenges within its basic structure. This writer under quote failed to discuss the various means of handling dispute like peacemaking, Peacekeeping and peace enforcement when there is a breach of peace situation.

To proceed, Murphy, J.F., in *The Evolving Dimensions of International Law* had choices for the world community (2010) explains that, as is well known, the primary

motivation of the founders of the United Nations was to create an international institution that would be more effective than the League of Nations was in maintaining international peace and security. Under the U.N. Charter the Security Council is given the primary responsibility for the maintenance of international peace and security, and it was the vision of the founders of the United Nations that the permanent members of the Security Council, especially the United States and the Soviet Union, would continue the cooperation that characterized their actions during World War II and be the backbone for the efforts of the new institution to prevent and, if necessary, to suppress by armed force aggression and other threats to and breaches of the peace. With rare exceptions the vision of the founders has not been realized. To be sure, the record is not one of consistent failure. From time to time various permanent members have played key roles in efforts to meet aggression or threats to the peace.

The High-level Panel's report sets forth a large number of wide-ranging recommendations for possible reform of the United Nations, including structural reforms. Of the recommendations for structural reforms, the one that has received the greatest attention is that the Security Council be expanded along the lines of two possible models. One would add additional permanent members without a veto, along with further term-limited members; the other would add only additional term-limited members. Both would expand the total size of the Security Council to twenty-four members. He also mentioned that The United Nations, sadly, has drifted far from its founding vision. Its Charter neither calls for a democratic council nor relegates the collective use of force to a last resort. It was a wartime document of a military alliance, not a universal peace platform. A key question arising from these developments is where do we go from here? If the permanent members of the Security Council will not fulfil their responsibilities, or at best do so only sporadically, who or what shall enforce the peace? Various possibilities have been suggested. These include, among others, a renewed commitment on the part of the permanent members to fulfill their responsibilities; a greater role for more robust U.N. peacekeeping; greater involvement in peace enforcement by regional agencies, including especially the African Union; an alliance of democratic states, including one with its own institutional military capability; and some combination of these possibilities. He pointed out that the founders of the United Nations recognized the possibility that a permanent member might itself create a threat to or breach of the peace. This writer only pointed out the various shortcomings of the UN Security Council in maintaining peace and security but did not tell us how the problem should be resolved as far as their functions are concerned. He did not say what measures are to be taken if the UN Security Council fail to carry out its responsibility of maintaining world peace and security. In addition, Manusama, K., in his book. "The United Nations

Security Council in the Post-Cold War Era Applying the Principle of Legality. (2006) looks at this topic tracing its roots from the Covenant of the League of Nations, the Kellogg-Briand Pact, and the UN Charter that did not seek to abolish the use of force entirely. Due to the continuing need for force in certain cases, the right to use it was centralized in the Security Council as an exception to Article 2(4) of the UN Charter. Thus, Article 2(4) of the UN Charter must be read in conjunction with other provisions of the Charter, and more specifically the provisions on the collective security system. Collective security developed from the nineteenth century system from the balance of power and coincides with the development of an increasingly strict prohibition on the use of force. Although the collective security system is ultimately characterized by the centralized use of force, it has multiple functions and employs divergent means at its disposal.

According to the writer, the collective security system as laid down in Chapters VI and VII of the UN Charter reflects that both peaceful and forceful means can be employed by the Security Council to maintain or restore international peace and security. Although the UN Charter in its Chapter VI does not contain coercive measures, strictly speaking, it can be regarded as one of the non-military measures available to the Council. Article 42 of the UN Charter authorizes the Security Council to use force on two conditions. First, as noted, forceful Security Council action must be preceded by a determination that the situation constitutes a threat to or breach of the peace or act of aggression in accordance with Article 39. It must be noted that, based on the difference in language between Articles 2(4) and 39 and the political discretion of the Council to make such a determination, there is no necessary link between or identity of the two. Secondly, Article 42 attaches the condition that the Security Council shall consider whether or not measures provided for in Article 41 would be inadequate or have proved to be inadequate before it decides on any military action. However, as the wording of the provision reflects, the Council does not need to apply the Article 41 measures before resorting to the forcible measures under Article 42, as it must be able to act promptly, efficiently and effectively. Thus, having made the determination, e.g. that a threat to peace exists, it can choose to take military action immediately if it considers that measures other than the use of force would not be sufficient to restore or maintain peace and security. The effectiveness of such a system is largely dependent on the means at the disposal of the responsible organ. Article 43 of UN Charter provides for the conclusion of special agreements between the UN and the member states to provide armed forces to take Security Council military enforcement action. The writer notes that, no such agreements have ever been concluded or are likely to be so in the near future. The Cold War animosity and the veto power blocked any

chance of obtaining a consensus on the modalities of a UN standing army. Yet, as Franck notes, when an arm intended to effect an institutional purpose is amputated, the Organization tends to grow a replacement. Peacekeeping is an example of such a replacement, as is the use of force by states following authorization by the Security Council. This hybrid form of the lawful use of force and its resemblance to collective self-defense has sparked much academic debate on the source and nature of such actions. The author did not say in this work of the effects and consequences of collective use of force in international law by the Security Council as a means of maintaining world peace and security. He has also made of the use of the veto power to hamper collective use of force but did not expound on the effect of this veto power in International Law.

Also, another International law erudite on the World stage John Rourke in his book *International Politics on the World Stage*, says the opening words of the UN Charter dedicated the organization to saving succeeding generations from the scourge of war, which has twice brought untold sorrow to mankind. The UN attempts to fulfill this goal by creating norms against violence, by providing debate as an alternative to fighting, by intervening diplomatically to avert the outbreak of war or to help restore peace once violence occurs, by instituting diplomatic and economic sanctions, by dispatching UN forces to repel aggression to act as a buffer between warring countries, and by promoting arms control and disarmament. One way that the UN helps promote international peace and security is by creating norms against violence, and other forms of violence. To accomplish this, the UN works in such areas as promoting the concept of nuclear nonproliferation through the International Atomic Energy Agency, (IAEA) limiting chemical and biological weapons, and promoting rules for the restrained conduct of war when it occurs.

