

STRUCTURAL VIOLENCE AND THE UNITED NATIONS: HOW THE SECURITY COUNCIL SHIFTS ATTITUDES, EXPECTATIONS AND PRESUPPOSITIONS IN THE INTERNATIONAL COMMUNITY ABOUT THE GULF CONFLICT, 1990-2003

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Expectations, and Presuppositions in the International Community about the Gulf
Conflict, 1990-2003

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DEDICATION

I would like to dedicate this to my parents, my family and my friends, especially Brian Farrell, and the love of my life, Askim.

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ABSTRACT

STRUCTURAL VIOLENCE AND THE UNITED NATIONS: HOW THE SECURITY COUNCIL SHIFTS ATTITUDES, EXPECTATIONS AND PRESUPPOSITIONS IN THE INTERNATIONAL COMMUNITY ABOUT THE GULF CONFLICT, 1990-2003

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This thesis is about the formation and evolution of attitudes, expectations and presuppositions of the international community. It deals with the impact that the United Nations Security Council has on this formation and evolution and the ways in which these developments may be analyzed. It also explores in what ways the realization and analysis of this relationship between the international community and the Security Council can enhance Peace Studies, and the understanding of conflict formation.

The ultimate aim of the study is to demonstrate that the different approaches of the S-CAR and MEDAC programs, when combined, not only support one another, but are mutually aggrandizing.

The declared purpose of the United Nations:

[T]o maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace; To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace; To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and To be a center for harmonizing the actions of nations in the attainment of these common ends.¹

The UN provides the Security Council the authority and legitimacy to fulfill the following mandate in Chapter V Article 24 of the UN Charter:

In order to ensure prompt and effective action by the United Nations, its members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council act on their

¹ Charter of the United Nations. <http://www.un.org/en/documents/charter/chapter1.shtml>, accessed April 1 2011.

behalf. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations.²

² “Chapter V: The Security Council.” *Charter of the United Nations*, un.org; <http://www.un.org/en/documents/charter/chapter5.shtml>, accessed July 5 2011.

CHAPTER 1: INTRODUCTION

Statement of Problem:

The end of the Cold War drastically changed the international system and the expectations of the Security Council. “It had the effect of unleashing the dormant legal authority of the Council and turning it into a great engine for the creation of legal obligations and mechanisms for suppressing armed conflict and dealing with its results, many of which would have surprised even the founders of the United Nations.”³ The expansion of the mechanisms available to the Security Council, as well as the scope of activities that involve the Security Council has a direct impact on the lives and conditions of ever increasing numbers of people around the world. Yet accusations of shirking its responsibility with regard to the vital interests of its members, and more specifically the permanent five members of the Council, has had an impact of the perspectives and attitudes of the Council’s authority and legitimacy. Former Security Council President Kishore Mahbubani states the following:

The work of the Council has been compared to a fire department. The Security Council is supposed to come out and put out the conflicts no matter where they happen. But in practice, the Council’s record is mixed. If it affects Park Avenue, the Security Council reacts. If it doesn’t affect

³ Matheson, Michael J. *Council Unbound: The Growth of UN Decision Making on Conflict and Post-Conflict Issues After the Cold War*. Washington D.C.: United States Institute of Peace Press, 2006, 20.

Park Avenue, in some parts of Africa, the Security Council doesn't react. And these double standards are beginning to be perceived.”⁴

This raises the question: When considering the Security Council's mandated responsibility to maintain international peace and security, how do the actions of the Council affect the attitudes, presuppositions, and expectations of conflict parties and international observers towards the UN system and Council intervention?

Research Method:

The thesis will utilize a mixed methods, qualitative, reflexive, critical realism, editing approach that is “interpretative, flexible, based on meanings and patterns in the texts,” and will also involve one aspect of the template approach, the ‘piori’ basis.⁵ At the same time the Miles and Huberman approach will be incorporated, considering the realistic focus of the approach. “Philosophically, their position is firmly entrenched in realism, hence permitting a consistency of the realist view through from design to analysis.”⁶ The Miles and Huberman approach has three con-current ‘flows of activity’: data reduction, data display, and conclusion drawing/verification.⁷ These activities work in constant interaction with one another and allow for a refinement and evolution of the research and analysis through this interaction. Data reduction is necessary due to the sheer volume of data available on the subject and events. Throughout the data collection process there must be a reduction of this vast amount of information, and some of the

⁴ “The UN Security Council: From the Cold War to the 21st Century.”
<http://www.carnegiecouncil.org/resources/transcripts/4422.html>, accessed August 2011.

⁵ Singleton Jr. *Approaches to Social Reason*, 1993. Ch. 8

⁶ Singleton Jr., 473.

⁷ Singleton Jr., 475.

ways include: “summaries and abstracts, coding, writing memos, etc.”⁸ Miles and Huberman stress that this is integral part of data analysis, the process of ‘what to select and summarize and how this is to be organized.’⁹ Data display is the ways in which data is organized and displayed, and may be “found in the use of matrices, charts, networks, etc.”¹⁰ Data display has “a vital function both during data collection and afterwards, so that you get a feel for what the data is telling you, what justified conclusions can be drawn and what further analysis are called for.”¹¹ Conclusion drawing and verification occurs at the very beginning of data collection, with observations and findings that include “noting patterns and regularities, positing possible structures and mechanisms.”¹² At the same time as this process is unfolding, there should be verification throughout in various forms by “testing their validity and reliability.”¹³

The thesis uses the mixed methods approach due to the particular aim to expand and modify an existing theory through the demonstration of an ‘extreme case’, the idea that if it can work here it will work in other cases, also described as the ‘super realization’, where a “new approach is tried under ideal circumstances, to obtain understanding of how it works before wider implementation.”¹⁴ The Miles and Huberman approach is used due to its focus on trying to understand and take into consideration events and the situations that these events occur in. “We aim to account for events, rather than simply to document their sequence. We look for an individual or

⁸ Singleton Jr., 476.

⁹ Singleton Jr., 476.

¹⁰ Singleton Jr., 476.

¹¹ Singleton Jr., 476.

¹² Singleton Jr., 476.

¹³ Singleton Jr., 476.

¹⁴ Singleton Jr., 476.

social process, a mechanism, a structure at the core of events that can be captured to provide a casual description of the forces at work.”¹⁵ This can be described as a necessity to not only understand the ‘explanatory structure or mechanism’ of events, but to also understand the circumstances that have helped these events to come about.¹⁶

The aim of this dissertation is to investigate and analyze the effect that Security Council decisions and actions have on the attitudes and perceptions of those involved in conflict, and the international community as a whole. The focus of this study on the Security Council is due to its unique position as the zenith of international authority and legitimacy in the maintenance of international peace and security and its scope of involvement.

This research begins examination of the Security Council’s 1990 role in the Gulf War and follows to 2003 with the second Gulf War. The 1991 Gulf War and the 2003 Invasion of Iraq have been described as two separate wars, but to view them as such is a misconception. These two phases, and the long drawn out phase in between, are better described as one cohesive campaign waged through a number of different mediums including direct military action, weapons inspections, and a variety of sanctions. These three separate phases the Gulf War influenced the perceptions and attitudes of the Council, observers, and the expectations of many conflict parties towards the UN system.

The analysis will provide an understanding of the ways that Security Council decisions and exercise of power affect the perceptions and attitudes of the perpetrators, victims, and observers of conflict on an international scale by using Johan Galtung’s

¹⁵ Miles, M. B. & Huberman, A. M. *Qualitative Data Analysis*, 2nd ed. 1994, 4.

¹⁶ Singleton Jr., 475.

theory of the 'violence triangle', with supporting theories on the views of power by Steven Lukes and legitimacy by Ronald Dworkin. Galtung is used due to his enormous contributions to the peace studies field and his focus on the invisible aspects of conflict (the contradictions and attitudes) that reinforce the observable aspects (the behavior). Lukes argues that in order to fully understand the exercise of power one must look at both the observable aspects as well as the unobservable aspects, which can be mutually supporting. Dworkin's work focuses on the unity of values and presuppositions, and how the development of attitudes and presuppositions are based on preexisting values and assumptions. By conducting a discursive analysis, the concepts of structural violence, direct violence, cultural violence, power, value, and legitimacy will be elaborated in the context of Security Council actions and decisions.

Research Design:

This design will incorporate the following methods: a rigorous case study; 'piori' based analysis; critical realism; session and document summary sheets; development of coding categories; the memo method; the interim summary method; the method of data displays; the method for drawing conclusions; and the method for verification.

The rigorous case study will be the study of the United Nations Security Council and the 'extreme case' of the Gulf War in all three phases. The thesis will not only look at scholarly works applying to the theories of Structural violence and subsequent additions and expansions to the theory, but also to specialized theories of examining power, legitimacy, and the unity of values. The case study will also incorporate the

background to the UN, the Security Council, the Council's structure, mandate, mechanisms, and a brief history but perceptions of the Council's legitimacy, authority, and legal role in the international system. The use of this 'extreme case' allows not only the flexibility to make changes as the work proceeds, but involves literature, official documentation and historical review.

The 'piori' based analysis will provide "explicit procedures for generating theory in research, provides a strategy for doing research which, while flexible, is systematic and coordinated, explicit procedures for the analysis of qualitative data."¹⁷ Since one of the purposes of this thesis is to have theories of structural violence, examining power, legitimacy, and unity of values expanded in order to apply them to the UN system, the 'piori' approach is necessary.

Critical realism is a form of analysis that allows for a 'piori' to be studied, and if any misunderstandings or gaps are observed in the situation, it allows for changes or corrections. "If false understandings, and actions based on them, can be identified, this provides an impetus for change."¹⁸ It is described as a hybrid between positivism and relativism, and is well suited when studying historical actions that affect current organizational structures.

A session and document summary sheet is a method of the Miles and Huberman approach, and is used during the data reduction and display process. This method comes after data collection and starts at the data process step. It outlines that "a single sheet

¹⁷ Singleton Jr., 475.

¹⁸ Singleton Jr., 476.

should be prepared which summarizes what has been obtained; who was involved, what issues were covered, relevance to research questions, new hypotheses suggested, implications for subsequent data collection,” document context and significance summary of content, etc.¹⁹

Development of coding categories is another method of the Miles and Huberman approach, and is used during the data reduction and display process. “A code is a symbol applied to a section of text to classify or categorize it. Codes are typically related to research questions, concepts and themes. They are a retrieval and organizing device that allow you to find and then collect together all instances of a particular kind.” First level coding is group of words, second level of coding is grouping the initial codes into a smaller number of themes or patterns.²⁰

Memoing is the method utilized by the Miles Huberman approach that helps with linking extemporaneous ideas with the overall project, and is especially effective when combined with the development of coding categories method. “A memo can be anything that occurs to you during the project and its analysis. A particularly important type gives ideas about codes and their relationships as they strike you while coding.”²¹ It is a method for data reduction and display.

The interim summary method is one of the most useful methods of the Miles and Huberman approach, and is useful for most research projects, especially this one. It is a method that involves all three of the ‘flows of activity’ – data reduction/display, drawing conclusions, and verification. The interim summary is a summary of “what you have

¹⁹ Singleton Jr., 476.

²⁰ Singleton Jr., 476.

²¹ Singleton Jr., 477.

found out so far and highlight what still needs to be found out. Recommended that this is done before you are halfway through the time available.”²² It allows for a refocusing if necessary, and allows for the removal of unnecessary or repetitive data while at the same time creating better organization and display while giving new insights and verifications of old insights.

The method of data display has the “primary function of data reduction” and is also an excellent way of creating outlines, and drawing conclusions.²³ This method will be useful at every step of this project and allow for cross referencing with all other methods mentioned.

The methods for drawing conclusions outlined by Miles and Huberman are vast and numerous, and not all will be useful in this project. The following will be utilized throughout the data collecting and processing stages: “Noting patterns, themes and trends; seeing plausibility (do the trends patterns and conclusions make sense?); clustering data; counting frequency of occurrences; making contrasts and comparisons; subsuming particulars into the general, attempting to discover the factors underlying the process under investigation using matrix displays and other methods to study interrelationships between different parts of data; building a logical chain of evidence; and moving from data to constructs to theories through analysis and categorization.”²⁴

The methods for verification that will be used from the Miles Huberman approach are three: assessing data quality, testing patterns, and testing explanations. Assessing data

²² Singleton Jr., 477.

²³ Singleton Jr., 477.

²⁴ Singleton Jr., 484.

quality will be done through “checking for representativeness, triangulation with multiple sources,” and weighting the evidence.²⁵ Testing patterns will be done by “using extreme cases, following up surprises,” and “looking for negative evidence.”²⁶ Testing explanations will happen due to “ruling out spurious relationships, replicating a finding, checking out rival explanations,” and “getting feedback from informants.”²⁷

Purpose of Study:

The purpose of this study is multifaceted. One purpose was to demonstrate the overlapping between track one theories of conflict analysis and track two and three theories of conflict analysis. S-CAR has traditionally had more of a bend towards track two and three approaches to conflict analysis. MEDAC on the other hand has a tradition of focusing more on track one conflict analysis. Galtung has been widely cited and embraced by scholars working with community and social conflicts, track two and three. Lukes and Dworkin are cited and embraced more so by scholars working with the ideas of power politics and international conflict, track one. But these theories not only overlap, but can and do support and enrich one another. Jean-Pierre Derriennic took the normative perspective when he wrote, “structural violence and personal violence having the same bad consequences for society, if one attempts to reduce the amount of the second without dealing with the first one, one cannot be sure to improve the situation.”²⁸

Another purpose of this study is to explore the unobservable or invisible effects of the Security Council on international conflict. This is an ever increasingly interconnected

²⁵ Singleton Jr., 485.

²⁶ Singleton Jr., 485.

²⁷ Singleton Jr., 485.

²⁸ Derriennic, Jean-Pierre. *Theory and Ideologies of Violence*, 1972. 361.

world, where the European Union blocks the merger of two United States companies or vice versa. This is a world where a subprime mortgage loan fiasco or monetary debt crisis in one country or region has impact on domestic economic and political realities half way across the globe. This is a world where social media has an almost instantaneous and not yet fully understood impact on social, political, and economic realities. This is a world where climate change causes desertification, flooding, and environmental erosion, which in turn leads to displacement, conflict, exploitation, and other catastrophes that pass over borders and beyond regions. The Security Council was designed to put the national interests of the P-5 before the interests of the World in order to prevent another world war. It still operates within the structures placed on it during the Cold War, a very different and less interconnected world. The Council's actions and their observable or visible effects are clear to see, but the unobservable or invisible effects are not so clear. There is no incentive for the P-5 to allow the current Council structure to change or weaken their positions. But if it can be demonstrated that the invisible effects of Security Council action have negative long term implications for national, regional, and international interests, this might cause the Council and specifically the P-5 to act more responsibly and with greater levity.

Limitations of Study:

Due to time restraints I was unable to read all relevant critiques and praise of Galtung, Lukes, and Dworkin. Many in the field of peace studies, including most of SCAR and MEDAC, have had the opportunity to work with the relationship between

conflict, power, values, attitudes, authority and legitimacy. Time limitation did not allow for proper use of such expertise, and therefore restricts the scope of the analysis.

The study is also limited due to the nature of the subject. It will only be able to ascertain how the Security Council's actions impact attitudes, presuppositions, values, and expectations in a general sense. A more detailed analysis would require interviews with parties involved in conflicts and potential conflicts around the globe where the Security Council has taken action, or where it might take action. Due to financial and time restraints, this was not possible.

There is also the issue of bias. While maintaining neutrality is the goal of every analyst and researcher, to be entirely objective is impossible. An effort was made to include as many different perspectives on the theories and conflicts in question, but the study is limited due to the personal bias of the author, and of the authors of the scholarly works cited.

Data Collection:

The data for this dissertation was collected from a variety of sources from multiple libraries, websites, and online journals. Books, articles, and chapters written by and about Johan Galtung, Steven Lukes, and Ronald Dworkin were included. Books, articles, and chapters pertaining to the United Nations and the Security, specifically since the End of the Cold War were also selected. A body of literature dealing with the Gulf War, in all three phases, was collected. Third party literature from the United Nations official website, international newspaper reports, and scholarly blogs were utilized.

Interviews and articles written by or about former and current members of the UN and the Security Council were printed out and referenced. In total over 30 books, dozens of articles, dozens of journals, and over a dozen of interviews were amassed and perused in the course of this study.