Countries that signed the Charter pledged to accept the principles that armed forces shall not be used save in the common interest and further agreed to refrain in their international relations from the threat or use of force except in self-defense. This writer has given pertinent idea on how peace issues should be managed. He has vehemently rejected the use of force as a means of resolving dispute. This is because no war has ever come to an end without the parties coming to the negotiation table. Providing a debate alternative is the second peace-enhancing role of the UN and some other International Governmental Organizations (IGOs) is serving as a passive forum in which members publicly air their point of view and privately negotiate their differences. This author fails to bring out the various techniques that should be used at the negotiating table to bring peace and security. More so, Brabandere, in *Post-conflict Administrations in International Law* (2009) sees territorial administration under the Trusteeship System established under Art. 81 of the UN Charter as a way to ensure social justice,

economic empowerment and above all bring peace and security to the international community. Interestingly, at that time, Article 24 of the UN Charter, in which UN Members confer on the Security Council the primary responsibility for the maintenance of international peace and security, was seen as the legal basis for the administration of the Colonial Territories. It was argued that the situation presented a threat to international peace and security, and that, considering that the Security Council was given the responsibility to deal with the situation on the basis of Article 24 of UN Charter, that provision was sufficient to authorize the exercise of administrative powers by the UN. This can in fact be seen as an application of the doctrine of implied powers 'which is currently one of the legal bases of Security Council action with regard to the administration of territory.

While the context in which the Trusteeship System was envisaged cannot be compared to the peace-building missions themselves, the purpose of the trusteeship system reveals similarities with post-conflict administrations and reconstruction. The trusteeship system's main purpose was the progressive transfer of former colonies towards independence or self-government. Article 76 of the UN Charter contains the basic objectives of the System: the furtherance of international peace and security, the promotion of the political, economic, social and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence. In addition, encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion, and guaranteeing equal treatment in social, economic, commercial and justice matters for all UN Members and their nationals were main aims of the trusteeship system. Article 39 of the UN Charter 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. But the Security Council in the case of Sierra-Leon failed to see that there was an impending breach of peace and security and did not even give the ECOMOC forces the authority to go keep the peace there when it was demanded. ECOMOC entered on its own authority until when it was succeeding that the Security Council granted her the authority and backdated it.

This article gives the Security Council first the power to deal with a given situation; that is, a threat to the peace, a breach of the peace or an act of aggression and secondly the power to make recommendations to the parties concerned. Operations authorized under Article 39 of the UN Charter the writer says, are therefore, based not only on the Security Council's recommendatory power, but also on the consent of the state concerned. Next to recommendations, Article 39 of the Charter also gives the Security Council the power to decide, after determining a

threat to the peace, a breach of the peace or an act of aggression, to take measures' in accordance with articles 41 and 42 of the Charter examples which obviously do not exclude other measures. If the Security Council considers that the measures provided for in Article 41 would be inadequate or have proved to be inadequate, the Security Council can authorize military action under Article 42 of the UN Charter. Such military action may include such demonstrations, blockades, and other operations by air, sea or land forces, as may be necessary to maintain or restore international peace and security. This article is thus the appropriate legal basis for the military components of peace-building operations and international administrations, as evidenced in the case of Afghanistan mentioned above, in which the military and civil missions were established under distinct resolutions. The latest operations in which the UN was invested with far-reaching administrative competences were all authorized by the Security Council. Nevertheless, the question whether the General Assembly is competent to authorize the establishment of a peace-building missions is still relevant to a certain extent, given that several precedents were established by the General Assembly. This was the case with the administration of West Iran, the 'Council for Namibia' and the proposed administration of Jerusalem. One has to keep in mind that the circumstances of the specific case will directly influence the establishment of administrative missions by either the General Assembly or the Security Council. The UN Charter specifies that, besides the general functions entrusted to it, the General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both. Article 11(2) of the UN Charter further states that the General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Accordingly, with regard to its capacity to deal with a situation, the General Assembly is competent to discuss all matters relating to the maintenance of international peace and security, and to make recommendations in that regard, except when the Security Council is exercising the functions assigned to it by the UN Charter in respect of that dispute or situation. This author has not pointed out here how the world will look like if the UN Security Council fails to determine a situation as a threat to the peace, breach of the peace or acts of aggression. Furthermore, Caffisch, (2007) tries to look at the way the Security Council manage peace and security in the world by referring situations to the International Criminal Court.

Article 13(b) of the Statute gives the Security Council an express power to refer cases to the Prosecutor in a situation in which one or more of such crimes appears to have been committed. This is one of the ways in which the Prosecutor may be seized of a case under the Statute. Article 13(b) of the Statute requires that the Council resolution making the referral has to be adopted under Chapter VII of the UN Charter. In order to adopt a Chapter VII resolution, the Security Council must make an Article 39 determination that a particular situation constitutes a threat to, or breach of, the peace or act of aggression. What this means is that the Security Council must make an Article 39 determination that the commission of these crimes either in themselves or as part of a broader situation constitutes a threat to, or breach of, the peace or act of aggression, and as such that a referral to the Prosecutor is necessary. This links the peace and security mandate of the Security Council to the justice mandate of the ICC. As such, this may potentially constitute an impediment to the independent functioning of the ICC. In fact it is unclear why Article 13(b) obligates the Security Council to have to adopt a Chapter VII resolution, as opposed to a non-Chapter VII resolution, in order to make a referral to the Prosecutor. If it was to ensure that the referral decision would be subject to the power of veto of the permanent members, then it was not required as a matter of United Nations law. The power of veto over Security Council decisions pertains to all nonprocedural matters, in accordance with Article 27(3) of the Charter. The writer stresses that it is inconceivable that a non-Chapter VII decision by the Council to refer a situation to the Prosecutor for consideration for prosecution could be characterized as a matter of Security Council procedure, and thus not be subject to a veto. The reason why this Chapter VII requirement is being questioned by this writer is that it raises the specter of whether the Security Council will be willing simply to accept a decision by the Prosecutor or even possibly the Court not to proceed with a trial of at least one person from the situation that has been referred. The ICC Statute has raised the stakes by requiring a Chapter VII decision and thus, arguably, raised the expectation of members of the Security Council that effective action in the form of a prosecution or at the very least an investigation will follow. This writer leaves a loophole of what will happen if the ICC does not see any reasonable evidence to try the matter referred to by the UN Security Council.

In addition, Roht-Arriaza writes that in 1970, the U.N. General Assembly in a resolution on war criminals and crimes against humanity noted that such crimes were still being committed in various parts of the world and that thorough investigation, as well as the arrest, extradition, and punishment of persons guilty and the establishment of criteria for compensation of victims, were important elements in the prevention of such crimes and in the safeguarding of international peace and security.

It called on states to take appropriate measures to arrest and extradite war criminals and persons who have committed crimes against humanity and to agree that such crimes should not be subject to statutes of limitation. He points out that, three years later, the General Assembly adopted the Principles of International Cooperation in the Detection, Arrest, Extradition, and Punishment of Persons Guilty of War Crimes and Crimes against Humanity. The Principles do establish a duty to prosecute, preferably by the state in which the crimes were committed. They indicate that "crimes against humanity, wherever they are committed, shall be subject to investigation and the persons against whom there is evidence . . . shall be subject to tracing, arrest, trial and, if found guilty, to punishment." Roht-Arriaza, N., (1995) leaves us with the dilemma that despite the stringent measures at curbing this inhumane way of treatment of mankind by some individuals the punishment given them is still mild so what harsher method should be added? Over, W., (2004) in his book says in practice, peace and security issues remained the decisive motivation for actual interventions over the past few decades. For example, interventions in Haiti and Kosovo in the late 1990s were decided by the legal justification of peace and security for the region. Humanitarian reasons were viewed only as add-ons. Hence, the debate between global security and democratic aims was not fully resolved in the new century. A dispute of equal importance involved the often-heated discourse among humanitarian interventionists. One faction felt that human rights and humanitarian aid was an entitlement for all, irrespective of whether particular groups or nations were harming their own or other peoples the international community according to him has to intervene for the sake of promoting peace and security. However, these goals are also enhanced significantly, perhaps decidedly, by meaningful attention to the standards set forth in the UN Universal Declaration of Human Rights and its subsequent conventions. He says that prescient observers have insisted, long-term peace and security will occur only when basic inequalities are overcome worldwide. This rather straightforward truth can be realized by following various paths, as long as there is a general acknowledgment that the hitherto opposing factions must work sincerely and consistently for both general approaches.

According to Meray (2010) the fact that the world will enjoy a better peace and security if nuclear weapon is eliminated. He pointed out that in 2009, President Barack Obama declared that the United States was committed to seeking the peace and security of a world without nuclear weapons. He qualified this commitment, however, by stating that This goal will not be reached quickly perhaps not in my lifetime. He also added that as long as nuclear weapons exist, the United States will maintain a safe, secure, and effective arsenal. In a speech to the German Parliament on April 27, 2009,

Steinmeier announced that he shares this vision of peace and security in a world without nuclear weapons, referring to the appeal of the four senior statesmen of January 2009. More explicitly, he called for truly renewing the core of the Nuclear Non Proliferation Treaty, e.g. the nuclear disarmament of the atomic powers on the one side, and the prevention of nuclear proliferation on the other, a verified cutoff of nuclear material, and progress on an international fuel cycle center. This writer points out how on April 27, 2009, the opposition parties the Greens, Free Democrats (FDP), and the Left filed petitions demanding the withdrawal of U.S. tactical nuclear weapons from Europe and ending NATO's nuclear sharing. Their calls were rejected by the votes of the governing CDU-SPD coalition, although Foreign Minister Steinmeier spoke in favor of a withdrawal of all nuclear weapons from Germany.

Belachew (2009) on his part argues that if the interest of the major global players that constitute the P5 of the UN Security Council and champion in international peace and security, how can we understand that they themselves contribute to the perpetuation of the Congolese conflict? He says china began to show its interest in the DR Congo immediately after Laurent Kabila took power. In mid-December 1997 Kabila visited China and announced that the DR Congo government had chosen china as a model for Congo because the Chinese economy is growing rapidly, and it was transforming itself through its own efforts. In 2007 china agreed to lend the democratic republic of Congo \$5 billion to modernize its infrastructure and mining sector. Accordingly, \$3 billion were earmarked for strategic highway and railroad projects, whereas \$2 billion was earmarked to revive Congo's mining sector of copper, cobalt, gold, nickel, uranium and diamonds (Reuters 2007). But at the same time China is one of the leading arms exporters to Congo (Control Arms Campaign 2006). Various business enterprises violate the OECD guidelines for multinational corporations. Of 85 business enterprises that have violated the principles according to a report in 2002, 21 companies are Belgian, 12 South African, 10 British, 8 American, 5 Canadian and 4 each for Germany and Zimbabwe. Various individuals with close ties to Presidents Joseph Kabila, Paul Kagame, Robert Mugabe and Yoweri Museveni of DRC, Rwanda, Zimbabwe and Uganda; Victor Bout (the notorious former Soviet military major who retired from the service in 1993 and became an international arms dealer); and a number of Antwerp-based diamond dealers were reportedly connected to illegal business in Congo (Nzongola-Ntalaja 2004: 17) this writer fails to show in this work how to deal with the permanent five powers who are mandated to keep peace and security and they turn around to put their interest first and thus breach the peace.

To conclude, Dekker, (2001) in his book says that the international community must cooperate in the maintenance of peace and security. He says one of the

first areas where the necessity of co-operative behaviour between States has been recognized is in the maintenance of international peace and security. As a guiding principle, it can be upheld that most of the time most of the States benefit most from a situation of international peace and security. At the same time, he says it should be acknowledged that in exceptional circumstances the international community as a whole will benefit more from (limited) warfare than from a peace situation in which a State is allowed to pose a serious threat to international peace and security; the collective security system of the United Nations (UN) is based on this concept.

He stresses that the concept of the system of collective security is based on the renunciation of force, except in self-defense, on commitment to the peaceful settlement of international disputes and on the obligation to support collective measures, both military and non-military, to defeat any threat to the peace, breach of the peace, or act of aggression.

The Charter provides that disputes shall be settled peacefully in such a manner that international peace and security, and justice, are not endangered and prohibits the threat or use of force by States in their international relations against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the UN. This writer does not bring out in this work why countries continue to amass ammunition especially the very destructive types despite international recognition of collective security. He did not also bring out the way they have committed to eradicate these dangerous weapons.

**Peace making process has a format that makes it very effective for its objectives. It has the following format:**

1. Shared leadership equality; Placing everyone in a peacemaking circle minimizes structural distinctions between victors and vanquished and sets a tone of equal participation and equal capacity to teach and learn among all participants.
2. Visual contacts among all participants at all times-in a circle no one is looking at anyone else's back. It is easier to listen and hear when there are sight and sound lines among participants.
3. Focus; the structure of the circle focuses attention on the participants and task of the circle and reduces distinctions.
4. Connection; the peacemaking circle links all participants to one another encouraging the sense shared effort or common purpose.
5. Respect/accountability; because everyone in the peacemaking circle can see everyone else, disrespectful behavior such as side conversations or demeaning non-verbal actions are discouraged. If it happens, it becomes obvious to everyone in the circle.

6. Input and participants from all; Use of the technique of going around the circle providing each person with a chance to speak ensures that everyone has an opportunity to be heard and reduces domination of discussion by a small number of people.

7. Inclusion; in a peacemaking process, no one feels isolated or left out.

8. Guidelines; Circle participants to meet the needs of the group create guidelines. Guidelines institute a covenant defining how people will interact and share space and time as a group.

Peacekeeping operations are normally set up by the Security Council, the UN organ with primary responsibility for maintaining international peace and security. (<http://www.un.org>). The Council decides the operation's size, its overall objectives and its time frame. As the UN has no military or civilian police force of its own, Member States decide whether to participate in a mission and, if so, what personnel and equipment they are willing to offer.