Data Analysis:

When initially outlining the framework for this thesis, the original intention was to several case studies of Post-Cold War Security Council interventions. As the study progressed, it became clear, after hundreds of pages of notes from the above mentioned sources, that a multiple case study approach was too ambitious due to time and length restrictions. The focus shifted towards a more watered down

Outline:

This dissertation first contextualizes the origins of the current international system. Chapter two describes the founding of the United Nations, its principles and purposes. The chapter continues with the structures, responsibilities powers, and mechanisms of the Security Council. Chapter two also discusses the rationale behind the construction of the Security Council, and more specifically the reasoning for the permanent five members (P-5) and the veto power.

The third chapter discusses the perceptions of the Security Council regarding authority, legitimacy, and the legality of the Council, both during and after the Cold War. It is imperative to this analysis to establish how the major actors and the international

community as a whole perceived and perceives the Security Council during the past six decades, especially considering the dramatic shifts in the international arena.

The fourth chapter provides the theoretical framework necessary for the analysis of the case study. Galtung's "violence triangle" and the components of structural violence, direct violence, and cultural violence will be discussed. I will also discuss the concept of visible and invisible aspects of conflict. Steven Lukes's radical view of power, especially his Three-Dimensional View of Power and the observable and non-observable aspects of exercising power follow discussion of Galtung's theories. Ronald Dworkin's two reigning principles for the legitimacy of any governing body, as well as the ideas of interpretive reasoning and the unity of values, also provide insight for discussion.

The end of chapter four synthesizes the three theories in a format that gives understanding to the role of power in its observable and non-observable mechanisms. This synthesis illuminates the effect of the "violence triangle" on how structures, behavior, culture and attitudes of violence are impacted, then exploring legitimacy as defined by Dworkin.

Chapter five provides the background to all major actions and resolutions taken by the Council during the Gulf War, and all major events that occurred in their three phases: phase one was the lead up to the War and the expulsion of Iraqi forces from Kuwait, phase two was the long in-between period from 1991-2002, and phase three was the buildup and invasion of Iraq in 2003.

Chapter six applies the theoretical framework to analyze the impact the Security Council resolutions and actions in the Gulf War has on the perceptions of the international community and the participating parties while for comparison keeping consideration of the larger changes and actions of the Council as a whole. The dissertation concludes with a reflections conclusion of what this study proposes.

CHAPTER 2: BACKGROUND TO THE UNITED NATIONS AND THE SECURITY COUNCIL

“The United Nations may not have lived up to all the ambitions of its founders, yet one fact remains clear: it is the only truly global organization in the history of mankind.”²⁹ –
Jussi M. Hanhimaki

The purpose of this chapter is to establish the rationale of the UN and the Security Council’s [“Council”] creation, as well as to outline the vast powers awarded to the Council by the UN Charter. This will provide a more desirable backdrop to the evolving perceptions of the Council by the international community since its conception. It also demonstrates the prodigious differences in the power structures of the UN system, and how the potential for structural violence and contradiction of values is inherent.

The context of the Council’s effects on international perceptions, attitudes, behaviors, and structures is crucial. Questions explored in this chapter include some of the following: why was the United Nations created? What are its purposes and principles? How is the Council structured? What is the Council’s purpose and mandate? What types of powers and mechanisms does it have? How does it decide what is under its jurisdiction?

²⁹ Hanhimaki, Jussi M., *The United Nations: A Very Short Introduction*. New York: Oxford University Press, 2008, Pp. 5.

Origins of the United Nations

The United Nations was founded on October 24th 1945 after the end of the Second World War. The UN replaced the League of Nations [“League”] after the League failed to prevent WWII. Many scholars and analysts agree that the League failed due to a lack of global and United States representation and lack of an incentive for militarily, politically, or economically powerful nations to remain in the organization if their vested interests were at odds with the interests of the League. During the global devastation of the Second World War and the failure of the League, there was consensus to create a new intergovernmental organization that would promote and maintain global peace and security. The victors of the Second World War received incentives necessary to remain in the organization. Fifty-one nation-states formed the initial United Nations following the Second World War. The Preamble to the UN Charter, it declares its purpose as follows:

To save succeeding generations from the scourge of war...to reaffirm faith in fundamental human rights, in the dignity and worth of the human person... equal rights...of nations large and small...to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained... and to unite our strength maintain international peace and security.³⁰

Originally there were six main organs of the United Nations (currently there are five): The General Assembly, which is the main deliberative organ of the UN and consists of representatives from all Member States; the Economic and Social Council,

³⁰ “Preamble” *Charter of the United Nations*, un.org; <http://www.un.org/en/documents/charter/preamble.shtml>, accessed July 5 2011.

which coordinates the economic, social, and specialized agencies work of the UN; the International Court of Justice, which is the principal judicial organ of the UN; The Secretariat, which carries out the day to day work of the UN as assists the other organs; the Trusteeship Council, which had the authority over eleven Trust Territories (however, since the territories by 1994 had gained self-government its authority has been suspended); and the Security Council, which has primary responsibility under the UN Charter for the maintenance of international peace and security.³¹

The Security Council and its structure was the intended incentive to keep the victors of the Second World War in the United Nations and working together. Chapter V of the UN Charter outlines the composition of the Security Council, its functions, and its powers. Chapters VI, VII VIII and XII discuss the specific power and mechanisms available to the Security Council to fulfill its duties and mandate. (This will be discussed in detail below). Chapter I of the UN Charter states that the purposes and principles of the United Nations are:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment of settlement of international disputes or situations which might lead to a breach of peace...based on the principle of the sovereign equality of all its Members...Members shall settle their international disputes by peaceful means...Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of

³¹ “Main Bodies” *United Nations*, un.org; <http://www.un.org/en/mainbodies/>, accessed July 5 2011.

any state...Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state...but this principle shall not prejudice the application of enforcement measures under Chapter VII.³²

The principle that forbids the United Nations to intervene in issues under “domestic jurisdiction” was included to guarantee the sovereignty of individual member states. However, the inclusion of an exception to this principle under Chapter VII and the Security Council’s powers of enforcement is an important aspect of the United Nations structure and will be discussed in detail below.

Structure, Powers, and Mechanisms of the UN Security Council

The United Nations Security Council was designed and structured to attract and keep the victors of the Second World War in the UN as working partners. Chapter V of the UN Charter outlines the composition of the Council. The Security Council consisted initially of eleven members, and in 1965 increased to fifteen. The Charter gave special permanent membership status to the five countries that were seen as the victors of the Second World War: the Republic of China (1945-1971), whose seat was assumed by the People’s Republic of China (1971-present); the Soviet Union (1945-1991) whose seat was assumed by the Russian Federation (1992-present); France; the United Kingdom; and the United States. The Charter also gave these permanent members of the Security

³² “Chapter I: Purposes And Principles” *Charter of the United Nations*, un.org; <http://www.un.org/en/documents/charter/chapter1.shtml>, accessed July 5 2011.

Council, also known as the P-5, a unique status to resolution voting. Article 27 states the following:

Each member of the Security Council shall have one vote. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members.³³

If any of the P-5 vote against a resolution, then it is rejected, or “vetoed”. This was included in the structure of the Security Council in order to guarantee that the P-5 would have the ability to block any collective actions taken against their vested interests. The other ten members of the Security Council are non-permanent members elected by the UN General Assembly for two-year terms, with a turnover of five new members every year.

Framers of the United Nations determined that without the victors of WWII actively involved, the UN would fail like the League of Nations. The logical consequence resulted in great power for the Council, but more importantly for the P-5. Vast powers of the Council include, but are not limited to, the admission of new member states (e.g., the current Palestinian initiative), the acceptance of a new Secretary General, and, with the General Assembly, the selection of the judges of the International Court of Justice.³⁴ Chapter V (Articles 23-32) of the UN Charter, however, outlines the Security Council’s main function as follows:

³³ “Chapter V: The Security Council.” *Charter of the United Nations*, un.org; <http://www.un.org/en/documents/charter/chapter5.shtml>, accessed July 5 2011.

³⁴ Hanhimaki, 33.

The United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf... Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.³⁵

Chapter V also gives the Security Council the authority to establish its own rules of procedure, as well as the mechanisms to set up subsidiary organs to help in the performance of its functions, for example International Criminal Tribunals such as for Rwanda and the former Yugoslavia. Therefore, in conferring upon the Security Council the “primary responsibility” of maintaining global peace and security, the UN Charter grants wide and sweeping powers in interpreting threats to global security, and the mechanisms available to the Council with which to address these perceived threats.

The following references to chapters of the Charter demonstrate the reach of Security Council power. Chapter VI (Articles 33-38), entitled Pacific Settlement of Disputes, gives the Security Council vast interpretive powers to “investigate any dispute, or any situation which might lead to international friction...or situation likely to endanger the maintenance of international peace and security.”³⁶ Chapter VI requires parties in dispute to use investigations, enquires, mediations, negotiations, conciliations, arbitrations, judicial settlement, and local or regional actors as mechanisms to peacefully

³⁵ “Chapter V: The Security Council.” *Charter of the United Nations*, un.org; <http://www.un.org/en/documents/charter/chapter5.shtml>, accessed July 5 2011.

³⁶ “Chapter VI: Pacific Settlement of Disputes.” *Charter of the United Nations*, un.org; <http://www.un.org/en/documents/charter/chapter6.shtml>, accessed July 5 2011.

address conflicts. Thus, if disputes continue after peaceful efforts, Article 35 allows any nation to bring a dispute before the Security Council or the General Assembly. Chapter VI provides the Council with the same types of alternate dispute resolutions mentioned above, but recommendations or resolutions passed invoking Chapter VI are not binding like those invoking Chapter VII.

Chapter VII is the most vital and controversial, chapter pertaining to the Council. The chapter states ambiguously, “Situation likely to endanger the maintenance of international peace and security,” providing the Council with authority to intervene. Since the Council determines the definition of international peace and security, it could justify its jurisdiction and intervention in almost any dispute, and once it has established this authority and legitimacy, it can and has invoked Chapter VII in succeeding resolutions. Chapter VI has been invoked in resolutions where some of the Council members have been reluctant to authorize force. Because of the Chapter’s ambiguity it has led to heated debates over conflicting interpretation, as will be discussed below in the case study.

The articles of Chapter VII provide necessary context of the Council’s powers; below briefly summarizes the contents. The first article of Chapter VII, Article 39 states, “The Security Council *shall determine the existence of any threat to the peace, breach of the peace or act of aggression and shall make recommendations, or decide what measures shall be taken* [italics my own]...to maintain or restore international peace and

security.”³⁷ This empowers the Council to determine on a case by case situation what constitutes a threat, and what actions are possible. Article 39 encompasses the mechanisms of early intervention in political, diplomatic, economic, or military terms.³⁸

Article 40 empowers the Council to “call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable...The Security Council shall duly take account of failure to comply with such provisional measures.”³⁹ The Council has the authority to make any conditions on actors in a conflict under its jurisdiction, and has the power define that jurisdiction.

Article 41 empowers the Council to use non-military mechanisms at its discretion: “May include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.”⁴⁰

Article 42 empowers the Council to use “action by air, sea, or land forces as may be necessary to maintain or restore international peace and security.” Article 43 orders the Members of the UN to “make available to the Security Council, on its call...armed forces, assistance, and facilities, including rites of passage necessary for the purpose of maintaining international peace and security.” Article 44 further supports the powers granted to the Council in Article 43, while Articles 44-47 discuss the Military Staff

³⁷ “Chapter VII: Action With Respect To Threats To The Peace, Breaches Of The Peace, And Acts of Aggression.” *Charter of the United Nations*, un.org; <http://www.un.org/en/documents/charter/chapter7.shtml>, accessed July 5 2011.

³⁸ Luck, Edward C., *UN Security Council: Practice and Promise*. New York: Routledge, 2006, 23.

³⁹ “Chapter VII: Action With Respect To Threats To The Peace, Breaches Of The Peace, And Acts of Aggression.” *Charter of the United Nations*, un.org; <http://www.un.org/en/documents/charter/chapter7.shtml>, accessed July 5 2011.

⁴⁰ “Chapter VII: Action With Respect To Threats To The Peace, Breaches Of The Peace, And Acts of Aggression.” *Charter of the United Nations*, un.org; <http://www.un.org/en/documents/charter/chapter7.shtml>, accessed July 5 2011.

Committee, an organ originally set up to assist the Council with military action but was never fully implemented.

Article 51 guarantees the right of regional defense collectives or sovereign self-defense to be exercised until the Council takes measures to address the issue. Decisions of the Council taken under Chapter VII were not only to be legally binding but enforceable as well.⁴¹ Resolutions invoking Chapter VII have fostered the same types of debates in the Council that Chapter VI has, and these debates are crucial to the analysis of the case study and will be discussed below.

Chapter VIII of the Charter (Articles 52-54) outlines the relationship between the Council and regional arrangements. It states that nothing in the Charter precludes the existence of regional organizations in “dealing with such matters relating to the maintenance of international peace and security” as long as these agencies have Council support and keep the Council informed on their activities in areas concerning peace and security.⁴² Chapter VIII also encourages regional and independent organizations to further ‘peaceful’ mechanisms to help in sustaining international peace and security, while also enabling the Council to utilize such organizations by giving them authority for action under the Council’s discretion. Chapter XII of the Charter (Articles 75-85) pertains to the now defunct International Trusteeship System, and the Security Council’s authority to oversee all decisions made by the Trusteeship.

⁴¹ Luck, 22.

⁴² “Chapter VIII: Regional Arrangements.” *Charter of the United Nations*, un.org. <http://www.un.org/en/documents/charter/chapter8.shtml>, accessed July 5 2011.

In theory, the Security Council has few limits to its power when the P-5 is willing to support or at least not ‘veto’ a resolution. Chapter VI of the Charter gives the Security Council what is described as ‘The Council’s Discretion’.⁴³ Therefore, the Charter creates no limitations on the discretion of the Council in determining what constitutes a threat to international peace or security. The Council’s discretion is guided by no legal precedent, no behavioral standard or guideline when making determinations to invoke their authority.

In fact, one of the most intriguing aspects of the Security Council and its authority is that, there is no judicial review of its decisions or actions. As Michael J. Matheson, a former attorney of the U.S. State Department, whose job was to establish the legal authority of the Council in post-Cold War conflicts has stated:

Decisions under Chapter VII take precedence over other sources of international law. Article 103 of the Charter specifically provides that in the event of a conflict between the obligations of the UN Members under the Charter and their obligations under any other international agreement ‘their obligations under the Charter shall prevail.’ The International Court of Justice (ICJ) has confirmed that this applies to obligations created by decisions of the Council under Chapter VII.⁴⁴

When the Council is faced with a question of legal importance, it can seek advice from the ICJ, but this advice is not binding and the Council can act without responsibility or judicial review. Whereas United Nations member states are limited to the use of force

⁴³ Roberts, Adam, Zaum, Dominik, *Selective Security: War and the United Nations Security Council since 1945*. New York: Routledge, 2008, 14.

⁴⁴ Matheson, 34.

in self-defense only, the Council has no such restrictions. Article 48 gives the Council the authority to impose selective implementation of decisions, being able to require all or some members to take action, as the Council determines. The Charter, however, acknowledges the right of members to self-defense, and it gives the Council authority to act when one member aggressively attacks another. Yet, it does not oblige it to do so.

The Council also has other available possible actions. “Action by Consensus” is when the Council acts without having an official vote as long as none of the members object. This has been used when prompt action was needed and an official vote would have been too time consuming, or politically awkward for a member.⁴⁵ “Delegation of Decisions” occurs when the Council delegates an issue to another body of the UN, a regional or private organization, or to one of subsidiary organs. An example of this is the UN Compensation Commission which was created in 1991 to assess claims against Iraq arising from the invasion of Kuwait.⁴⁶ “Implied Action” is when the Council authorization of action is deemed implied, without explicit authorization. The 1991 humanitarian intervention in Northern Iraq in 1991 was a case of “Implied Action”. “Termination of Decisions” occurs when the Council sets a fixed time limit on a course of action, or resolution, and would require a renewal: a fixed expiration date is included in the resolution and in order to extend the authorization of the resolution, another Security Council vote must be taken. If the vote is defeated, the resolution is automatically ‘terminated’, therefore ending the resolution. A ‘Reverse Veto’ is when there is no fixed expiration date for an action and it is open ended. To terminate an action

⁴⁵ Matheson, 23.

⁴⁶ Matheson, 26.

authorized by a resolution would require another vote in the Council, which could be ‘vetoed’ by one of the P-5 members, therefore extending the life of the resolution.⁴⁷

The use of the “veto” has diminished considerably since the end of the Cold War. In order to “save face” while at the same time controlling the Council’s agenda, the use of the “hidden veto”, also known as the “secret veto” has increased dramatically. The “hidden veto” is the threat to use a veto if a subject is voted upon, and is unusually done in a private non-public setting, with reports of bargaining between P-5 members.