Under the present structure, this can take considerable time for the actual forces to be authorized and reach their destination. In some cases, peacekeepers have been sent to places where there was no peace to keep. In Sierra Leone while monitoring a peace agreement, contempt rather than cooperation was experienced by UN soldiers who were abducted; some were later killed. In Somalia, the parties repeatedly violated ceasefire agreements, and UN personnel became targets for murder, kidnapping and intimidation. Those who committed these crimes knew well that casualties can undermine support for a peacekeeping operation among the nations providing troops for it. Even in cases where there was a peace agreement, as in Angola and in Cambodia, peace-keepers have had to contend with recalcitrant rebel groups for whom war was a profitable enterprise, since these groups controlled valuable export commodities, such as diamonds, drugs and timber.

While each UN Peacekeeping operation is unique, all Peacekeeping operations have the following common features:-

1. all require the consent of parties involved in a dispute;
2. none can be imposed unilaterally or from outside;
3. none involve military enforcement measures or coercive actions, except in the very limited circumstances of self-defence or defence of civilian populations;
4. all involve the deployment in the field of existing UN staff and of personnel (military and/or civilian) made available to the Secretary-General by governments;
5. all are under the operational command of the Secretary General of the UN; all are deployed to help control and resolve international conflicts or, increasingly, internal conflicts having an international dimension.

The traditional concept of UN peacekeeping, as it was first developed, was to deploy in a 'buffer zone'-separating fighting forces, e.g. in the Golan Heights between Israeli and Syrian forces. Today, its meaning has changed, its role widened and its responsibility broadened. Most of the peacekeeping operations now are multidimensional, requiring each to carry out a variety of functions involving peacemaking and peace-building. The former UN Secretary-General, Kofi Annan, in his 1999 report on the Work of the Organization, thus summarized these functions as follows:

While some traditional peacekeeping operations remain, peacekeepers throughout the decade of the 1990s have been involved in the broader post-conflict peace-building processes associated with the implementation of peace agreements. This involves the return and reintegration of refugees and internally displaced persons, reconciliation, rebuilding judicial systems, strengthening the promotion and protection of human rights, electoral assistance and assistance in rebuilding war-torn political, economic and social infrastructures, as well as more traditional peacekeeping tasks UN, (1993).

Peacekeeping here transcends efforts to stop war and laying down of arms. It goes further to arrange for peace agreements and seeing into its implementation. The peace keepers see into it that the internally displaced persons are repositioned, the refugees are reintegrated, a confident judicial system is restored and above all it is seen that a free, fair and transparent electoral system is put in place that will lay down a strong foundation for a buoyant economy and a political and social equality.

### **Peace enforcement**

Peace enforcement according to Rourke, (2000) is the engagement of the military intervention in its bid to restore peace or to establish the conditions for a Peacekeeping force between hostile factions that may not be consenting to intervention and may be engaged in combat activities. Peace enforcement implies the use of force or its threat to coerce hostile factions to cease and desist from violent actions. Units conducting peace enforcement, therefore, cannot maintain objective neutrality in every instance. They must be prepared to apply elements of combat power to restore order, to separate warring factions, and to return to the environment to conditions more conducive to civil order and discipline.

PE operations normally take place under the principles of Chapter VII of the UN Charter. They are coercive in nature and are conducted when the consent of all Parties to the conflict has not been achieved or might be uncertain. They are designed to maintain or re-establish peace or enforce the terms specified in the mandate. In the conduct of PE, the link between military and political

objectives must be extremely close. It is important to emphasize that the aim of the PE operation will not be the defeat or destruction of an enemy, but rather to compel, coerce and persuade the parties to comply with a particular course of action. The provision of adequate military forces to establish a coercive combat capability is critical to any decision to deploy Alliance forces on a Peace and Security Operations (PSO), Brabandere, (2009).

### **The Role of the Security Council in Promoting Peace and Security in International Law**

The Security Council has been given the mandate by the UN to maintain world peace and security. Its duty to do this stretches through the powers of negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of its own choice. As Article 33(1) of the UN Charter states. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice. This is of great importance since the Charter preaches pacific settlement of disputes before a resort to force. The Charter in Article 42 also gives the Security Council the power to enter into war in another country for the purpose of maintaining international peace and security. The Security Council is also given the powers to monitor and destroy any weapon of mass destruction in the corners of the world to ensure a level of security. The Security Council effort to maintain international peace and security is backed by a greater authority and it always works within this backing else its functions will always be seen as illegal. This body has existed for years; it has done much work and has a lot of successes. This chapter examines the legal basis of Peacekeeping in International Law, the role of the Security Council in International

### **United Nations Security Council Proactive Role in Promoting Peace and Security**

The United Nations Security Council has done and is still doing a lot in the maintenance and the promotion of peace and security in the world. It has intervened in situations where there is the breach of the peace, threat of the peace and acts of aggression in so many instances. It has also taken important measures to regulate and control situations that will threaten or lead to difficulties in the maintenance of peace and security. This topic intends to examine the various efforts the UN Security Council has done to prevent an actual breach of the peace and thus helps in the promotion of world peace and security. This section examines the measures taken

to stop terrorism funding, to ensure disarmament and to promote human rights activities in the world through its agencies and other non-governmental organizations.

### **Measures taken to stop terrorist funding and other activities**

The UN Security Council has not only taken measures to physically confront terrorist and stop their activities in certain instances but has taken measures to see that their atrocities are stopped to ensure that there is security to both human and material property. The Security Council has taken a number of resolutions and conventions to put terrorist and their activities in serious hardship all in a bid to promote world peace and security. The first measure of its kind directed to checkmate terrorist financing was on 28 September, 2001 where in, the UN Security Council adopted Resolution 1373, in which it decided that all States should prevent and suppress the financing of terrorism, as well as criminalize the willful provision or collection of funds for such acts.

This resolution started as a Convention in 1999 and was later adopted by the UNGA in Resolution 54/109 of 9 December 1999. The United Nations Security Council finalized it in to Resolution 1373 (2001) that led to a broader and wider application and a focused follow up of its implementations. It created obligations to signatories of the Convention in the sense that it prohibits any person(s) from directly or indirectly, unlawfully, and willfully providing or collecting funds with the intention that they should be used, or in the knowledge that they are to be used, to carry out an act that constitutes an offense under one of the nine treaties. The convention makes it unnecessary that the funds were actually used to carry out an offense. It also prohibits any act intended to cause death or serious bodily injury to a civilian, or to any other person not actively involved in a situation of armed conflict, when the purpose of such act is to intimidate a population, or to compel a government or an international organization to either do, or to abstain from doing a specific act.

Persons are prohibited from attempting, participating in, organizing, contributing to, having knowledge of, or directing others to commit such offenses. Under no circumstances are the above offenses justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious, or other similar nature.