In 1982 the Council voted on procedural matters of voting and agenda setting which included closed-door informal meetings between P-5 members and other non-permanent members. The overall procedural structure designed then is still in place. No public record is kept in these informal sessions, and accusations of coercion, threats, and even bullying have been reported. Former Ambassador Curtis Ward of Jamaica has stated, “The mere presence of the threat of the veto determines the way the Council conducts its business.”⁴⁸ P-5 members use the “hidden veto” to prevent the Council from taking up issues that are deemed to be against their strategic interests, or in the interest of their close allies. “The Council never discusses crises that a P-5 member considers to be within its own exclusive sphere of interest...Chechnya, Tibet, Xinjiang, Northern Ireland, Uganda and Colombia figure among the forgotten conflicts that the Council ignores.”⁴⁹ This is true for many other conflicts as well, the Western Sahara for example. The “hidden veto” is also used to remove language from resolutions that are deemed too

⁴⁷ Matheson, 33.

⁴⁸ Nahory, Celine. “The Hidden Veto.” *Global Policy Forum*, (May 2004); <http://www.globalpolicy.org/component/content/article/185/42656.html>, accessed June 12 2011.

⁴⁹ Nahory, “The Hidden Veto.” *Global Policy Forum*, May 2004.

inflammatory of derogative. And the P-5 members frequently meet in private to agree upon agendas, courses of action or inaction, and support for one another's positions before private procedural meetings occur.⁵⁰ This mechanism of control gives the P-5 an even more distinct advantage in their ability to determine what constitutes a threat to international peace and security.

However, there are also theoretical ways to block the P-5 from decision or address indecision. A first mechanism was included to block decision. To pass a resolution, nine of the fifteen Security Council Members must vote in favor of it, including all of the P-5. Yet, if at least seven of the non-permanent members vote against the resolution, they can block it from being passed. This is known as the "sixth veto", yet it has never been employed in the Council.⁵¹ A second mechanism was developed over sixty years ago to deal with indecision.

When the Security Council was deadlocked during the Korean War Crisis due to the Cold War, the United Nations General Assembly passed on November 3, 1950 Resolution 377, also known as the "Uniting For Peace" resolution:

If the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of peace or act of aggression in the use of

⁵⁰ Nahory, "The Hidden Veto." *Global Policy Forum*, May 2004.

⁵¹ Hanhimaki, 52.

armed force when necessary, to maintain or restore international peace and security.⁵²

The “Uniting for Peace” resolution created the mechanism of the “emergency special session” (ESS), and can be initiated through a procedural vote in the Council (a straight vote, the P-5 cannot ‘veto’) or by a request from the majority of the General Assembly. In practice, it has been utilized ten times, most notably in the Suez Crisis of 1956, but it cannot remove or revoke existing Security Council resolutions.

Some UN reports make specific reference to the Uniting for Peace resolution as providing a mechanism for the General Assembly to overrule any Council vetoes. The argument is that the international community can “seek greater recourse...for those members who cannot find due justice in the Security Council.”⁵³ However, such resolutions, during the Cold War and after, have not been able to carry the necessary authority to outweigh a defiant P-5 member. In theory, the Uniting for Peace resolution provides the UN with an alternative to authorizing and legitimizing force when the Council is perceived by the majority of the international community to be shirking responsibility for the maintenance of peace and security. However, in practice very little has been accomplished through the Uniting for Peace resolution. Precedent has demonstrated that without Security Council support the UN is extremely limited in scope of action.

In answering the questions about the rationale behind the creation of the UN and the Council, as well as to outline the vast powers awarded to the Council by the UN

⁵² Hanhimaki, 59.

⁵³ “Revitalization of the work of the General Assembly”, *UN General Assembly: Report of the Secretary-General*, (17 April 1998). <http://www.undemocracy.com/A-52-856.pdf>, accessed September 2011.

Charter, this chapter evinced several important considerations when analyzing the Council's effect on the international community. First of all, the founders of the UN found it necessary to include immense inequality in the structure of the UN. The perception at the time was that in order for the UN to function (in preventing another world war) and endure, asymmetrical authority, legitimacy, and power needed to be given to the P-5. This was obvious to the entire international community at the time, and is obvious to the international community today. Yet the perceptions and attitudes of the international community have constantly evolved since the end of the Second World War, strikingly so since the end of the Cold War. This is why the glaring inequality of the UN system is so vital to consider when analyzing how the actions of the Security Council have and will impact international attitudes and perspectives. Second of all, the nature of the UN system through its built-in conspicuous inequality, promotes structural violence and contradiction of values. The powers and mechanisms granted to the Council provide it with the ability to behave inconsistently and in the self-interests of the P-5 or their allies with few repercussions. This has an impact not only on the attitudes and expectations of the international community, but on the structures themselves, and will in turn impact behavior. Both the obvious nature of Security Council inequality and the structures it promotes need to be kept in mind when considering the effects of Security Council decisions during the Gulf War.

CHAPTER 3: PERCEPTIONS OF THE SECURITY COUNCIL

“Some authors are inclined to reject the hypothesis that international organizations, and the UN system in particular, has had (and will have) a distinctly ameliorative impact on crucial issues of world politics, such as security from aggression and intervention or the distribution of welfare among the world’s nations; others go even further and suggest that international organization may actually be used by privileged states to perpetuate longstanding patterns of dependence and penetration in international society.”⁵⁴ -Volker Rittberger

“The Security Council is the indispensable heart of the UN system, and the Charter structure works only if the Council is able to act effectively.”⁵⁵ – Michael J. Matheson

As the quotes above indicate, there is an array of diverging perspectives on the UN system. The purpose of this chapter is to distinguish and portray these varying sentiments towards the Security Council on a number of very important issues: the actions and decisions of the Council during and after the Cold War, the authority and legitimacy of the Council, and the legal role of Council. Exploring and comprehending these perspectives provides a better vantage point with which to analyze the Council’s impact on the international community.

⁵⁴ Rittberger, Volker. *International Organization and Violence*, 1973, 217.

⁵⁵ Matheson, 20.

During the Cold War and After

Many observers perceive that during the Cold War the Security Council was mired in the realpolitik of the day. “The Council’s selectivity is rooted in the Charter as well as in the political realities within which the Council operates.”⁵⁶ This rendered the Council ineffective in some cases and, even worse, complacent in others. On most issues, the Soviet Union stood on one side and the other four members on the other. This is not to say that there were few debates in the Council; in fact, the Council met regularly to discuss repeatedly almost all conflicts from 1946 to the end of the Cold War. The Council deliberated multiple times on the following international conflicts; the Arab-Israeli wars, Korea, Congo, Berlin, Pakistan-India, Vietnam, Afghanistan and others.

In all of those cases the vested interest of the P-5, and more specifically the United States and the Soviet Union, dictated the response of the Council and the outcome of the conflicts.⁵⁷ The Council did not take action regarding the wars of France and the United States in Vietnam or the Soviet war in Afghanistan, even though the conflict continued for almost a decade after a veto by the Soviets in 1980. There were even a number of cases where P-5 interests prevented a formal debate in the Council. No debates over the French-Algerian Civil War or the partitioning of India were conducted due to French and British vetoes. The Council was inactive in Eastern Europe (USSR), in Cuba in 1961, Granada in 1983 (USA) and in numerous other former French Colonies in Africa.

⁵⁶ Roberts and Zaum, 28.

⁵⁷ Hanhimaki, 55.

Yet, Cold War politics played little role in the inaction of the Security Council regarding Cambodia, in spite of no 'veto'. "During the Cold War states remained reluctant to rely on a doctrine of humanitarian intervention in order to justify their actions, even in cases where as the basis for such a claim was substantial."⁵⁸ The perceived rationale behind this was that if states became judged on how they exercised their internal sovereignty, this could negatively impact the respect for their external sovereignty, and disrupt what was considered the cornerstone of the international system, national sovereignty.⁵⁹ The right of self-defense and the principle of non-intervention were pursued and defended at all costs during first forty-five years of the United Nations and the Security Council, and the politics and ideology of the Cold War exacerbated this and paralyzed the Council. This is reflected in that Chapter VII was used only eleven times during the entire Cold War.⁶⁰

The end of the Cold War drastically changed the international system and the expectations of the Security Council. "It had the effect of unleashing the dormant legal authority of the Council and turning it into a great engine for the creation of legal obligations and mechanisms for suppressing armed conflict and dealing with its results, many of which would have surprised even the founders of the United Nations."⁶¹ With the dissipation of the East-West dispute, many around the globe hoped and expected that the Security Council would assume its primary role and responsibility to ensure

⁵⁸ Roberts and Zaum, 16.

⁵⁹ Fenton, 19.

⁶⁰ Sauer, Tom. "The Preventive and Pre-Emptive Use of Force to be Legitimized or to be De-Legitimized?" *Ethical Perspectives, Volume 11*, (2004); Pp. 130-143.

<http://www.kuleuven.be/ep/viewpic.php?LAN=E&TABLE=EP&ID=493>, accessed July 2011.

⁶¹ Matheson, 6.

international peace and security. This perception seemed prophetic when at the end of the Cold War there was considerably more activity than in the decades before. In 1988 alone, the Security Council authorized five new peacekeeping missions: to monitor the Afghanistan-Pakistan border; the Iraq-Iran cease fire; the end of the fighting in Angola's long and bloody Civil War; the resolution of Namibia's struggle for independence; and the ceasefires between rival factions in Central America.⁶²

The new period of optimism manifested in the reaction to the Iraqi invasion of Kuwait in 1990, which led to evolution of existing and new mechanisms in the areas of economic sanctions, the authorization of military operations, and unity in the Security Council. This was followed by a comprehensive cease-fire agreement at the end of the first phase of the Gulf War, and incorporated unparalleled provisions for the "resolution of boundary disputes, the control of armaments, and the compensation of victims of conflict."⁶³ Some observers expressed unease at the new developments, declaring, "The Gulf War symbolized the inequality that was evident even among the UN's P-5...that there is, at this point, but one superpower."⁶⁴ These critics felt that far from enhancing the legitimacy and credibility of the United Nations and the Security Council, the Gulf War actually undermined it. Nevertheless, most observers considered this a new age in monitoring and resolving conflicts through the authority and legitimacy of the UN and the Security Council. A number of small yet significant actions were taken following the Gulf War: United Nations Angola Verification Mission II from 1991-1995; United

⁶² Hanhimaki, 82.

⁶³ Matheson, 6.

⁶⁴ Hanhimaki, 63.

Nations Operation in Mozambique in 1992-1994; United Nations Operation in Somalia I from 1992-1993/United Nations Operation in Somalia II from 1993-1995; United Nations Protection Force (Former Yugoslavia) from 1992-1995; United Nations Mission in Haiti from 1993-1996; and the United Nations Observer Mission Uganda-Rwanda from 1993-1994/United Nations Assistant Mission for Rwanda from 1993-1996.⁶⁵ These are just some of the most notable operations in the early to mid-1990s.

The failures in the former Yugoslavia and Somalia began an unraveling of the immediate post-Cold War euphoria, and reluctance to use force became apparent. The United Nations Protection Force (UNPROFOR) in the former Yugoslavia was unable to prevent the ongoing humanitarian crisis, even with a number of resolutions passed by the Security Council to extend UNPROFOR's mandate. Security Council Resolution 819, passed in April 1993, attempted to address the ongoing refugee situation by establishing the town of Srebrenica as a "Safe Area". Other safe areas were established, yet the UNPROFOR forces were so poorly equipped and their mandate so restrictive that they could not prevent Bosnian forces or Serbian forces from launching attacks on one another. This eventually resulted in attacks on the safe areas, the seizing of UNPROFOR forces as hostages and human shields, and culminated in the massacre of civilians in Srebrenica.

With the failure of United Nations Operation in Somalia (UNOSOM), the United States offered to lead a more substantial intervention force in Somalia, and this resulted in Security Council Resolution 814 which authorized UNOSOM II, which took over

⁶⁵ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed. *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945*. New York: Oxford University Press, 2008, Appendix 7.

operations in Somalia in May 1993. When this UN authorized force attempted to disarm warlords, and specifically attacked General Mohamed Ali Farrah Aidid, this caused UN forces to be targeted directly and resulted in the publicized deaths of UN soldiers. There was an immediate increase of forces, but shortly afterwards the United States, Belgium, France, and Sweden decided to withdraw their forces and restrict the UNOSOM II mandate. After it became apparent that the use of force in intra-state conflicts would not only be expensive, but could and would result in putting forces in danger and in locations without strategic interest, most countries, especially the ones with the capabilities to act, became reluctant to get involved.

This culminated in the Rwandan Genocide catastrophe, which occurred despite the presence of the Security Council sanctioned United Nations Assistance Mission for Rwanda (UNAMIR). Rumors abound that when there was clear evidence of preparation for the genocide, and when the killing started, the Council failed to act due to the 'hidden vetoes' of the United States and France.⁶⁶ A Human Rights Watch report bitterly stated: "The Americans were interested in saving money, the Belgians were interested in saving face, and the French were interested in saving their ally, the genocidal government."⁶⁷ Estimates put the number of dead in Rwanda between 800,000-1,000,000, and as the world watched, the Security Council debated on if this constituted "genocide" due to their perceived responsibility under the 1951 Genocide Convention to take action.

⁶⁶ Nahory, 2.

⁶⁷ Des Forges, Alison. "Leave None to Tell the Story: Genocide in Rwanda." Human Rights Watch, March 1999.

After Rwanda, and the failure of UN troops to protect the civilians in Srebrenica, the perceptions of the UN and especially the Security Council were no longer hopeful, but scathing and disillusioned. Analysts looked at staggering numbers. During the 1991 Gulf War, the Security Council and the US lead coalition consisted of over 800,000 troops, and a cost of 72 billion US dollars. By contrast, in 1993, the total budget for UN peacekeeping was 3.6 billion, and the total number of UN Soldiers was below 80,000, scattered across thirteen different missions in three different continents.⁶⁸ Yet the growth of the peacekeeping costs at that time caused more criticism and disdain in many countries than the Gulf War, which cost 20 times as much and deployed over 10 times as many soldiers.⁶⁹ “In light of the SC’s apparent lack of interest in certain African conflicts in the early 1990s, it is unsurprising that the Constitutive Act of the African Union (AU) specifies that the AU has the right to intervene...in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity.”⁷⁰ There is no mention in the Constitutive Act of the AU that necessitates Security Council authorization for action, a reflection of the perceptions at the time. The hope of humanitarian intervention by the UN quickly was tempered, and the view was that any pursuit of these objectives with the support of the Council usually coincided with the strategic interests of one or more of the P-5 members.

⁶⁸ Hanhimaki, 86.

⁶⁹ Hanhimaki, 87.

⁷⁰ Roberts and Zaum, 39.

Advocates of the UN and the Security Council pointed to the vanishing use of the ‘veto’ in Council deliberations, but critics countered that it was agenda setting in private meetings by the P-5, secret non-recorded meetings between all members of the Council, and the threat of the ‘hidden veto’ in these meetings that has caused the ‘veto’ to rarely be used. They point to Chechnya, Tibet, Xinjiang, Northern Ireland, Uganda, and Colombia as forgotten conflicts that the Council avoids, and yet are strategically important to the P-5.⁷¹ “When the UN engaged in various peace operations, it did so only in places that lacked obvious significance to the P-5...in this sense, the collapse of the Cold War international system has changed little.”⁷²

According to Celine Nahory during her investigation of the practices and procedures of the Security Council, the United States and Russia are believed to have struck a secret deal in 1999 over Chechnya and Iraq to support each other’s positions in the Council.⁷³ The 2000 Brahimi Report on UN Peace Operations, investigating why the missions in Rwanda, Somalia, and Bosnia failed, found that there was a lack of mandate, resources and willpower, and this results in “ineffectiveness and in the worst case may amount to complicity with evil.”⁷⁴ Critics also talk about the watering down of resolutions to avoid inflammatory language that would harm a P-5 Member’s reputation, or require an action. When defenders of the UN point out the success of East Timor in 1999, the detractors point out it would never had happened without Australian unilateral efforts in money and troops, a strategic partner of both the United States and the United

⁷¹ Nahory, 1.

⁷² Hanhimaki. 65.

⁷³ Nahory, 4.

⁷⁴ Roberts and Zaum, 19.

Kingdom. And massive criticism of the Security Council and the UN system manifested itself with the invasion of Iraq by the United States (this will be discussed in a later chapter).