Seeing in to the enforceability of this Convention, it obligates each State Party to establish the aforementioned offenses as criminal offenses under its domestic law, thus making them punishable by appropriate penalties, including prosecution or extradition. Each State Party shall take necessary measures to establish its jurisdiction over the offenses if such offenses are committed in the territory of that State, on board a vessel flying the flag of that State, an aircraft

registered under the laws of that State or operated by the government of that State, by a national of that State, in the territory of or against a national of that State, against a government facility of that State abroad, in an attempt to compel that State to do or abstain from doing an act, by a stateless person who has his or her habitual residence in the territory of that state, or if an offender is within its territory and there are no other Parties whom have claimed jurisdiction. By the time this convention entered into force in 10 April 2002, it had 173 parties to it and four countries that had signed without ratification. Almost all of these parties have one or more of its provision that are inserted into its laws. This topic examines the Criminalization of terrorism financing, freezing assets of terrorists and terrorist organizations, reporting obligations of countries, prohibiting Weapons and explosives to terrorists and International terrorism check.

### **Criminalization of terrorism financing**

The Convention requires each party to adopt measures so as to establish under its domestic law the offenses of the financing of terrorist acts set out in the Convention and to make these offences punishable by appropriate penalties which take into account the grave nature of the offences. Financing of terrorism is defined as an offense established when a person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they will be used in full or in part, in order to carry out a terrorist act as defined in the Convention. It also pays attention to the manner in which legal entities such as banks are held liable for the financing of terrorist acts. In addition to the commission of the offenses defined in the Convention, the Convention requires the criminalization of attempts to commit these offenses. The Convention requires also that the participation as an accomplice in a defined offense, the organization of such an offense, or direction of others to commit such an offense be criminalized. The intentional contribution to the commission of such an offense by a group acting with a common purpose, under certain defined circumstances, is also to be criminalized. Each State Party shall take necessary measures to establish its jurisdiction over the offenses if such offenses are committed in the territory of that State, on board a vessel flying the flag of that State, an aircraft registered under the laws of that State or operated by the government of that State, by a national of that State, in the territory of or against a national of that State, against a government facility of that State abroad, in an attempt to compel that State to do or abstain from doing an act, by a stateless person who has his or her habitual residence in the territory of that state, or if an offender is within its territory and there are no other Parties whom have claimed jurisdiction. All this is with the intention to stop those

who want to indulge into terrorist activities because they will well be abreast with what will befall them if they do so.

### **Freezing assets of terrorists and terrorist organizations**

The Resolution imposes on states an obligation to freeze without delay funds and other financial assets of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts. The obligation extends to entities owned or controlled directly or indirectly by such persons. The Resolution does not mention the earlier resolutions of the Security Council that established the obligation to freeze the assets of named individuals and entities, nor does it refer to any list of such individuals or entities issued under the earlier resolutions. As a result, the general obligation to freeze assets of terrorists under the Resolution is independent of the regime established by these earlier resolutions. The general obligation to freeze terrorist assets under the Resolution is similar to the obligation contained in the Convention to take measures for the freezing of funds used or allocated to commit terrorist acts. The Resolution and the Convention give considerable latitude to states in the design of an appropriate freezing, seizure, and confiscation regime.

### **Elimination of the supply of weapons and explosives to terrorists**

The requirement that all States refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, in particular by eliminating the supply of weapons to terrorists, has led to take a closer look at the existence of laws or regulations which deal with the export, import, sale, possession, carrying and disposition of weapons and explosives. In this context the implementation of sub-paragraph 2(a) of the Resolution will also depend on the full implementation of Article 15 of the International Convention for the Suppression of Terrorist Bombing.

### **Preventive Activities of International terrorism**

The provision of Art.2 (d) of the Resolution is very crucial. It seeks to —prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their Citizensll. This resolution also calls upon all States to improve their national capabilities to detect, deter, and disrupt illicit trafficking in nuclear materials throughout their territories, and calls upon those States in a position to do so to work to enhance international partnerships and capacity building in this regard. It further urges all States to take all appropriate national measures in accordance with their national authorities and legislation, and consistent

with international law, to prevent proliferation financing and shipments, to strengthen export controls, to secure sensitive materials, and to control access to intangible transfers of technology. But impression is given to the fact that trans-border aspects of terrorism are not dealt with by the domestic legislation of many countries. As in the case of the financing of terrorism, it is observed that criminalization of the acts listed in sub-paragraph 2(d) of the Resolution is one efficient ways to prevent and suppress terrorist acts. Again, it is emphasized that actual or attempted resultant acts of terrorism, within or outside the territory of the State, should not be necessary to constitute the preparatory acts punishable offences attracting severe penalties. Wainwright, (2006)

### **Measures taken by the Security Council to promote disarmament**

The need to live in an environment armament free is one of the objectives of the United Nations Security Council. With the quest by some countries to have very dangerous weapons, the international community and the Security Council in particular has taken many resolutions and conventions to see that countries engage in the reduction of the quality and quantity of armament they possess. This area of the research seeks to examine how the UN Security Council has checkmated the proliferation of Small arms and light weapons, nuclear weapons and knowledge of some of these ammunitions which are mostly used to breach the peace, threatens the peace and commits acts of aggression in various corners of the world.

### **Checkmate proliferation of small arms and light weapons**

The use of small arms and light weapons in conflicts and war has a major bearing on regional and international peace and security and national stability. The alarming dissemination and illicit transfer of such weapons and the serious threat they pose require States to ensure strong and effective supervision of all aspects of trade in such weapons, Wainwright, (2006). The UN Security Council also note the significance of small arms and light weapons as the most frequently used weapons in the majority of recent armed conflicts and thus sees the need to control their production, sale and movement with them. The UN Security Council welcomes efforts and encourages the establishment or strengthening, where appropriate, of sub regional and regional cooperation, coordination and information sharing mechanisms, in particular, trans-border customs cooperation and networks for information sharing, with a view to preventing, combating, and eradicating illicit transfer, destabilizing accumulation and misuse of small arms and light weapons, Wainwright, (2006). It calls on States to eliminate the supply of weapons,

including small arms and light weapons, to terrorists, and demands their cooperation in controlling the traffic in such weapons. The Council has promised to assist in capacity building for host governments if deemed necessary by the Council, and upon request by the host governments, to implement commitments under existing global and regional instruments and to address the illicit trafficking of small arms and light weapons, including inter alia through weapons collection, disarmament, demobilization, and reintegration programmes and enhancing physical security. This resolution stresses the point that states, intergovernmental, regional and sub-regional organizations in a position to assistance in capacity-building are encouraged to do so to enable States Parties to fulfill and implement the Treaty's obligations. It urges United Nations agencies operating in a State or region in relation to which the Council maintains an arms embargo to provide the utmost assistance to the work of relevant sanctions committees, experts groups, peacekeeping operations and other relevant United Nations programmes to checkmate these weapons. The Security Council calls upon states to consider signing and ratifying the Arms Trade Treaty as soon as possible and thus keep to the spirit of the arms deal.