Yet even with all of this criticism, there are those who point to great strides and efforts made by the Security Council in creating and developing mechanisms to address potential and ongoing conflicts. Already mentioned were the economic and weapons sanctions, the authorized use of military force, the cease-fire agreements, the resolution of boundary disputes, arms control and weapons inspections, victim's compensation, the Oil for Food (OFF) program, successful humanitarian relief efforts, etc. Other mechanisms were the International Tribunals authorized by the Security Council for the Conflicts in Rwanda and former Yugoslavia to attempt some form of justice and accountability, the hybrid Tribunals in Serra Leone, and Lebanon, and the International Residual Mechanism for Criminal Tribunals (which will gradually replace the Rwandan and former Yugoslavian tribunals in 2012/2013).

On April 28, 2006 the Security Council adopted Resolution 1674, where the Council acknowledges that peace, security, development, and human rights are the four interlinked pillars of the United Nations system and set a type of framework for humanitarian interventions. It gives the Council broad interpretative powers – “Systematic, flagrant, and widespread violations of international humanitarian and human rights laws in situations of armed conflict, *may* [italics my own] constitute a threat to international peace and security,” but it does provide the ability to use force when the

Council decides it threatens international peace and security.⁷⁵ Defenders of the Council also argue that given the “political realities within which the Council acts” and the fact that the accountability the Security Council and more specifically the P-5 face is politically domestic, it should come as no surprise that the Council works the way it does.⁷⁶ As Jeremy Greenstock puts it:

Adapting UN and other international procedures to allow a more effective response to political and humanitarian abuses has come into conflict with the compulsion to keep the international order steady and unchained in other respects. We shall also need to note instances where the strongest members of the UN decline to subordinate their vital national interests to collective international judgment, even though they loudly support the rule of law, and their stake in an effective global order is high.⁷⁷

The perception of the UN, the Security Council and its role in the international system has gone through quite an evolution. The Cold War kept it impotent for most of the second half of the twentieth century. The opinion was that in order to avoid another world war both the United States and the Soviet Union would need to be part of the UN, and both would have the ability to protect their strategic interests from being scrutinized. As long as they remained at a relatively low level of confrontation, then the Council performed its job.

With the end of the Cold War and the immediate unity of the Council in response to Iraq, many globally envisioned an idealistic future, where the Council would fulfill its

⁷⁵ UNSC Resolution 1674, (April 28 2006); <http://www.un.org/News/Press/docs/2006/sc8710.doc.htm>, accessed July 2011.

⁷⁶ Roberts and Zaum, 8.

⁷⁷ Greenstock, 249.

responsibility and mandate to ensure global peace and security. However, the hope of the international community and victims of conflict turned into despair when it became evident that ethnic cleansings, genocides, and other forms of humanitarian catastrophes were part of the present and future. To be sure, mechanisms were developed and expanded to monitor, prevent, and address ongoing or potential conflicts. The UN and the Security Council have done more in the past twenty-two years to address conflict and humanitarian issues with a change in scope, influence, and expectations for intervention by parties involved in conflict as well as those who observe and analyze conflict. Yet the basic interests of nations and the nature of politics, especially between the Council and the P-5 still dictate how the Council will react and make decisions.

Some critics and analysts, such as the majority of the General Assembly, perceive this as the P-5 shirking their responsibilities. Other critics and analysts, most notably those that defend real politik, perceive this as simply improving and promoting their strategic interests. And there are some observers, defenders of the UN system, that view this interconnection between power politics and the functions and decisions of the Security Council to be inherent and natural to the international system.

Authority and Legitimacy

The Security Council's position as the apex of international authority and legitimacy in response to threats to international peace and security is without question. "The innate justice of the UN Charter in allowing force to be used in self-defense, but in hardly any other circumstances without collective authority established the lines of

legitimacy and illegitimacy with genuine impact in the modern world.”⁷⁸ The Security Council is recognized to have that authority and legitimacy to allow force.

Harold Jacobson and Charlotte Ku studied the use of military intervention in inter-state and intra-state conflicts occurring between 1945 and 2000. Their findings demonstrate that the Security Council is bestowed with a legitimacy and authority that is without question the most widely accepted international organ for conflict intervention. They report that in practice, when military action has been used under the aegis of international institutions, as they were used in almost half of inter-state and one-third of intra-state conflicts during the time period of their study, the Council authorized seventy-four out of seventy-seven of them, or ninety-six percent.⁷⁹ Of the three that were not authorized by the Council, two were authorized by the UN General Assembly and one by the North Atlantic Council. These decisions were contested by several nations, most notably Russia, China, and France. The study also found that the Security Council authorized fifty-five of the fifty-eight differently categorized military operations during the same period, the exceptions being the General Assembly enacting the ‘Uniting for Peace’ Resolution during the Suez Crisis in 1956, a peacekeeping operation in West New Guinea in 1962, and Operation Allied Force against Yugoslavia in 1999, authorized by the North Atlantic Council.⁸⁰

NATO’s Implementation Force (IFOR) and the Stabilization Force (SFOR) to Bosnia in 1995 and 1996, as well as Kosovo Force (KFOR) in 1999 all had a framework

⁷⁸ Greenstock, 249.

⁷⁹ Ku, Charlotte, Jacobson, Harold K., ed. *Democratic Accountability and the Use of Force in International Law*. Cambridge: Cambridge University Press, 2003, 353.

⁸⁰ *Ibid*, 355.

based on Council resolutions. The United States based the authority and legitimacy of Operation Allied Force on Security Resolution 1199, which had demanded under the auspices of Chapter VII that all actors in Kosovo “cease hostilities.”⁸¹ Even with this debate over interpretation of previous resolutions, a debate that had occurred before and would be repeated again, the overall consensus is that the Security Council has the highest authority and legitimacy (see table 1 below).

Table 1 Forms of International Authorization Regarded as Legitimate⁸²

State	Form of Authorization		
	UN Council	Security UN-General Assembly	North-Atlantic Council
China	Yes	No	No
Canada	Yes	Yes	Yes
France	Yes	No	Yes
Germany	Yes	Yes	Yes

⁸¹ Ibid, 356.

⁸² Ibid, 360.

India	Yes	Yes	No
Japan	Yes	Yes	Unknown
Norway	Yes	Yes	Yes
Russian Federation	Yes	No	No
United Kingdom	Yes	Yes	Yes
United States	Yes	Yes	Yes

Charlotte Ku and Harold K. Jacobson created the table above in *Democratic Accountability and the Use of Force in International Law*. Ku and Jacobson collected data regarding various international and regional organizations and the perception of their legitimacy to use force. While not universal, the recognition of the Security Council's legitimacy and authority in the international system is the most widely accepted. Even countries critical of the Security Council, and especially of the P-5, acknowledge that there is no consensus of any other institution having the authority or legitimacy to take military action. The table above includes Japan, India, and Germany, countries which demand Security Council reform, yet are willing to support its authority and legitimacy. This is not to say that numerous officials, diplomats, politicians, and academics have not attacked the authority and legitimacy of the Security Council. Some point to the undemocratic decision making procedures in the Council. Others, discussed below, focus on its failure to fulfill its mandate and responsibility to maintain international peace and security. Furthermore, some legal analysts, also discussed below, voice their opinions

that the Council oversteps its legal mandate. Indeed, the Council is daily the target for disdain and denunciation. Yet for all of its faults, this does not change the fact that the Council is the most widely accepted form of international authority and legitimacy to use force in the current international system.

Legality

As mentioned above, resolutions invoking Chapter VI of the UN Charter are not binding. “Chapter VI exhorts members to settle such claims peacefully and submit them for mediation and arbitration to the United Nations.... There is no power [in Chapter VI] to compel states to submit their disputes for arbitration or mediation by the United Nations.”⁸³ Although resolutions are no-binding in Chapter VI, Timothy Hiller argues the Council’s power is not restrained because it invokes Chapter VII. Hiller writes the following:

If the Security Council determines that the continuance of the dispute constitutes a threat to the peace, or that the situation involves a breach of the peace or act of aggression it can take action under Chapter VII of the Charter. Chapter VII gives the Security Council the power to make decisions which are binding on member states, once it has determined the existence of a threat to the peace, breach of the peace, or act of aggression.”⁸⁴

⁸³ Matthews, Ken, *The Gulf Conflict and International Relations*, Routledge, 1993, 130.

⁸⁴ Hiller, Timothy, Taylor & Francis Group. *Sourcebook on Public International Law*, Cavendish Publishing, 1998, 568.

Yet the perception of the Security Council's legality in international law still sparks a debate in regards to a number of questions: Is the Security Council subject to international legal rules, guidelines and constraints? Does the Council, through its resolutions, decisions, and actions directly contribute to the input and output of international law? Is it merely an organization that has the authority to enforce international peace and security, and not maintain the rule of law? As Adam Roberts and Dominik Zaum wrote in their book, *Selective Security: War and the United Nations Security Council since 1945*: "The Council is not intended to maintain the rule of law: it was intended to maintain international peace and security. This is a very different and more limited role."⁸⁵

Mary Ellen O'Connell, in her essay "The United Nations Security Council and the Authorization of Force" states, "While it is rarely acknowledged, it is in fact the case that the Security Council is subject to international legal rules regarding its actions."⁸⁶ She argues that the Security Council is not above the law and that the important legal principles developed by the international community exist to regulate its decisions. She argues further, "Any decision to use force in international relations is governed by the principles of necessity and proportionality – not only in how force is used, but also in the decision to resort to force in the first place."⁸⁷ O'Connell rejects the argument that the Council is not bound to international law due to Chapter V, Article 24(2) of the Charter

⁸⁵ Roberts and Zaum, 30.

⁸⁶O'Connell, Mary Elen. Blokker, Niels, Schrijver, Nico, ed. *The Security Council and the Use of Force: Theory and Reality – A Need for Change?* Boston: Martinus Nijhoff Publishers, 2005, 48.

⁸⁷ Ibid, 48.

which states, “In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations.”⁸⁸

In Chapter I, Article I the stated purpose and principle of the UN is to: “Bring about by peaceful means, and in conformity with the principle of justice and international law, adjustment or settlement of international disputes.”⁸⁹ She points out the contradiction between the Security Council acting in accordance with the principles and purposes of the UN, and the stated principle to work in conformity with justice and international law as part of those principles, and the opinion that the Security Council subject to international law. O’Connell continues by stating that the Council members have never rejected the claim that international law applies to their decision. She quotes *ad hoc* Judge Sir Elihu Lauterpact in the *Bosnia* case: “One only has to state the proposition thus – that a Security Council Resolution may even require participation in genocide – for its unacceptability to be apparent.”⁹⁰

Farhad Malekian, author of *The Monopolization of International Criminal Law in the United Nations*, would agree with O’Connell that there is contradiction in the Charter. He argues, “According to the law of treaties, the obligations of the Charter of the UN must be fulfilled in good faith. Any serious violation of its obligations by one or more of the permanent members having the main responsibility for the just implementation of the

⁸⁸ “Chapter V: The Security Council.” <http://www.un.org/en/documents/charter/chapter5.shtml>, accessed July 5 2011.

⁸⁹ “Chapter I: Purposes And Principles” *Charter of the United Nations*, un.org; <http://www.un.org/en/documents/charter/chapter1.shtml>, accessed July 5 2011.

⁹⁰ Application of the Convention on the Prevention and Punishments of the Crime of Genocide (Bosnia and Herzegovina v. Yugoslavia (Serbia and Montenegro)), Provisional Measures, 1993 ICJ Rep. 325, 440 (13 Sept.) (separate opinion of Judge Lauterpact).

provisions of the Charter will invalidate the object and the purposes of the Charter.”⁹¹ Malekian continues to describe the Charter as “legally unclear” due to the elusive nature of what constitutes peace, and the legal definition of peace and security.⁹² Due to this ambiguity, the reality is that the Council has the authority to determine what constitutes and what does not constitute peace and security.

Malekian notes the contradiction that O’Connell mentions between the Security Council upholding the principles and purposes of the Charter. He also addresses the decisions of the Council that are only a reflection of a particular circumstance, which therefore are political in nature. However, he states, “The Security Council is constitutionally considered to be the competent central power of the United Nations for the consideration of issues that have been legally and politically difficult for the General Assembly of the United Nations to make a final decision upon.”⁹³ Malekian describes Chapter I, Article I’s phrase “in conformity with the principles of justice and international law” as being “hypothetical” and “unqualified”.⁹⁴ He claims that his study proves that the manipulation of core principles of the UN by strong political powers is not only a monopolization of the principles of the charter, but a simultaneous “monopolization of the system of international law.”⁹⁵ He states specifically the relationship between the power of the Council and international law as follows: “If the five permanent members could (or do) agree, their strength would make the law of the United Nations all

⁹¹ Malekian, Farhad, *The Monopolization of International Criminal Law in the United Nations: A Jurisprudential Approach*. Uppsala: Uppsala University Reprocentral HSC, 1993, 5.

⁹² Malekian, 5.

⁹³ Malekian, 9.

⁹⁴ Malekian, 9.

⁹⁵ Malekian, 11.

powerful.”⁹⁶ Malekian clearly believes that the Charter, and especially Chapter V Article 27 gives the Security Council a monopoly on the international community.

Steven R. Ratner, in his essay “The Security Council and International Law” takes more of a middle road between Malekian and O’Connell. His opinion is that: “The Council’s history offers evidence that international law can serve as both a factor of influencing the decisions of the Council and a product or byproduct of the Council’s decisions.”⁹⁷ Ratner argues that the Council is a central player in forming and applying international law due to its capacity to make legal declarations, interpret the Charter, promote legal norms in disputes, and require states and actors to follow legal rule in and outside the Charter.⁹⁸ Ratner also proposes that Council resolutions, due to the potential power behind them, have a greater possibility to influence state decision-making than other declarations of international law.⁹⁹

Ratner admits that Council proclamations and resolutions have been ignored, yet his opinion is that the Council’s legal pronouncements are not only theoretical law but practical law. He comes to this conclusion based on his analysis and what he describes as *input* into the Council’s decision-making, and *output* in the form of Council actions and contributions. *Input* involves international laws that are invoked by multiple states gradually, and how as the laws recognition grows it can influence legal decisions of the Council. *Outputs* are the legal decisions the Council makes, yet are under a “normative

⁹⁶ Malekian, 16.

⁹⁷ Ratner, Steven R., “The Security Council and International Law.” Malone, David M., ed. *The UN Security Council: From the Cold War to the 21st Century*. Boulder: Lynne Rienner Publishers, Inc., 2004, 602.

⁹⁸ Ratner, 602.

⁹⁹ Ratner, 603.

shadow”. If the recipient of a law or decision does not deem the source authoritative or legitimate, then the impact will be miniscule. However, due to the nature of the international system and the lack of an alternative to the Security Council at the international level, it wields more influence on international law through its *outputs* than any other organ, institution, or organization.¹⁰⁰

Michael J. Matheson in his book *Council Unbound: The Growth of UN Decision Making on Conflict and Post-Conflict Issues after the Cold War* provides another interesting opinion on the legal standing of the Security Council. Matheson states, “No judicial or legal authority seems likely to act as a significant constraint on Council action in this regard, but the Council *itself* must take seriously its own responsibility to act in a manner consistent with the Charter.”¹⁰¹ Matheson interprets the UN Charter as having little restraint on the Security Council’s discretion, authority, legitimacy, responsibility, and most importantly for the comparison the legality when adopting resolutions.

He does point one possible approach for judicial review by the International Court of Justice [ICJ]. Matheson writes the following:

The Charter does provide one possible avenue for review by the ICJ of the legality or legal effect of the Council actions, in that either the Security Council or the General Assembly may ask the court for an advisory opinion on any legal question, which could include a request by either body for the court’s advice on the legality or legal effect of actions taken or under consideration by that body.¹⁰²

¹⁰⁰ Ratner, 605.

¹⁰¹ Matheson, 40.

¹⁰² Matheson, 36.

This is one mechanism for review, yet the opinions of the ICJ are strictly advisory, thus are not legally binding on the Security Council. In effect, this allows the Council to ignore any such advice or opinion. Other than this avenue for review, the Charter does not provide any right of appeal to the court or any other body to review or overturn a Council action on the basis that the Council has acted illegally or against the Charter purposes and principles, and the ICJ has admitted that no such right exists. In the ICJ's own words, "A resolution of a properly constituted organ of the UN which is passed in accordance with that organ's rule of procedure... must be presumed to have been validly adopted."¹⁰³

A strong critical framework and vantage point for analyzing the Council's effect on the international community develops through delving into the varying perspectives of the Security Council's actions, authority, legitimacy, and legal role. This chapter intended to give the reader a general understanding of the mindset of international observers towards the Council.

The prevailing perception of the Council's actions during the Cold War was one of low expectations. This changed dramatically with the end of the Cold War, and a new sense of euphoria and lofty expectations developed. With the failures of the mid 1990s, (such as the for mentioned Somalia, Rwanda, Bosnia) and the realization that power politics and domestic considerations still dominated the Council's actions, this drastic letdown intensified negative perspectives of the Council.

¹⁰³ N. D. White, *The United Nations System: Toward International Justice*, Boulder: Lynne Rienner Publishers, 2002, 121.

It is important to keep in mind that these acute changes in the overall perception of Council actions occurred during the time period of the case study, and should be considered accordingly during the analysis. The general perception of the Council's legitimacy and authority is that it is the apogee of the international system. This perception is not universally accepted, but this chapter demonstrates that the most powerful nations as well as the majority of nations accept and share this perspective. The importance of this is that even when the Council takes action that is viewed as controversial it has considerable implications on the structure, attitude, and behavior of the international community.

The perceptions of the Council's legality and legal role on international law and the difference between theory, and practice are fascinating. There is the perspective that the Council should respect established international law, should follow the tenants of the UN Charter, and should be constrained by these guiding principles; however, the reality is that in the international system there is no constraint on the Council in legal terms. The Council uses the framework of international law when it suits its interests, yet ignores it and the UN Charter on a frequent basis. This has a direct and lasting impact on the perception of the Council and international law as a whole. It is this contradiction between how the Council *should* act and how the Council *does* act that is of the upmost importance when considering how Council actions in the Gulf War impacted international attitudes, structures, and behaviors.

CHAPTER 4: THEORETICAL FRAMEWORK

Galtung – The Violence Triangle

Johan Galtung, a founder of peace studies, published his influential article “Violence, Peace and Peace Research” in 1969, which features Galtung’s first elaboration on structural violence, one of the most widely used concepts in peace studies. UNESCO describes structural violence as, “The in-built violence that exists in the inequalities of societal structures; where there are such gross power imbalances that people’s chances of life actually vary substantially. Uneven resource distribution, access to medical supplies, hygiene, education, income, security, and of course political power are a result of structural violence.”¹⁰⁴

Numerous theorists, such as Nancy Scheper-Hughes, Philippe Bourgois, Paul Farmer, and Robert Gilman argue that structural violence is embedded in the current global system and that it is not inevitable. Gilman uses a comparison of Gross Domestic Product [GDP] per capita and life expectancy to demonstrate that inequality of wealth has a direct correlation on life expectancy. “Among the ‘poor’ countries...life expectancy is

¹⁰⁴ Higgins, Jane, Martin, Olivia. “Violence and Young People’s Security.” *Hague Appeal For Peace*, www.unesco.org, 2003.
http://www.unesco.org/ccivs/NewSiteCCSVI/institutions/jpcyouth/youthopenforum/Section_for_Youth/Resources_and_tools/Other_documents_on_youth/OXFAM_INTERNATIONAL_YOUTH_PARLIAMENT/Chapter4_Violence.pdf, accessed July 2011.

relatively low and increases rapidly with increasing GDP per person. Among the ‘rich’ countries, life is consistently high and is relatively unaffected by GDP.”¹⁰⁵

According to Galtung, “The topdogs get much more out of the interaction in structures than the other, the underdogs.”¹⁰⁶ Galtung rejects the Hobbesian notion that violence is in innate human nature, and he believes that exploitation of the underdogs creates the potential for violence. Galtung expanded his theory in a typology of violence in order to encompass both symmetrical and asymmetrical conflicts. With the creation of the “violence triangle”, also known as the “conflict triangle”, Galtung hoped to explain the interaction between what he terms structural, cultural, and direct violence.¹⁰⁷

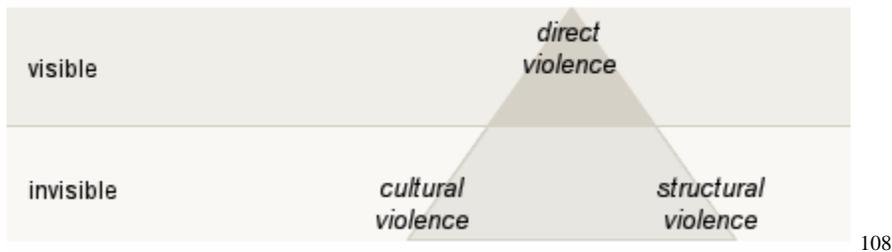


Figure 1: Galtung’s Violence Triangle

Galtung suggests that structural violence is a “contradiction” of actual or perceived “incompatibility of goals” between participants in conflict.¹⁰⁹ Direct violence,

¹⁰⁵ Gilman, Robert. “Structural Violence: Can we find a genuine peace in a world with inequitable distribution of wealth among nations?” Context Institute, (1997); <http://www.context.org/ICLIB/IC04/Gilman1.htm>, accessed July 2011.

¹⁰⁶ Galtung, Johan. “Violence, War, and Their Impact: On Visible and Invisible Effects of Violence.” Polylog.org (1990); <http://them.polylog.org/5/fgj-en.htm>, accessed July 2011.

¹⁰⁷ Galtung, Johan. “Violence, War, and Their Impact: On Visible and Invisible Effects of Violence.”

<http://them.polylog.org/5/fgj-en.htm>

¹⁰⁸ Galtung, Johan. “Violence, War, and Their Impact: On Visible and Invisible Effects of Violence.”

<http://them.polylog.org/5/fgj-en.htm>

or behavior, are the actions taken by parties in a conflict situation, and can include cooperation or coercion with the structural aspect, or directly hostile physical or verbal actions taken against opposing parties. Cultural violence is the attitude, presuppositions, or perceptions that justify both the structural and behavioral aspects of the conflict. Galtung describes direct violence as the visible aspects of conflict, and structural and cultural violence as the invisible aspects of conflict. The visible effects of direct violence unfortunately are commonplace in the news and media: the dead, wounded and raped; the physical destruction to homes, cities, schools, hospitals, and the environment; disease, destitution, poverty and hunger; the displaced. And this tends to affect the most vulnerable. Galtung argues that the invisible effects have the potential to be even more vicious: “*direct violence reinforces structural and cultural violence.*”¹¹⁰ [Emphasis in the original]

The three components of the ‘violence triangle’ are mutually supporting and tend to advance each aspect. I find the cultural aspect to be the most fascinating and often left out of the conflict analysis. When people look at military actions and political solutions, they tend to focus on the structural and behavioral aspects of the conflict but they forget that structural and direct violence can and does enhance the cultural element. Cultural violence causes and reinforces “borders in the mind” of what is possible, what is natural, what is acceptable or what is to be expected.¹¹¹ This is a form of presupposition, and

¹⁰⁹ Miall, Hugh, Ramsbotham, Oliver, Woodhouse, Tom, ed. *Contemporary Conflict Resolution: Second Edition*. Cambridge; Polity Press, 2005, 10.

¹¹⁰ Galtung, Johan. “Violence, War, and Their Impact: On Visible and Invisible Effects of Violence.” <http://them.polylog.org/5/fgj-en.htm>

¹¹¹ Galtung, Johan. “Violence, War, and Their Impact: On Visible and Invisible Effects of Violence.” <http://them.polylog.org/5/fgj-en.htm>

shapes the perceptions and attitudes of those in the conflict, “which in turn may legitimize direct and structural violence in the future.”¹¹² The idea that structural violence can only be changed by violence, or direct violence can only be stopped by direct violence is in itself a part of cultural violence.

In this context, Galtung views conflict as a dynamic process. As it develops, the dynamic process “become a manifest conflict formation and the interests of parties contradict, which results in the parties pursuing their interests within the structure, and develop the negative attitudes and behavior in response.”¹¹³ When this happens the conflict formation expands and evolves, and this can result in the spawning of new “secondary” conflicts with the original parties or spread to third parties, and this results in the complication of de-escalating and addressing the core issues of the original conflict.¹¹⁴

A related notion developed by Galtung is the concept of negative peace and positive peace. The definition of negative peace is the absence of direct violence, and the definition of positive peace is resolving the contradictions of structural violence and changing the attitudes, perceptions, and presuppositions related to cultural violence. Galtung offers three correlations of violence and peace. The first correlates prevention of direct violence (negative peace) with peacekeeping. Second, he correlates addressing structural violence (positive peace) with peacebuilding. Third, he correlates redress of cultural violence with peacemaking.

¹¹² Galtung, Johan. “Violence, War, and Their Impact: On Visible and Invisible Effects of Violence.”

<http://them.polylog.org/5/fgj-en.htm>

¹¹³ Miall, Ramsbotham, Woodhouse, 10.

¹¹⁴ Miall, Ramsbotham, Woodhouse, 10.

Critics of Galtung, like Barbara Kay from the National Post, point to the ambiguity of both structural and cultural violence. They argue that it is difficult to measure the invisible or unobservable aspects of conflict in any concrete terms. For instance, when Galtung describes structural violence as “the cause of the difference between the potential and the actual, between what could have been and what is” and “when the potential is higher than the actual [it] is by definition avoidable and when it is avoidable, then violence is present” critics decry the lack of a concrete definition of potential.¹¹⁵ This was one of the faults of the theory expressed by C.A.J. Coady in his 2008 study, *Morality and Political Violence*.

Proponents of Galtung, however, demonstrate that the concepts he developed have influenced positively the evolution of countless models of conflict theory, and have helped in the better understanding of the dynamics of conflict as a whole. It is in this sense, as a contributor to other theories and models of conflict analysis, that Galtung’s contributions have been seminal. In the theoretical framework developed for this dissertation, it is Galtung’s concept of cultural violence, reinforced and evolved through behaviors and contradictions that will be combined with complementary theories of power, legitimacy, and the development of perceptions and presuppositions through the welding of power.

Lukes – Power: A Radical View

¹¹⁵ “Peace & Violence.” *International Alert; Understanding Conflict. Building Peace.* conflict.care2share.wikispaces.net/file/view/Galtung+Factsheet.doc

The concept of power, its dimensions, and how it is employed is one of the most debated issues when analyzing conflicts in international relations and conflict resolution. One of the most cited and debated theories regarding the dimensions of power comes from political and social theorist Steven Lukes, a professor of sociology and politics at New York University. In 1974 Lukes published an essay defining his theory on the dimensions of power entitled *Power: A Radical View*. After controversy over the theory, Palgrave Macmillan publishers asked Lukes to update the original essay in order to “enrich the analysis by providing readers with both recent literature and original insights on power.”¹¹⁶ He did so with the release of the extended *Power: A Radical View, Second Edition*, in 2005.

Lukes argues that power needs to be examined in a broad sense; this analysis must include the observable as the unobservable aspects of power as well aspects of power. “Power is seen as the imposition of internal constraints, and those subject to it acquire beliefs that result in their consent or their adaptation to domination, by either coercive or non-coercive forms.”¹¹⁷ He describes power as a concept that is inescapably dependent on values. He states, “Both its definition and any given use of it, once defined, are inextricably tied to a given set of (probably unacknowledged) value-assumptions which predetermine the range of its empirical application.”¹¹⁸

Lukes outlines three dimensions of power: the One-Dimensional View of Power (the pluralist view); the Two-Dimensional View of Power (the critics of pluralism); and

¹¹⁶ Lorenzi, Maximiliano. “Power: A Radical View by Steven Lukes.” *Universita di Firenze Vol. 6, no. 2* (2006): 87-95. http://www.webasa.org/Pubblicazioni/Lorenzi_2006_2.pdf, Pp. 87.

¹¹⁷ Lorenzi, 87.

¹¹⁸ Lukes, Steven, *Power: A Radical View, Second Edition*. London: Palgrave Macmillan, 2005, 30.

the Three-Dimensional View of Power. He describes the One-Dimensional View of Power as “the study of concrete observable *behavior*”, [my emphasis] i.e. decision making, clear issues, overt conflict, and political action.¹¹⁹ The Two-Dimensional View of Power is a critique of the first, and declares, “It is crucially important to identify potential issues which non-decision making prevents from being actual.”¹²⁰ The main critique of the first dimension is that while it does bring into account actions, it does not incorporate control over political action through indecision or inaction while also addressing observable yet covert conflicts. Lukes views these two views of power as lacking.

Lukes supports the Three-Dimensional View of Power as the preferred means to analyze power. He takes the position that in order to properly view and analyze power, one must go beyond observable conflicts, and consider the concealed forces that influence, shape or determine not only wants, needs, and preferences, but also access. Lukes also critiques the Two-Dimensional View of Power for claiming that power exists through inaction only by promoting grievances, but totally disregards how inaction could prevent grievances. “Is it not the supreme and most insidious exercise of power to prevent people, to whatever degree, from having grievances by shaping their perceptions, cognitions, and preferences in such a way that they accept their role in the existing order of things, either because they can see or imagine no alternative to it, or because they see it as natural and unchangeable, or because they value it as divinely ordained and

¹¹⁹ Lukes, 17.

¹²⁰ Lukes, 23.

beneficial?”¹²¹ Thus, Lukes argues that power can be used to create and prevent grievances. This occurs in order to coerce those entities subjected to that power to accept a certain role or certain expectations in the existing system through the manipulation of perceptions, and creation of presuppositions. Lukes also adds the concept of intentionality and non-intentionality in the later chapters of his revised edition to *Power: A Radical View*, a concept that takes into consideration the intended and non-intended outcomes associated with power through action or in-action.

Many academics and scholars, including Maximiliano Lorenzi, a professor of International Relations and Political Science and a research fellow at the University of Roma San Pio V, find Lukes’ Third-Dimensional View of Power an indispensable analytical tool for investigating and researching the relationship between power and conflict. Lorenzi is one of thousands of scholars who have cited Lukes in their works. Lorenzi states, “The three dimensional view allows us to consider the many ways in which potential issues are ‘kept out’ of politics, whether through individuals’ decisions or through the operation of social forces and institutional practices.”¹²²

Dworkin – Unity of Values and Legitimacy

Ronald Dworkin is one of the most influential contributors to political philosophy and the philosophy of law in the world. A new book, *Reading Dworkin Critically*, describes Ronald Dworkin as “probably the most influential figure in contemporary

¹²¹ Lukes, 28.

¹²² Lorenzi, 91.

Anglo-American legal theory.”¹²³ Dworkin writes, “Any theory about what makes a moral conviction true or what are good reasons for accepting it must be itself a moral theory and therefore must include a moral premise or presupposition. Philosophers have long demanded a moral theory that is not a moral theory. But if we want a genuine moral ontology or epistemology, we must construct it from within morality.”¹²⁴ His principle argument is that the primary function of law is to ensure that the political community acts in an ethical and moral way towards all its constituents.

In his most recent book, *Justice for Hedgehogs*, Dworkin encompasses numerous issues, from ethics, morals, free will, politics, law, and individual interpretation/perspective to make an argument about the unity of value, and the legitimacy of governments. With regard to unity of value, Dworkin states that “ethical and moral values depend on one another – is a creed; it proposes a way to live.”¹²⁵ He argues that there must be desirable elements of value that represent a desirable life as well as social justice and equality that do not contradict or take away from one another.

While discussing justice as equality, Dworkin outlines two reigning principles for the legitimacy of any government – first, it must “show equal concern for the fate of every person over whom it claims domain. Second, it must respect fully the responsibility and right of each person to decide for himself how to make something valuable of his life.”¹²⁶ Dworkin argues that these fundamental conditions of legitimacy establish boundaries around acceptable resources and opportunities a government must make

¹²³ New York University Website, <https://its.law.nyu.edu/facultyprofiles/profile.cfm?section=bio&personID=19891>

¹²⁴ Dworkin, Ronald, *Justice for Hedgehogs*. Cambridge: The Belknap Press of Harvard University Press, 2011, 38.

¹²⁵ Dworkin, 1.

¹²⁶ Dworkin, 2.

available to those it claims to govern. He frames it in such terms due to the fact that “any distribution is the consequence of official law and policy: there is no politically neutral distribution.”¹²⁷ However, the main purpose of demonstrating the unity of value is to show how law and government can and should be based on political morality.¹²⁸

Dworkin also describes a conception of law that in itself a branch of political morality, which in turn is an element of an even larger and more encompassing general theory of what it means to live well, all part of the unity of value. He goes on to argue that moral reasoning is interpretive, meaning that all moral perspectives and presuppositions are dependent on values, and they are further dependent on other values that support such understanding. This demonstrates how values are intrinsically intertwined and that well-defined values would weigh all other values against one another and would resolve any discrepancies between them.