### **Nuclear and chemical Weapons Control Strategy**

After the dropping of nuclear bomb over Hiroshima and Nagasaki and the resultant devastating effect, the international community saw the need to checkmate the production and ownership of such dangerous weapon. Resolutions and treaties have been brought up and so many nations have adhered to them to keep up with the objectives of the regulations drafters and thus ensure the world is in a reasonable state of peace. With the ending of the Cold War in the late 1980s and early 1990s, the threat of a major nuclear exchange receded, and the two major nuclear powers, Russia and the United States, themselves took steps to reduce their nuclear stockpiles, which represented some 98 percent of the world's nuclear weapons Boothby, (2002). By the end of the century, it was estimated that the nuclear stockpiles had been reduced by approximately half, to less than 30,000 warheads Boothby, (2002).

### **Nuclear Non-Proliferation Treaty**

The issue of nuclear non-proliferation has received major attention over the years. The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was adopted in 1968, came into force in 1970, and was extended indefinitely in 1995. The treaty has 187 States Parties, including the original five nuclear-weapon states, but Cuba, India, Israel and Pakistan are not members, Boothby, (2002).

According to the treaty, all States Parties, including the nuclear-weapon states, commit themselves to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control, Boothby, (2002). The non-nuclear weapon states, for their part, undertake not to receive or control any nuclear weapons or other nuclear explosive devices and not to seek or receive any assistance in manufacturing such weapons or devices, Boothby, (2002). In return for this undertaking, the treaty provides for all Parties to facilitate, and have the right to participate in, the fullest possible exchange of Equipment, Materials, Scientific and Technological Information for the peaceful uses of nuclear energy. Boothby, (2002). The latter clause is implemented through the International Atomic Energy Agency (IAEA), situated in Vienna, Meray, (2010). The IAEA is charged with two tasks under the NPT: to assist countries in developing nuclear power and technology for peaceful uses and to operate a safeguards system with a view to preventing a diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. (Art. III (i) of the NPT). The importance of the NPT cannot be over-emphasized. It serves as the anchor of all the efforts to constrain the development and spread of nuclear weapons. At the same time, however, it has aroused significant criticism among some of the non-nuclear-weapon states who have pointed out that, while they have kept their side of the bargain, the nuclear-weapon states have not carried out their undertaking in Article VI and that there are still more nuclear weapons than there were when the treaty was signed in 1968. Boothby, (2002).

The implementation of the treaty is reviewed every five years at a major conference held at the United Nations in New York. The Sixth Review Conference took place in 2000 at a time when progress on disarmament negotiations had been very slow, both bilaterally between the United States and the Russian Federation, and multilaterally in the Conference on Disarmament. Moreover, the US Senate had rejected the Comprehensive Test Ban Treaty, and the declared intention to proceed with a US National Missile Defense System threatened abrogation of the bilateral Anti-Ballistic Missile Treaty with Russia. Boothby, (2002). A breakdown in the Conference would have seriously undermined the credibility of the NPT only five years after it had been indefinitely extended, largely at the wish of the nuclear-weapon states. The Non-Aligned countries continued to press for a convention on nuclear weapons that would contain a specific timetable for their eradication, a demand that the nuclear-weapon states have always stoutly resisted. However, a more central view was taken by the New Agenda Coalition, consisting of Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa and Sweden, and eventually compromises were

reached on meaningful forward action that were acceptable to the nuclear-weapon states. An important element was the acceptance by the Conference as a whole of a call for an unequivocal undertaking by the nuclear-weapon states to accomplish the total elimination of their nuclear arsenals, leading to nuclear disarmament. By this, the nuclear-weapon states reaffirmed their political commitment to the goal of the elimination of nuclear weapons without giving any dates by which that goal might be achieved.

### **Ban on nuclear tests.**

The banning of nuclear testing has been pursued for many years. Although nuclear-weapon technology is now such that warheads can be designed, developed, and manufactured without the need for testing, as time passes the warheads age and doubts arise about their reliability. In some cases, there may also be a need to test trigger mechanisms and other refinements, although much can be achieved in sophisticated laboratory testing. Bans on testing strictly limit qualitative development of nuclear weapons, particularly on countries at the early stages of nuclear-weapons acquisition. There is therefore considerable interest on the part of both established nuclear weapon states and non-nuclear-weapon states in banning tests as a means to curb proliferation. Boothby (2002), the first such treaty was a multilateral convention that prohibited certain types of tests and entered into force in 1963, the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water. This was followed by two bilateral treaties between the United States and the Soviet Union: the Treaty on the Limitation of Underground Nuclear Weapon Tests, which placed a 150-kiloton limit on the yield of an underground explosion (the Threshold Test Ban Treaty), and the Treaty on Underground Nuclear Explosions for Peaceful Purposes (the Peaceful Nuclear Explosions Treaty) Boothby, (2002). But these were not enough. In Article I of the Partial Test Ban Treaty, the parties undertook to conclude a treaty resulting in the permanent banning of all nuclear test explosions. The achievement of such a treaty, with universal membership and of unlimited duration, would be a major contribution to the maintenance of international peace and security. However, despite considerable efforts since 1963 to negotiate a treaty acceptable to all, the goal has so far proved elusive. The principal stumbling block for many years was that of reliable verification, but eventually a worldwide system of on-site inspections and seismic, infrasound, radionuclide and hydro acoustic (Boothby, 2002), stations, and laboratories was devised. One of the major achievements of the United Nations in the nuclear field is the Comprehensive Nuclear Test-Ban Treaty (CTBT), (<http://www.ctbto.org>) which was overwhelmingly adopted by the General Assembly after years of planning, hard work, and lobbying by many non-

governmental organizations (NGOs) that advocate arms control. It was not only an achievement for curbing nuclear weapons but also for halting nuclear contamination of the environment, even by underground testing. In 1996, the CTBT was opened for signature in New York. By Article I of the Treaty, each State Party would undertake not to carry out any nuclear-weapon test or any other nuclear explosion, and would prohibit and prevent any such nuclear explosion at any place under its jurisdiction or control. Article II (Boothby, 2002), provided for the establishment of the Comprehensive Nuclear Test Ban Treaty Organization, based in Vienna, to ensure the implementation of its provisions including international verification of compliance. Article XIV declared that the treaty would enter into force 180 days after ratification by all the 44 states which included all known nuclear weapon-capable countries. The need to obtain ratification by all 44 states is a major bar to the achievement of agreement on the CTBT being translated into a successful Treaty Boothby, (2002).