He philosophically argues that certain values are necessary to live well, most notably the value of dignity and of self-respect, and “we cannot respect our own humanity unless we respect humanity in others.”¹²⁹ This argument demonstrates how the ethical aspects of our lives, self-respect and dignity, supports and strengthens the moral, how we should treat each other. Dworkin admits that he himself is making moral arguments based on values that are dependent on other values and so forth, but he

¹²⁷ Dworkin, 2.

¹²⁸ Grayling, A.C., “The Birth of a Classic.” *The New York Review of Books, Justice for Hedgehogs*, (Apr. 28 2011): 1-10. <http://www.nybooks.com/articles/archives/2011/apr/28/birth-classic/>, accessed 8/16/2011, 2.

¹²⁹ Dworkin, 14.

answers the obvious question: What makes a moral argument adequate? “A moral judgment is made true by an adequate case for its truth.”¹³⁰

I borrow from Dworkin, and his theory of unity of values and legitimacy of governments, that morality, politics, legality, legitimacy and ethics are all interrelated to one another, and that values are the mortar that cements, justifies, and unifies these different judgments and interpretations. Governments are legitimate if they fulfill the requirement that there is equal concern for every person under their jurisdiction, and that it must respect the responsibility and right of those people to act in a manner that would allow them to make something of their lives. Morality, unity of values and legitimacy are made true through well thought out arguments based on competent arguments. As Dworkin says it best, “It does not guarantee that the arguments we construct in that way are adequate; it does not guarantee moral truth. But when we find our arguments adequate, after that kind of comprehensive reflection, we have earned the right to live by them.”¹³¹

Theoretical Combination

The theoretical approaches of Johan Galtung, Steven Lukes, and Ronald Dworkin complement and reinforce one another. Lukes argues that when defining the term power, and how it is employed in the practical and theoretical sense, an observer must take a very broad perspective. In the broad sense, an observer must look at not only the observable aspects of power, but also its unobservable aspects as well. This correlates

¹³⁰ Dworkin, 37.

¹³¹ Dworkin, 39.

with Galtung's theory of the violence triangle, and the visible or direct components of violence, and the invisible or structural and cultural components of violence. In order to understand conflict and power, one must look at the concealed aspects of both, and how through action or inaction, through mechanisms of coercion or non-coercive mechanisms power influences the evolution, perception, and dynamics of conflict. Galtung and Lukes warn against examining only the 'visible' or 'observable' aspects of conflict and power, as this will result in "confusing symptoms with causes."¹³² Instead, the "invisible" and "unobservable" aspects must be included in the analysis as well.

Galtung, Lukes, and Dworkin all mention perspectives, how important they are to conflict, power, responsibility, and legitimacy. Galtung's cultural violence component is part of the invisible forces that legitimize or de-legitimize violence, attitudes, perspectives, presuppositions, morals, values and "borders in the mind" of what is possible, and expectations.¹³³ Cultural violence is shaped, supported and defined by structural violence and direct violence, and justifies and supports these components in a reciprocal and self-perpetuating manner.

Lukes' power analysis focuses not only on direct observable measure of power and its influence, but the unobservable in how the concealed forces influence, shape, and determine wants, needs, and values. Lukes describes power as being depended on these value-assumptions and presuppositions, and when power is used, it further shapes and determines these values, or attitudes. This becomes a vicious cycle when power is misused to create and enforce contradictions in structures of political and social access.

¹³² Galtung, Johan. "Violence, War, and Their Impact: On Visible and Invisible Effects of Violence." <http://them.polylog.org/5/fgj-en.htm>

¹³³ Galtung, Johan. "Violence, War, and Their Impact: On Visible and Invisible Effects of Violence."

Dworkin argues in a similar vein, stating that all moral, cultural, or value reasoning is “interpretive”, meaning that all perspectives and presuppositions are dependent on preexisting values and attitudes, and they are further dependent on other values that support such understanding or justifications.¹³⁴

For use in this dissertation, when a recognized legitimate authority, legitimized through attitudes, perceptions and presuppositions, has mechanisms available to wield power and does so intentionally and non-intentionally, there will be an effect on the attitudes and presuppositions of those directly and indirectly involved. This will have a negative impact on these perspectives and attitudes when power is used to create and enforce contradictions of values and structural violence. As Dworkin puts it, any distribution of resources or enforcement is “the consequence of official law and policy: there is no politically neutral distribution.”¹³⁵

All of this should be taken into account, when it is widely accepted that the Security Council has the primary responsibility in the area of peace and security on behalf of the entire international community and with representational authority and legitimacy of the whole membership of the United Nations. Every Security Council action or inaction is based on the exercise of power which is in itself based on the perception and attitude that the Council is legitimate, it is authoritative, and its decisions are legally valid and binding. The structure of the international system itself is justified and based on these attitudes and presuppositions of accepting the primacy of the Council as *the* authority to make decisions on international conflicts. These attitudes and

¹³⁴ Dworkin, 14.

¹³⁵ Dworkin, 2.

presuppositions provide the legitimacy and authority for structural mechanisms to wield that power and make a decision on how to react to a conflict, which in turn has an effect on the perceptions of not only the participants of the conflict, but also the international community as a whole. When the Council uses its power through the mechanisms provided to in through the structure of the international system, it makes an impact on the attitudes of all, and it is this invisible impact that must be taken into account when examining conflict development and the impact the use of power has on conflict. The analysis of Council actions during the Gulf War should be considered through this lens.

Lukes writes that the exercise of power can and does shape “perceptions, cognitions and preferences”¹³⁶, and Galtung would argue that the exercise of power in a conflict, or direct violence “reinforces structural and cultural violence”¹³⁷, and can and does advance and evolve both components as well. Dworkin complements this approach through his recognition that all actions and reasoning, and justifications are value dependent. When considering the legitimacy of the Security Council, the analysis will keep in mind Dworkin’s two reigning principles for the legitimacy of governing bodies – that they must show equal concern for all over whom they claim domain, and they must respect fully the responsibility and right for them decide for themselves how to make something valuable of their existence.¹³⁸

While some may criticize this approach, and the difficulty of measuring how actions affect attitudes and perspectives, it does not dismiss the importance of exploring the invisible impacts and aspects of conflict. As mentioned before: “It does not guarantee

¹³⁶ Lukes, Pp. 28.

¹³⁷ Galtung, Johan. “Violence, War, and Their Impact: On Visible and Invisible Effects of Violence.”

¹³⁸ Dworkin, 2.

that the arguments we construct in that way are adequate; it does not guarantee moral truth. But when we find our arguments adequate, after that kind of comprehensive reflection, we have earned the right to live by them.”¹³⁹

¹³⁹ Dworkin, 39.

CHAPTER 5: THE GULF WAR CONFLICT: EVENTS AND RESOLUTIONS

Background, Phases, Resolutions

The 1991 Gulf War and the 2003 Invasion of Iraq have been described as two separate wars, but to view them as such is a misconception. These two phases, and the long drawn out phase in between, are better described as one cohesive campaign waged through a number of different mediums including direct military action, weapons inspections, and a variety of sanctions. Since 1990, there have been over eighty United Nations Security Council Resolutions regarding this conflict (it would be extraneous to discuss all and their outcomes).¹⁴⁰ This research summarizes the origins of the conflict, pertinent events, and resolutions that are of the most vital importance to this study.

The Iraq-Kuwait War of 1990 was the catalyst for the Gulf War. In many ways, the invasion of Kuwait by Iraqi forces on August 2, 1990 stemmed from the bloody stalemate that was the Iran-Iraq War. Following that war, Iraq was indebted to Kuwait for more than 80 billion US dollars. Iraq claimed that Kuwait stole oil from the Iraqi oil fields through “slant drilling”, and felt that Kuwait intentionally overproduced petroleum that resulted in Iraqi oil revenues artificially being deflated.¹⁴¹ Some have speculated that Iraq might have been “encouraged by signals from the US that it had ‘no opinion’ on the

¹⁴⁰ <http://www.casi.org.uk/info/scirraq.html>, accessed July 5 2011.

¹⁴¹ Cooper, Tom, Brig. General Sadik, Ahmad. “Iraqi Invasion of Kuwait; 1990.” *Arabian Peninsula & Persian Gulf Database*; (Sep 16, 2003). http://www.acig.org/artman/publish/article_213.shtml, accessed July 5 2011.

Kuwait-Iraq border dispute”, and that Saddam Hussein might have misread the “timid” response of the war against Iran as a sign that an annexation of Kuwait would result in little backlash.¹⁴² However, the view of the United Nations, as well as members of the Security Council, was that acceptance of the Iraqi invasion would be a threat to the sovereignty of independent nations. The Security Council adopted Resolution 660 within hours of the invasion, demanding that Iraq withdraw its troops unconditionally to the positions held before the invasion.¹⁴³ The United States and the United Kingdom led the mobilized Council. On August 6, the Council adopted Resolution 661 imposing a full trade embargo against Iraq except for food, medicine, and humanitarian supplies, only the Council’s third embargo imposed (Rhodesia – 1966; South Africa – 1977).

The following day, President George W.H. Bush ordered deployment of over 200,000 US troops to the Gulf region for Operation Desert Shield, with the intention to defend Saudi Arabia and other countries in the region from Iraqi aggression.¹⁴⁴ An international coalition formed, with thirty-four countries officially joining. Thirty-three countries of the coalition provided an estimated twenty-five percent of the troops and an estimated seventy-five percent of the over seventy billion US dollar cost of the campaign, while the United States supplied the rest. The top ten troop contributors were: United States – 550,000; Saudi Arabia – 118,000; Turkey – 100,000; UK – 43,000; Egypt –

¹⁴² Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed. *The United Nations Security Council and War: The Evolution of Thought and Practice since 1945*. New York: Oxford University Press, 2008, 385.

¹⁴³ “UN Resolution On Iraq.” *Bbc.co.uk* (Sep 9 2002). http://news.bbc.co.uk/2/hi/middle_east/2246037.stm

¹⁴⁴ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 385.

40,000; UAE – 40,000; Oman – 25,500; France – 18,000; Syria – 17,000; Kuwait – 11,000.¹⁴⁵

As this massive military force assembled in the region, Saddam Hussein continued to act belligerently. The Security Council debated additional resolutions to provide the proper authorization for use of force in the conflict; however, administration officials in the United States argued that authorization was unnecessary due to the previous resolutions, an interpretation that would reflect events in the future. On November 29, 1990, the Security Council invoked Chapter VII of the UN Charter and passed UNSC Resolution 678, which authorized “member states cooperating with the government of Kuwait to use all necessary means to uphold and implement resolution 660” if Saddam Hussein and the Iraqi forces did not comply with the earlier resolution by January, 15 1991.¹⁴⁶ The Council passed Resolution 678 with two votes against (Yemen and Cuba), one abstention (China), and twelve affirmative votes. On January, 12, 1991 the United States Congress endorsed Resolution 678.

The United States declared to the press and international community that Saddam Hussein remained defiant. When the Security Council’s deadline for Iraqi forces withdrawal expired, the coalition initiated an air campaign, Operation Desert Storm, on the morning of January 16, 1991. Operation Desert Storm was an intense and devastating bombing campaign that lasted for over a month, eroding the Iraqi defensive infrastructure and softening Iraqi forces for the upcoming ground campaign. Saddam Hussein attempted to antagonize Israel into joining the conflict by firing Scud missiles into Israel, but the

¹⁴⁵ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 386.

¹⁴⁶ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 387.

Israeli government remained uncommitted due to pressure from the United States.¹⁴⁷ On February 24, 1991, almost six weeks after the initial bombing campaign, the ground phase of Operation Desert Storm began.

The bombing campaign proved to have been effective due to the rapid advancement of coalition forces. Just three days after the February 27 ground phase commencement, coalition forces expelled Iraqi forces from Kuwait. Later that day, Saddam Hussein and the Iraqi government accepted all of the previous Security Council resolutions. With coalition forces occupying almost fifteen percent of Iraqi territory, President Bush declared an end to hostilities and total victory.¹⁴⁸

On April 3, 1991, the Security Council agreed on a framework for dealing with what was perceived as an aggressive and still dangerous Iraq. Council leadership drafted Resolution 687 in Washington and London, featuring a number of new mechanisms to support the new objectives. The resolution created a UN observer force to monitor the demilitarized zone; demanded the destruction, removal, or dismantling of all chemical and biological weapons; demanded the destruction and cessation of all research, development, support and manufacturing facilities for ballistic missiles with a range greater than 150km; it created the United Nations Special Commission (UNSCOM) to inspect Iraq's chemical, biological, and nuclear facilities; it required Iraq to hand over all materials pertinent to UNSCOM's mandate for destruction; mandatory border demarcation; judicial determination of reparations claims; imposition of new treaty

¹⁴⁷ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 387.

¹⁴⁸ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 388.

obligations; and the continuation of economic sanctions as an inducement to internal disarmament.¹⁴⁹¹⁵⁰

Following the cessation of hostilities, Saddam Hussein initiated violent reprisals against Kurdish communities in the Northern Iraq and Shi'a communities in Southern Iraq whom had risen against the Iraqi dictator. These reprisals resulted in a humanitarian crisis, with massive amounts of refugees flowing over the borders into Turkey, Iran, and elsewhere. Due to this crisis, the Security Council adopted Resolution 688 on April 5, 1991, "condemning the Iraqi repression and terming the cross border incursions produced by the resulting refugee flows a threat to international peace and security."¹⁵¹

American and British officials argued that Resolution 688 and established international law provided the authority, or as French Foreign Minister Roland Dumas put it, "a duty" to send forces into Iraq to address the humanitarian crisis.¹⁵² The other two P-5 members, China and Russia, did not object to Western enforcement of this measure. This led to the creation of the no-fly-zone (NFZ) above the thirty-sixth parallel in Northern Iraq that allowed no Iraqi aircraft to enter. The United States, the United Kingdom, and France enforced the NFZ, and by the April 16 they decided to send in troops to provide "safe havens" for Kurdish refugees. The effort, Operation Provide Comfort, eventually resulted in deployment of over 20,000 troops from thirteen separate

¹⁴⁹"UN Resolution On Iraq." *Bbc.co.uk* (Sep 9 2002). http://news.bbc.co.uk/2/hi/middle_east/2246037.stm

¹⁵⁰ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 388.

¹⁵¹ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 389.

¹⁵² Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 389.

nations. American troops withdrew starting in July, when the UN High Commissioner for Refugees “assumed responsibility for the camps the Western troops had established.”¹⁵³

The humanitarian crisis impacted Northern and Southern Iraq, as well as civilians all across the country. March 20, 1991, the UN report released a report describing conditions in Iraq as “near apocalyptic”.¹⁵⁴ Due to this report, the UN Secretariat proposed that the Security Council should regulate the sale of Iraqi oil, for ‘essential civilian needs’. The Security Council accepted this oil-for-essential-needs program, and with the adoption of Resolution 706 on August 15, 1991 established the official Oil-For-Food (OFF) program. The program did not take effect until 1996 due to the lack of Iraqi cooperation.

This resolution was important due to the fact that it allowed the Security Council through a committee (the “661 committee”) to regulate a UN member state’s revenues and to determine how to spend those revenues. The resolution gave the committee the authority to buy food, medicine, and other essential material for the benefit of the Iraqi people, as well as the authority to use Iraqi oil revenues to pay the costs of disarmament accrued due to previous resolution obligations. The resolution also provided compensation to “third parties, and the boundary settlement process.”¹⁵⁵ On April 15, 1995, the Security Council passed Resolution 986, which gave the responsibility of distributing humanitarian essentials acquired through the OFF directly to the Iraqi government, thus giving it direct access to suppliers while negotiating for contracts.

¹⁵³ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 390.

¹⁵⁴ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 391.

¹⁵⁵ <http://usiraq.procon.org/sourcefiles/UNSCR706.pdf>, accessed Aug 7 2011.