Both India and Pakistan declined to sign the CTBT in 1996, and in 1998, following a change of party in government in New Delhi, India conducted nuclear-weapon tests. Within weeks, India's tests were followed by those of Pakistan, and so both countries openly acknowledged that they had developed a nuclear-weapon capability. Boothby, (2002). As of the beginning of 2002, 164 states had signed the Treaty and 89 had ratified it. France, Russia and the United Kingdom had ratified, but China and the United States had not. Israel had signed but not ratified, and neither India nor Pakistan were signatories. On October 13, 1999, the US Senate voted 51-48 to reject the CTBT. President Clinton declared, by this vote, the Senate majority has turned its back on 50 years of American leadership against the spread of weapons of mass destruction. According to the opponents, their negative vote was because the treaty was not verifiable, that other countries could not be trusted to implement the treaty faithfully, and that it was fatally flawed. Boothby, (2002). Although not yet in force, the fact that so many of the Member States of the United Nations have signed the CTBT and half the membership has ratified it is in itself a powerful statement of world opinion. While every sovereign state has a right to decide what is in its own security interest, the wide and overt expression of support for the CTBT among the members of the United Nations illustrates the role of the world body in providing a source of political pressure and moral suasion. The United States adopted legislation in 1992 by which it declared a moratorium on nuclear testing. Despite not ratifying the Treaty, the United States has observed its provisions by continuing its moratorium. The principal reason underlying the present US moratorium is that the United States has not needed to conduct any nuclear explosive tests, although by 2002 there was a growing discussion in Washington that tests may be required in the next few years for Scientific and

technological reasons Bennett, (2006).

### **Measures taken to promote human rights activities in the world**

The international community is quite aware that most situations of breach of the peace have been as a result of human rights violation. The human rights of each and every person are so important that so many laws have been enacted to protect and promote them. Various countries have enshrined human rights provisions in their constitutions given the importance it makes to them. The United Nations sees it as a very important aspect of its mission in the area of maintaining and promoting international peace and security. It has done a lot to see that the international community keeps respecting the human rights of each and every person and group Bennett, (2006).

### **Gender based protection**

The UN Security Council seeing the need to protect sexual violence against women during conflicts drafted Resolution 1325 in 2010 to give this gender sensitive human being's special protection and thus promote human rights. This resolution has four pillars that support its goals, they are: Participation, Protection, Prevention, and Relief and Recovery. (United States Institute of Peace)

The resolution calls for increased participation of women at all levels of decision-making, including in national, regional, and international institutions; in mechanisms for the prevention, management and resolution of conflict; in peace negotiations; in peace operations, as soldiers, police, and civilians; and as Special Representatives of the U.N. Secretary-General. (United States Institute of Peace). It calls specifically for the protection of women and girls from sexual and gender-based violence, including in emergency and humanitarian situations, such as in refugee camps. (United States Institute of Peace), the Resolution calls for improving intervention strategies in the prevention of violence against women, including by prosecuting those responsible for violations of international law; strengthening women's rights under national law; and supporting local women's peace initiatives and conflict resolution processes (United States Institute of Peace). As regards the manner of implementation of this resolution, in a statement in 2005, the Security Council called upon U.N. Member States to continue to implement Resolution it through the development of National Action Plans (NAP) or other national level strategies. This NAP process assists countries in identifying priorities and resources, determining their responsibilities, and committing to action. This resolution goes to give more impetus to resolutions 1820, 1888, 1889 and 1960 that had earlier

covered this area. Bennett, (2006). The United Nations Security Council has also done a lot in regulating certain aspects in international law. Some of the other subsidiary functions of the Security Council include;

### **Lack of UN standing Army**

The Council does not have at its disposal any permanent military force. This is a serious disadvantage, especially since command and control of UN operations often devolves on Permanent Members, particularly the United States, further heightening the sense that one, or a few, great powers dominate the peacekeeping process. Brian Urquhart of the Ford Foundation, a former Under-Secretary General, has proposed that the UN construct a small, rapid-response force that could operate completely under UN command and respond quickly to emergency peacekeeping situations. Privately, high-ranking US officials are not opposed to this idea and some Pentagon and intelligence agency planners express a cautious approval. But at the policy level, because of strong Congressional opposition, the Clinton administration opposed such a move. Since the other members of the Permanent Five have reservations of their own, and reformers among the UN ambassadors are lukewarm at best, this particular change is unlikely to emerge as part of the present reform movement. More likely, nations will set aside forces that can be called upon quickly by the UN in emergencies.

### **Discussion on findings**

The researchers has come to take note of some important findings and observations that if proper analyses are not made in terms of the cause of the problems, why the problems and a solution proffered to, will make this research fruitless. Some of the findings and observations arrived at are:

The Council has for a long time been observed to lack means sufficient to fulfill its duty of maintaining international peace and security. For instance, in the aftermath of the war in Iraq launched in 2003, a High-Level Panel, convened by then U.N. Secretary-General Kofi Annan to consider revisions to the U.N. Charter and the Security Council, noted: Decisions taken and mandates given have often lacked the essential components of realism, adequate resources and the political determination to see them through. The Secretary-General is frequently holding out a begging bowl to implement Security Council decisions, James, (2013) Lack of a stand by military is a great problem to the Security Council in instances where it has to carry on prompt actions like the Rwandan genocide incident. This is because Countries usually delay when asked to send soldiers for situations like this. This statement clearly shows how desperate the Security Council needs sufficient resources to meet up with the challenges and

difficulties of maintaining world peace and security. The veto power of the P-5 is not a too good instrument for the UN Security Council if there needs to be transparency, objectivity, seriousness and above all earn international reputation and credibility in the workings of this body. It has often been argued that the use of the veto has blocked the ability of the Council to take effective, timely action to safeguard peace and prevent the massive loss of life. Several delegates argued that it is the duty of the Security Council under the Charter to bring about the peaceful settlement of disputes, and that if one great power could defeat the will of the remaining council members through the use of its veto, that body could not perform its duties as expected. Due to the persistent misuse of the veto power, there has been much delay and sometimes no reaction by the Security Council to circumstances of threats to the peace, breaches of the peace and acts of aggression in the international community. This is witnessed in the 1994 Rwandan genocide and the Syrian crises. The Security Council functioning and structure show the undemocratic nature of this body in the use of the veto power.

Moreover, the paucity of representation from the broad membership diminishes support for Security Council decisions. The international community is quite aware that the present structure of the UN Security Council is obsolete, that it does not provide adequate geographical representation, and that the monopolization of the five permanent seats by the victorious powers at the end of World War II is no longer representative of the political, economic and military realities of the 21st century. Rodriguez, (2010). The whole of Africa as it is has no permanent representation at the UN Security Council. South America too does not have a permanent representative.