Saddam Hussein, unsurprisingly, manipulated new concessions of the humanitarian essentials to mollify the impact of sanctions on his regime, which worsened the conditions of the most vulnerable in Iraq. This erupted into a massive UN scandal when an Independent Inquiry Committee, under the leadership of Paul Volcker (the Volcker Inquiry), established that this corruption of the OFF eventually included UN officials.¹⁵⁶ Throughout the course of its existence, the OFF program provided basic humanitarian essentials to sixty percent of Iraq's twenty-seven million people, which contributed to a more than fifty percent reduction of malnutrition amongst children, a decreased infant mortality rate, and the elimination of polio. Furthermore, the program was responsible for over sixty-four billion US dollars of Iraqi oil revenues.¹⁵⁷

As the years passed, there was discord in the Security Council about the continuation of the sanctions. Pressure mounted from some of the P-5; however, it became clear that the United States and the United Kingdom would block any such relief of sanctions through the reverse veto, or the P-5 member's ability to block any changes to existing resolutions. By 1997, it became clear that the United States no longer saw sanctions as a mechanism for containment, rather as a mechanism for regime change. This became official US policy when Congress passed the Iraq Liberation Act on October 3, 1998.¹⁵⁸

During the 1990s, the United States and the United Kingdom used existing Security Council resolutions to justify ongoing military action in order to continue the containment and isolation of Iraq. In the beginning of the decade, there was little or no

¹⁵⁶ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 391.

¹⁵⁷ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 392.

¹⁵⁸ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 392.

objection from other members of the Security Council to continued military action; however, as the decade wore on some of the Council members this questioned this interpretation of existing resolutions while other members outright denounced it. As the other three P-5 members became progressively more insistent in their disapproval to such actions, this resulted in the disruption of unity and impartiality of the Council regarding its purpose in Iraq.

US military objectives became “increasingly decoupled from the stated objectives of the Council.”¹⁵⁹ An example of this followed the discovery of the assassination plot against former President George W.H. Bush by Iraq while he visited Kuwait in 1993. In retaliation, the United States fired twenty-four tomahawk cruise missiles at various government buildings in Bagdad, all in the name of “self-defense”.¹⁶⁰ Then in October 1994, when Iraqi forces drew near the border of Kuwait in a move that seemed to imply an attack, the United States without consulting the Security Council assembled in response over 50,000 troops in the Gulf.

On October 14, 1994, the UN Security Council adopted Resolution 949, condemning the Iraqi military deployment, demanding the withdrawal of Iraqi forces and demanding that Iraq not redeploy.¹⁶¹ The United States and the United Kingdom “interpreted Resolution 949 as giving them authorization to use force in the event of Iraqi non-compliance,” but Iraq withdrew its forces from the Kuwaiti border before military conflict occurred. Thus, the debate on interpretation never came to fruition.¹⁶² Yet,

¹⁵⁹ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 392.

¹⁶⁰ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 393.

¹⁶¹ <http://usiraq.procon.org/sourcefiles/UNSCR949.pdf>, accessed July 22, 2011.

¹⁶² Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 393.

military confrontation and action continued. By December 1998 President Bill Clinton initiated Operation Desert Fox in response to Hussein's non-compliance of previous resolutions, resulting in an extension of the NFZ and intensified bombings. This will be discussed below due to the connection to weapons of mass destruction (WMD).

The Security Council passed Resolution 687 on April 3, 1991 when it concluded that Iraq's various WMD programs constituted a threat to international peace and security, thus invoking Chapter VII. As mentioned above, Resolution 687 established the UNSCOM to monitor, inspect and destroy all of Iraq's biological and chemical weapons, as well as capabilities. The Council delegated the International Atomic Energy Agency (IAEA) the same task regarding Iraq's nuclear weapons program. Both agencies were impeded in their tasks due to Iraqi circumvention, resulting in the Security Council adopting Resolution 715 on August 15, 1991, recalling resolutions 687 and 707. Resolution 715 gave more authority to the UNSCOM and the IAEA by establishing the Ongoing Monitoring and Verification (OMV) which was a much more intrusive regime.¹⁶³

Even so, this regime was not accepted by Iraq (whose cooperation was necessary) until 1993, but Iraqi circumvention continued to intensify. By November of 1997 the Security Council threatened Iraq with action, which resulted in Saddam Hussein banishing all United States personnel involved in UNSCOM. This, in turn, resulted in another massive buildup of US forces in the Gulf and resulted in the UNSCOM release of an Iraqi non-compliance report in December 1997.

¹⁶³ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 394.

The United States and the UK, without Security Council authorization, launched the above mentioned Operation Desert Fox. The justification for such an attack was based on Iraq's non-compliance with previous Security Council resolutions, resulting in more than 650 air strikes and over 100 targets. Yet, even this operation had miniscule effect on Iraqi compliance to weapons inspections.¹⁶⁴ UNSCOM was rendered impotent, and in December of 1999 the Security Council adopted Resolution 1284, which replaced UNSCOM with the UN Monitoring, Verification and Inspection Commission (UNMOVIC) and it lifted all export limits on Iraqi oil and arranged for the facilitation of humanitarian essentials into Iraq.¹⁶⁵

The events that unfolded on September 11, 2001 changed the strategic outlook of many countries and profoundly changed the relationship between the United States, the United Kingdom, the UN Security Council, and Iraq. By the end of 2001, the George W. Bush administration began to identify Iraq as the “central front in the war on terrorism”, with “evidence” that there was a link between Saddam Hussein and al-Qaeda.¹⁶⁶ This resulted in Secretary of Defense Donald Rumsfeld instructing the Pentagon to “develop war plans for Iraq” in December 2001.¹⁶⁷ President George W. Bush, on the 12th of September 2002 delivered a speech in New York at the UN General Assembly where he stated, “If Iraq's regime defies us again, the world must move decisively to hold Iraq to

¹⁶⁴ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 395.

¹⁶⁵ <http://usiraq.procon.org/sourcefiles/UNSCR1284.pdf>, accessed July 22 2011.

¹⁶⁶ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 396.

¹⁶⁷ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 396.

account... Are Security Council Resolutions to be honored and enforced? Will the United Nations serve the purpose of its founding, or will it be irrelevant?"¹⁶⁸

The members of the Security Council WMD's quickly saw as the one issue they might be able to agree upon to authorize force against Iraq; discussions in the Council intensified. On October 16, just over a month after President Bush's speech, the United States Congress passed a resolution to authorize military action against Iraq. Then on November 8, 2002, the Security Council passed Resolution 1441 in which it recalled all previous resolutions and recognized "the threat Iraq's non-compliance with Council resolutions and proliferation of weapons of mass destruction and long-range missiles poses to international peace and security."¹⁶⁹ Simultaneously, the Council invoked Resolution 1409, which passed on May 4, 2002, recognizing Iraq's territorial integrity. This was included to maintain the position of some Council members that an additional resolution would be necessary in order for military action to be authorized.¹⁷⁰

After nearly four years of being denied entry, Iraq allowed in weapons inspectors. Within a month of Resolution 1441, Iraq presented the Security Council with a "currently accurate, full and complete declaration" of its weapons program, and the UN weapons inspectors rapidly conducted 237 inspections at 148 sites in four months.¹⁷¹ Yet, while all of this inspecting occurred, the United States began and continued a massive military buildup in the Gulf region. American and British officials quickly dismissed all indications from the Chief UN weapons inspectors Hans Blix and Mohammed El-Baradei

¹⁶⁸ "President George W. Bush Makes a Speech to the UN General Assembly." Sep 12 2002; <http://www.johnstonsarchive.net/terrorism/bushiraqun.html>, accessed Sep 7 2011.

¹⁶⁹ UNSC Resolution 1141 (2002), <http://usiraq.procon.org/sourcefiles/UNSCR1441.pdf>, accessed Sep 7 2011.

¹⁷⁰ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 398.

¹⁷¹ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 399.

that Iraq was cooperating as typical deception. However, the Russian and French officials saw as Resolution 1441 bearing fruit.

France implied a “no vote” for an additional resolution; however, the US continued to press for it, culminating in the US Secretary of State taking his alleged evidence to the UN and declaring that Iraq had connections to al-Qaeda and WMD’s. This contradicted an IAEA report that determined that Iraq was in fact not attempting to reconstruct its WMD’s programs, yet the Bush administration continued to criticize the inspections. While this debate occurred, US military had deployed over 200,000 troops in the Gulf region.¹⁷² On the February 24, 2003 a draft resolution to the Security Council declared “the Council decides that Iraq has failed to take the final opportunity afforded to it in resolution 1441,” but with clear French and Russian opposition the draft was withdrawn. Then, on March 17, 2003, President George W. Bush delivered an ultimatum to Iraq declaring that “Saddam Hussein and his sons must leave Iraq within forty-eight hours.”¹⁷³

The air attacks began on March 19, 2003, while the ground invasion, entitled “Operation Iraqi Freedom” commenced the following day. Within three weeks American troops had taken control of Baghdad, and US led forces had successfully invaded Iraq. Following, on May 22, 2003, the Security Council adopted Resolution 1483 which noted:

The letter of 8 May 2003 from the Permanent Representatives of the United States of America and the United Kingdom of Great Britain and Northern Ireland to the President of the Security

¹⁷² Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 400.

¹⁷³ “President Says Saddam Hussein Must Leave Iraq Within 48 Hours”, *White House Office of the Press Secretary*, 17 Mar 2003.

Council...and recognizing the specific authorities, responsibilities, and obligations under applicable international law of these states as occupying powers under unified command (the ‘Authority’)...Noting further that other States that are not occupying powers are working now or in the future may work under the Authority.¹⁷⁴

This, in effect, recognized United States and the United Kingdom as occupying powers. Also, it violated customary international law regarding occupation by giving the Coalition Provisional Authority *the* “decider” role in transforming the future landscape of Iraq’s politics and constitution.¹⁷⁵

¹⁷⁴ United Nations Security Council Resolution 1483 (2003), <http://usiraq.procon.org/sourcefiles/UNSCR1483.pdf>, accessed Sep 7 2011.

¹⁷⁵ Lowe, Vaughan, Roberts, Adam, Welsh, Jennifer, Zaum, Dominik, ed., 402.

CHAPTER 6: ANALYSIS

In the first phase of the Iraq War, the perceptions and presuppositions of the UN and the Security Council were in flux. No one knew what the end of the Cold War would mean for the international community and conflicts around the globe. The Cold War had kept the Security Council frozen on most issues, but the perspective of many observers, as outlined in chapter 3, was that it had done its job. The Council allowed proxy wars based on east-west ideologies, but prevented the two superpowers from beginning another all-out world war. The expectations of the international community regarding the Security Council during the Cold War were not very high and it was accepted that whenever the vested interests of the P-5, and especially the P-2 (the United States and the Soviet Union) were involved, there would be little or no Council involvement.

When the Cold War ended, however, many wondered if the impartiality of the Security Council would continue. Indeed, towards the end of the Cold War there had already been a change in the perspective of some important individual of what role the Security Council should fulfill. Javier Perez de Cuellar, the former UN Secretary-General, already in 1986 had challenged the P-5 to work together and do something about the Iran-Iraq War. His attitude was that the Council should begin to fulfill its responsibility and mandate to promote and protect international peace and security. The increase of Council action at the end of the Cold War is noted in the previous chapter.

Beginning in 1990, however, the attitudes toward the Council, the perceptions of it, and its expectations quickly evolved. With Iraq's the invasion of Kuwait on August 2, 1990, and the rapid response of the Security Council in adopting Resolution 660 within hours of the invasion, this exercise of power in response to an international conflict instantly shifted attitudes and presuppositions around the international community. Within days, the Council adopted Resolution 661 and invoked the mechanisms of trade embargos and other sanctions. By November, with Saddam Hussein ignoring demands, the Council also passed Resolution 678 invoking Chapter VII, giving the ever growing international force the authority to take military action. The sheer volume of response to the Kuwaiti invasion and the unity of the Security Council created high expectations around the world. The use of Chapter VII demonstrated that the Council would take action when the sovereignty of a nation is violated.

These actions started an evolution of the Council and its involvement in affairs under its mandate. Ambassador Kishore Mahbubani, former ambassador of Singapore and former President of the Security Council stated that in the mid to late 80's the Council would go month's in-between meetings, but after the Invasion of Iraq the Council held meetings daily.¹⁷⁶ The increase of meetings coincided with the increase of scope and vision. New structures of involvement on an international scale were accepted, legitimized and authorized on a grand level.

With the "success" of the Gulf War, the Security Council was on a high note. The Council had demonstrated its legitimacy and authority with conviction and speed,

¹⁷⁶ "The UN Security Council: From the Cold War to the 21st Century."
<http://www.carnegiecouncil.org/resources/transcripts/4422.html>, accessed August 2011.

increasing its standing within the international community. It gave the impression that once it had made a decision, once it had set on a course of action, there was no stopping it. It could and would interpret perceived threats to international peace and security, and it decided what action was necessary, i.e. when to negotiate and when to use force based on its prerogative. Yet there were signs within the Council that not every member of the P-5 would interpret resolutions the same way.

Before the Council adopted Resolution 678, the resolution that invoked Chapter VII, there were voices in the Council and among P-5 members that additional resolutions would be required to authorize force, but other voices, specifically the United States, argued that pre-existing resolutions already authorized force, a perception and attitude that, as was mentioned in chapter 4, would be reflected in events to come.

The second phase of the Gulf War provided the international community with changed attitudes and perspectives regarding the enforcement of humanitarian rights and law. During the Cold War, the Council did not deal with humanitarian crises, which were considered under the province of the Red Cross and the UN agency High Commissioner for Refugees. However, with the attack of Kurdish and Shi'a communities by Saddam Hussein's forces in 1991, the Council passed Resolution 688, condemning Iraq for the attacks against these communities and the threat to the region due to the refugee situation.

The French, British, and Americans used this resolution to establish Operation Provide Comfort, which was a military no fly zone combined with humanitarian aid. This created new mechanisms and structures for the Council to take action or utilize their power when faced with what it considered a humanitarian crisis and conflict. This, in

turn, changed international attitudes and perceptions of what the Council would and could do. The expectations of the international community were at an all-time high, and the Council, armed with new structures, legitimacy, authority, and attitude accelerated its scope and action.

With the adoption of the Oil-For-Food program, the Council took on even more responsibility. With a mandate to address the growing humanitarian crisis in Iraq, the Council deemed the sale of oil for essential civilian needs as necessary to counterbalance the embargos and restrictions imposed on Iraq by the Council, which was seen as exacerbating the impact on civilians. Furthermore, the focus on Iraqi weapons of mass destruction and the threat they pose to international peace and security was one of the most important developments in the second phase of the Gulf War. The development and implementation of weapons inspections would have a lasting impact on perceptions and justifications for involvement in the future.

Also, during the second phase of the Gulf War, the Council expanded its international involvement in conflicts and humanitarian efforts, but a series of failures, such as Somalia, Bosnia, Rwanda and others mentioned in the previous chapters hampered the heightened perceptions and expectations. When comparing these failures to the effort, resources, and exercise of power that the Council demonstrated in the Gulf War, the perception and attitude of the international community shifted drastically, as it had in response to the first phase of the Gulf War. Attitudes regarding the Council and the UN as a whole became frayed. The expectations for the Council to maintain international peace and security and respond to humanitarian crises with its authority,

legitimacy, and newly developed mechanisms of power radically disappointed the global community.

As mentioned previously, in the first phase of the Gulf War, the international coalition spent over 70 billion US dollars and had a military force of over 800,000. In 1993, the UN had thirteen missions in three continents, and spent just 3.6 billion US dollars and had under 80,000 UN soldiers deployed in the entire year. At the same time, the failures in Somalia and the former Yugoslavia caused a reevaluation and change in perspective of major actors in the Council, most notably the United States and close allies to question the viability of taking action when the domestic political costs were so high. The first phase and the beginning of the second phase of the Gulf War had affected the value, perception, and attitude of the UN and the Security Council, which resulted in the expansion of its structures, its expectations, and its actions. The failures and drastic differences in scope and effort by the Council were public. When comparing the first phase of the Gulf War to efforts afterward to domestic political accountability, the result was a drastic change in the perception of the P-5 regarding what the Council can and should be do. Also, the perception of the international community of the Council shifted adversely in expectation of UN intervention in conflicts and humanitarian crises.

The international community perceived that the Council would only act when the vested interests of one or more of the P-5 members coincided. The failures, the cost of action, and the domestic political accountability shaped the perceptions and attitudes in the Council, and especially the most active members of the P-5. Those that controlled the agenda and scope of the Council built the borders in the minds. Attitudes changed of

what is possible, what can be done, and what cannot. If there were no vested interests, then the domestic and publicity ramifications of action were too great.

This all culminated in the Rwandan Genocide and the inability of the UN to stop the massacre in Srebrenica. The perception and attitude towards the UN and the Council was at an all-time low, especially when comparing the interests and actions of the Council during the first phase of the Gulf War to the interests and actions of the Council during 1992-1996. This caused the former President of Zambia Frederick J.T. Chiluba to remark as he addressed the Council, “There is a perception that the United Nations, and in particular the Security Council, is usually slow and reluctant to support peace efforts in Africa.”¹⁷⁷ The unity of the Council was shattered and attitudes perceived the Council as being ruled by constraints and power politics reminiscent of the Cold War, just with new labels and definitions.

In this backdrop of changing attitudes, perspectives, presuppositions of the international community, and exercises of power, starting in 1994 there was a disagreement in the Council on how to interpret the ongoing Iraqi conflict. When Iraqi forces were observed to draw near the Kuwaiti border it was seen as an implied attack. Instead of waiting for Security Council consultation, the United States decided to assemble over 50,000 troops in the region. The effects of high expectations caused and shaped by the aftermath of the first phase of the Gulf War contrasted with the dysphoria of failure, resulted in the loss of expectations and frustration of what the Council can and will do. Furthermore, it helped propel the attitude that in certain cases, especially when

¹⁷⁷ “The UN Security Council: From the Cold War to the 21st Century.”
<http://www.carnegiecouncil.org/resources/transcripts/4422.html>, accessed August 2011.

vital interests are at stake, to use violence or force is an acceptable mechanism of power without international consensus. This without a doubt set the stage for future action.

The decision to act with a threat of force and not wait for Council debate, however, coincided with the perceived disinterest of the Council in other peace, security, and humanitarian conflicts occurring in the world at the same time, resulting in further changes in perceptions, attitudes, and expectations. The Security Council, realizing that it was losing its significance, and with pressure from the US and the UK, adopted Resolution 949, condemning the Iraqi military buildup on the Kuwaiti border, demanding the withdraw of Iraqi forces, and demanding that Iraq never take hostile action against Kuwait's sovereignty. Again, this resolution was interpreted by the US and the UK as to give them the authorization to use force, at odds with other Council members, and at this point an established attitude, or perception, that Council resolutions would be interpreted by certain Council members one way and others in another way. Not only was the Security Council perceived as being subject to powerful nation's interests and politics at this point, but even amongst the P-5 members there was the impression that the Council and its decisions were being manipulated to justify actions that seemed questionable at best.

In the late 1990s, the actions of the UN and the Security Council had a relative renaissance when compared to the failings of the years before. The perspective of the UN, the Security Council, and its legitimacy and authority slowly began to rebuild itself; it slowly began to increase its scope and actions. In Iraq, however, the up and down behavior and unity of the Security Council continued. The Council and the P-5 agreed

that Iraq was acting belligerently according to previous agreements, but when the US and the UK decided to launch Operation Desert Fox it was justified by previous Council resolutions. The international community and some in the Council opposed this stance. The Council reacted by adopting Resolution 1284, which intensified the conditions for weapons inspections, yet it did not change attitudes regarding the use of force in Washington or London. The end of the millennium, however, saw the Council bounce back from its low point in the mid-90s with some success such as Sierra Leone.

The events on September 11, 2001 signaled the end of the phase two in the Gulf War, and brought about phase three. Phase three was marred with disagreement and disunity of the Council, and a huge blow to the international community's perception of the legitimacy, authority, legality, and value of the Security Council. The Bush administration justified its decision to identify Iraq as the central front in the war on terrorism due to Iraq's refusal to allow weapons inspections and the "threat to international peace and security" posed by Iraq's alleged WMDs.¹⁷⁸ This perspective echoed Resolution 687, where the Council determined that Iraq's various WMD programs constituted a threat, thus invoking Chapter VII. The Council's consensus, that Iraqi WMDs *could* represent a threat to international peace and security Resolution 1441, resulted in a series of new inspections and a split of perceptions in the Council.

The United States and the United Kingdom, distrustful of Saddam Hussein and unable to convince the Council to pass another resolution giving specific authorization of force, decided to interpret previous resolutions as giving the authority to use force, as

¹⁷⁸ "President George W. Bush Makes a Speech to the UN General Assembly." Sep 12 2002; <http://www.johnstonsarchive.net/terrorism/bushiraqun.html>, accessed Sep 7 2011.

they had done in the past in regards to Iraq. With the invasion of Iraq, and the Council's impotence, attitudes and perceptions of the Council hit rock bottom.

The adoption of Resolution 1483 made matters worse. In effect, it legitimized the invasion and legalized the occupation in violation of customary international law, giving the Coalition Provisional Authority power over Iraq. The perception was that the Council was trying to salvage some of its reputation as a force on the international level by retroactively paying lip service to an action and threat to international peace and security it could neither stop nor prevent.

The exercise of power the Security Council took regarding the Gulf War in all phases has deeply impacted the cultural violence aspect, or attitudes of the international community in regards to conflicts and humanitarian crises. The first phase of the Gulf War created euphoria of expectations, a shift in presuppositions regarding the international community, and how it does and should function. The exercise of power by the Security Council also resulted in an evolution of the structures and mechanisms available to Council to fulfill its mandate. This, in turn, with the new perspectives on cultural violence and what can and should be done had a direct impact on the behavior of the Council in succeeding conflicts. In the second phase, the euphoria caused by the first phase set such high standards for expectations that when the failures of Council actions, and the subsequent decision not to use power or limited power in many conflicts, resulted in the nadir of expectations.

The Council would not intervene unless a powerful member(s) of the international community were willing to provide funding and support. The vital interests of the P-5

and their allies would have to be protected, resulting in the perception that those in conflict situations should expect international intervention only when it would benefit the P-5 and their allies, or not cause a conflict of domestic political accountability to decision makers.

The ideologies of the Cold War had shifted, but the power politics of the Security Council remained the same. This demonstrated that the Security Council was not showing equal concern for those it claims domain. This contradicts the Council's mandate as the legally and legitimately authoritative enforcement organ of the United Nations and as an international body composed of nations legally bound to support its decisions. The Council's mandate also includes the responsibility to protect international peace and security and work within the principles and purposes of the UN Charter to promote human rights within recognized international law. The analysis of the Council's power politics, especially the P-5, demonstrates the failure of this mandate.

Its distribution of enforcement, action, and concern was and is a clear consequence of official policy and precedent. It has undermined its own legitimacy in the attitudes and perspectives of those it claims authority over. Even with the apparent successes and greater involvement of the Council in the late 90s through all of the lives it helped to improve and its growing focus on humanitarian crises and human rights, it was and is an uneven distribution in the exercise of power.

Kishore Mahbubani, former President of the Security Council recounts a story from 2004 private meeting:

Unfortunately, I learned one big lesson after visiting Burundi in the Great Lakes region. When we returned to New York, the 15 Security Council members met with Gareth Evans (at the time the President of the International Crisis Group) who asked us a simple question: ‘You’ve been to Burundi, you’ve seen how fragile the situation is. This time around, if a genocide breaks out in Burundi, what will the Council do?’ There was an awkward silence before one P-5 member said, ‘My country has no vital national interest in Burundi, and we will not react.’ A second P-5 member said, ‘My country has no vital national interest in Burundi, so we will not react.’ And this went around.¹⁷⁹

Consider how the United States and the United Kingdom repeatedly interpreted previous resolutions to justify military force and the use of other mechanisms of power when dealing with Iraq. NATO has been accused by Russia and China of exceeding or misinterpreting its mandate in Libya. Likewise, Russia evoked Security Council Resolution 1674 and the responsibility to protect when waging its war in Georgia. Iraq set a precedent that interpreting resolutions to fit individual P-5 or combined P-5 strategic interests is acceptable, contributing to cultural violence.

Many including myself claim this is a loop-hole for neo-imperialists to wage wars deemed illegal in any other context. The invasion of Iraq could be argued as an aggressive attack on a sovereign nation, which the UN Charter declares in its purposes and principles to be allowed only in self-defense and not in aggression. Yet, a Council member, a member who has sworn to uphold these principles when fulfilling its mandate

¹⁷⁹ “The UN Security Council: From the Cold War to the 21st Century.” <http://www.carnegiecouncil.org/resources/transcripts/4422.html>, accessed August 2011.

to ensure international peace and security, has trampled all over the Charter. The Council's behavior demonstrates to the international community when to expect action and when not to expect action.

This enshrines the attitudes and presuppositions of perpetrators of conflicts and victims as well. Are we part of the strategic interests of a P-5 member? Will the Council react? When does the Council refuse to discuss an issue? When does it give a half-hearted effort and when does it decide to not use its power? When it utilizes extreme power and interpretation in an oil-rich nation, it is changing presuppositions, values, structures and behaviors of those in conflict and the entire international community.

Yet, despite this critique, I argue the world would be worse off without the Security Council. The Council has acted in multiple conflicts, it has addressed issues of human rights, and it has continually expanded its efforts globally. If the Council were to collapse, it would be very difficult to construct something in its place. The decision-making would become even less democratic.

While the Council might be necessary, this analysis justifies structural criticism. The Council feels no pressure or need to change their modes of operation while it has seen its legitimacy challenged in many parts of the world. Change will only come about when the Council accepts that it must earn respect and increased legitimacy through the fulfillment of its mandate and responsibility as the authoritative and legitimate organization for promoting and advancing international peace, security, human rights, and development. Thus, it is imperative to understand the impact that the power of the

Security Council has on the cultural aspects of violence and presuppositions as well as the structures and behaviors behind them.

CHAPTER 7: CONCLUSION

The aim of this dissertation has been to analyze the impact on cultural violence, or the attitudes, presuppositions, and expectations in reference to the behavior of the United Nations Security Council. The post-Cold War period was chosen due to the change in scope and involvement of the Council, and the case of the Gulf War in all three phases from 1990-2003 was selected due to the importance and affect it had and has on the international community and conflict as a whole. Paradoxically, while the Security Council has the responsibility to maintain international peace and security, as well as maintain the principles and purposes of the UN Charter, it has demonstrated its willingness to distribute its power and authority unevenly while over-emphasizing its own strategic and vested interests, especially those of the P-5. These actions have caused drastic shifts in the perception and expectations of the entire international community, most of all those caught in violent conflicts. These changes shift perceptions and expectations of what is possible and what is acceptable, and create what Galtung would call ‘borders in the mind’.

The Security Council has multiple methods of dealing with conflict, many of which were created and honed while taking action in Iraq. The structure of the Council and the powers, legitimacy and authority vested in it provide a number of contradictions that can be and are exploited: no judicial review; the no vote or ‘veto’; the ‘hidden veto’;

agenda setting; the power to interpret the meaning of security, peace, and human rights; the power to interpret a threat to security, peace and human rights; and the ability to create and/or develop mechanisms of power which include embargos, sanctions, military interventions, criminal courts (of which they can be exempt), weapons inspections, and programs to regulate the income of sovereign states like the Food-For-Oil program.

These contradictions manifest themselves in many forms. Comparing the actions of the Security Council in the first phase of the Gulf War to the entire efforts of the Council in 1993 demonstrates massively disproportionate attention, consideration, and resources towards the Gulf Conflict. This is clearly a contradiction between the mandate and responsibility of the Council to abide by the principles of the UN Charter, and maintain international peace and security.

Also, it is not the increased mechanisms of power created by Council actions during the Gulf War that cause the massive shifts in perceptions, expectations and cultural violence, but the *misappropriation and misuse of this power* that has caused such drastic changes. There is also the contradiction between what the Council *should* do, and how the Council *should* adhere to international law and customs according to the UN Charter, and what the Council does in practice. The Council can and does decide when to use international law, and when to ignore it. Do as I say, not as I do. This contradiction causes mistrust of the international system, and has a direct impact on the perceptions of the international community. International laws are for some to follow, but not for the P-5. There is the contradiction between the Council protecting the sovereignty of its members and allies while slowly eroding the perception of sovereignty of other nations.

A prevailing perception following the third phase of the Gulf War, the invasion of Iraq, was that the actions of the Council to recognize the occupation forces as legitimate created a loophole for neo-imperialism, back by international law, and the authority and legitimacy of the Security Council.

Galtung's violence triangle is exemplified by the Security Council. The Council was created with contradiction at its core, and this contradiction was justified by the presupposition that without the contradiction the system cannot function. During the Cold War this was observable in the behavior of the Council. The contradiction was and is the structural inequality as well as the mechanisms of power built into the structure. The attitudes, expectations, legitimacy and presuppositions that justified the need for this structure are the cultural aspects of Galtung's triangle. The Cold War dominated the attitude of the Council, which in turn dominated the behavior. When the Cold War ended, and the ideological and power differences between the P-2 were in flux, this resulted in behavior that evolved the perceptions and attitudes towards the Council and the international system and created new structures and mechanisms of power for the Council to utilize, but did nothing to address the inherent inequality and contradiction in the structure of the Council. This continuing contradiction and the behavior of the Council which resulted in failure and catastrophe after the first phase of Iraq into the 1990's exacerbated negative perceptions of the Council, the UN, and the international system as a whole. It is these invisible aspects of the triangle that are of such importance. The Gulf War demonstrates increased behavior by the Council and the expanding of available structures and mechanisms, but that behavior also demonstrates that the old

contradictions and inequality still persist, and while it may have short term gain for individual P-5 members and their allies, it may have long term consequences not only on the international system and P-5 members, but on international conflict in general.

Lukes's argument that in order to analyze power we must look at the observable and unobservable aspects to fully appreciate its effects is spot on and supports Galtung's theory. Deciding when not to use power is just as important as deciding when to use power. These are the observable aspects of exercising power, and is exemplified by the Council's decisions to use their power and mechanisms in the Gulf War while deciding not to use its power and mechanisms in other situations involving the Council's mandate. The unobservable aspects of power are the built in contradictions and inequality of the Council system. The Council has acted in ways that have denied certain members of the international community access to the UN system of power and mechanisms. As mentioned in chapter 4 Lukes wrote, "Is it not the supreme and most insidious exercise of power to prevent people, to whatever degree, from having grievances by shaping their perceptions, cognitions, and preferences in such a way that they accept their role in the existing order of things, either because they can see or imagine no alternative to it, or because they see it as natural and unchangeable, or because they value it as divinely ordained and beneficial?"¹⁸⁰ Could it not be argued that the Council has acted in a way that limits access to the UN system and invisibly affects the perceptions and attitudes of those it claims to represent to accept the status quo? Lukes is arguing for a better understanding of these unobservable aspects of power, hand in hand with Galtung.

¹⁸⁰ Lukes, 28.

Dworkin's moral arguments about legitimacy and unity of value compliments these two approaches when considering the Security Council. As mentioned in chapter 4, Dworkin states that in order for governments to be legitimate they must "show equal concern for the fate of every person over whom it claims domain."¹⁸¹ Clearly the Security Council, which has theoretically accepted the role as the legitimate enforcer of the UN Charter and international peace and security, does not show equal concern for those whom it claims authority. In practice, as has been demonstrated, the reality is quite different. Dworkin also argues that moral reasoning is interpretive, meaning that all moral perspectives and presuppositions are dependent on other pre-existing and mutually supporting values and presuppositions. It is when these values and presuppositions are in conflict with one another, as in the case of the Security Council, that the potential for conflict is apparent. In the short term, these contradictions can be kept at bay. But in the long run, if these contradictions become more acute, the legitimacy that they are founded on will be challenged. This furthers the argument that the invisible aspects of conflict, especially pertaining to the Security Council, must be further examined and explored to better understand conflict development.

The challenge for the Security Council today is to take serious consideration of these invisible or non-observable aspects of wielding power and cultural violence formation. Without doing so, the obvious behavior of the Council, which demonstrates a lack of equal concern for the fate of all over whom it claims domain, as Dworkin would put it, will result in the de-legitimization of the authority and legality of the Council. But

¹⁸¹Dworkin, 38.

delegitimizing the Council without creating a better international organ with more accountability to address conflict would result in a power vacuum, and most likely result in more violence and chaos. This is why the study of these invisible and non-observable repercussions are imperative to not only to international relations and peace studies, but to the entire international community as a whole. In investigating these visible and invisible aspects of power and conflict, the Council can gain insight on how their actions impact global conflict in every component. If the Security Council realizes how its actions create contradictions of values, structural violence, negative attitudes, and volatile behavior, it might realize that this is beneficial to no state, even the P-5, in the long term. Adam Roberts, a supporter of the Council states that: “[T]he Security Council...is unable to intervene in every situation that arises...But there is another, related argument that has more force. It is that the Security Council should have a consistent, or at least rational and defensible, policy on the circumstances in which it will and will not act.”¹⁸² With the proper analysis of all the components of conflict and power, and a consideration of these visible and invisible effects are taken into account that a more legitimate governing body might develop.

¹⁸² Roberts, Adam, Zaum, Dominik, *Selective Security: War and the United Nations Security Council since 1945*. New York: Routledge, 2008, Pp. 30.

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