Europe alone has three permanent members in the Security Council (Britain, France, and Russia). North America has one (USA) and Asia has one (China). This shows the unfairness and undemocratic nature of this body in terms of representation. One cannot ignore the fact that progress towards reforming the Security Council will be made only if the member states can overcome the constitutional difficulty of amending the UN Charter. Any change in the Council's membership or in the voting power of its members requires the unanimous consent of the permanent five. The main drafters of the Charter, the United States, Britain and the Soviet Union, were not only responsible for the creation of the Security Council's structure but also for the insertion of a procedure for amendment of the UN Charter which requires the consent of the permanent five to any amendment, James, (2013). Article 108 of the UN Charter stipulates that.

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes

by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

This law is of great set back to the UN in general and the Security Council in particular that has been given the primary task to maintain world peace and security and has not been subjected to any reasonable change since it was formed. This means that a member of the P-5 can veto any amendment to the Charter that does not suit her interest. There is no country on this planet earth that is as populated and complex to manage as the UN and more than 90% of these countries have effected some changes in their constitution several times to meet their country's needs. The Brazilian Deputy Ambassador to UN, Regina Dunlop acknowledges this in this statement:

When the UN was created, there were only 51 member states, we have 193 member states. The ratio then was one permanent seat for every ten member state. Now there is only one seat for forty member state. So the number of countries that became part of the organization has evolved fourfold and we still have the same structure, with the same characteristics without diversity and without pro-personality and the same applies to non-permanent members which have had a limited increase in number in 1965 and again the ratio is very far from what is from the beginning. So there is some disconnection somewhere Rodriguez, (2010).

This statement emphasis the fact that the UN laws, its structures and functioning are obsolete and need amendment and the amendments can only be effective with better laws put in place. Persistent internal dispenses has become so common in the UN Security Council pursuit of its mission of maintaining international peace and security if the P-5 members do not have common objective in the dispute. This was seen in Bosnia where the Security Council was unable to prevent the approximately 100,000 deaths and nearly half of the Bosnian population being displaced by the war. Its delayed response, as well as that of the international community, was widely perceived to be unacceptable in the contemporary world. In the final analysis, collective action of the international community, authorized by the Security Council, was executed by a select group of actors; consisting of NATO. The Security Council also executed this unaccepted attitude in, Kosovo, Rwanda and Syria.

## Recommendations

When problems are encountered in the course of a research, solutions abound to be suggested to them in order to meet up with the expectations of the research. The recommendations to the research problems encountered are:

The Security Council has often suffered from inadequate

means to attain its objectives of maintaining international peace and security. This can be solved by pressurizing all the P-5 powers who owe the UN substantial sum of money not to attend UN meetings or not even to take part in Security Council deliberations. Rebel and terrorist group's funds should not only be frozen after they are discovered. They should be sent to the coffers of the UN to help resolve security issues in the areas that are unstable or where there is breach of the peace. More so, there should be the creation of a standing army to aid the Security Council in quick response to breach of peace situations especially since command and control of UN operations often devolves on Permanent Members, particularly the United States. Brian Urquhart of the Ford Foundation, a former Under-Secretary General, has proposed that the UN should construct a small, rapid-response force that could operate completely under UN command and respond quickly to emergency peacekeeping situations James, (2013).

The international community is not at rest with this veto misuse that has dragged so many countries in the world into long periods of instability. It frustrates the Preamble of the UN Charter which stands for world peace. The General Assembly's most important attempt so far to prevent the paralysis of the United Nations in measures of collective security was the Uniting for Peace Resolution of 3<sup>rd</sup> November, 1950. This resolution attempted to counter the hindrance of the Security Council caused by the excessive use of the veto and the negligence of previous recommendations by the General Assembly. Resolution 377 A (V) states that: failure of the Security Council to discharge its responsibilities ... does not relieve Member States of their obligations or the United Nations of its responsibility under the Charter to maintain international peace and security. The General Assembly has not been very active with this measure as it has been used just five times since its adoption in 1950. Why can it not bypass the Security Council and take resolutions that will end the Syrian crisis and any other? It should be prompt at using this resolution. The first time this was used was in the Korean War (1950) and the last time was in the Afghanistan conflict (1980) Hans, (1991). The High-Level Panel highlights the responsibility of states for the welfare of its people as well as the collective international responsibility to protect. The panel confirms the competence of the Security Council to act under Chapter VII of the U.N. Charter when massive human rights violations occur, and urges the permanent members to refrain from using the veto in cases of genocide and large scale human rights abuses. James, (2013). With this strategy, this is going to prevent a situation where all the members must agree in order for an action to be taken. The exercise of the veto should at all times and on all Security Council deliberations and be supported by substantial motivation, explaining the reasons why a resolution would affect the vital interests of the Security Council member in question.

It is preferable that States should explain their motivations directly to the UN membership in the General Assembly Wouters and Ruys, (2005). This is by making it that any use of the veto be finally completed in the General Assembly special meeting. This will make this body more democratic, transparent and give it more credibility.

Increased geographical representation will also mean an expansion of the Council which will give the Council reasonable representativeness, much accountability and better democracy. Although dead log like which countries within the regions would hold the permanent seats and how should they be chosen will come up. But this is not a so much important issue of debate for now. The essential for now should be the will to carry on such amendments. Critics argue that a country will always protect its own interest before others` and it will therefore be difficult for one country to represent a whole region. But every country in a region cannot be permanent members of the UN Security Council. Proponents argue that regional seats are the only way to ensure a more representative, democratic and fair Council and that this will make the Council more legitimate and also more functional.

The first and only reform of the Security Council happened in 1965 when the number of nonpermanent members increased. The main reason for this reform was that the number of the UN Member States had more than doubled and had increased from 51 to 114. Since that reform, the number of the UN Member States has increased substantially again especially because after the fall of the Soviet Union many new members joined the UN. Today, the United Nations has 193 members. This also calls for reforms to meet up with prevailing circumstances of the world. Hans,(1991). The advancement and civilization of the African continent necessitates a permanent seat in the UN Security Council Europe alone has three seats in the UN Security Council while Asia and America have one seat each. The UN Charter should be reformed to checkmate the misuse of the veto power. Either this power is out voted or a reason for every veto is given to, debated and adopted by the General Assembly. There have been some proposals regarding the veto reform ranging from limiting its usage to the vital issues of national security, to its complete abolition, as well as requests for its extension to new permanent members Hans, (1991).

To resolve this issue of disunity in the UN Security Council when it comes to decision making on salient matters, the researcher's humble submission is that the permanent members should endeavour to keep their differences far from the issues of the UN if they want to perform this function well. Members with their personal differences can always unite to take a decision for the sake of maintaining peace and security and after that keep to their differences. Let international interest take

priority over the states national interest. With this they will dispense good service to the international community.

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