

# Is the Time Ripe to Reorganize the United Nations Security Council?

**Mogami Toshiki**

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*by Mogami Toshiki*

### *The Necessity to Reorganize the Security Council*

I am among those who accept the necessity for reorganization of the United Nations Security Council; we need a change in composition of the countries that comprise it. At the same time, I should like to recall that this reorganization is not the same as a reform of the United Nations.

Restructuring of the Security Council is needed, I believe, because the principles guiding its composition are outmoded. In particular, the basis for the selection of its permanent members has lost any sense of reality and legitimacy.

The permanent members of the Security Council have been the principal victor states in World War II. The basis for their selection was that they were both victorious in the war and (at the time) large states. "Large states" means that they were powerful militarily, as the UN approach to preserving security rested firmly on the role of militarily powerful states.

In a sense, this may have been a necessity. That is, the UN structure was created to prevent the reemergence to prominence of the Axis powers (Japan, Germany, and Italy). This was the secret for assuring international peace and security. Given this goal, it was only natural

that the militarily powerful among the Allies would share "primary responsibility for the maintenance of international peace and security" (Article 24 of the UN Charter).

With the virtual disappearance of any possibility of a resurgence of the Axis powers, this schema has collapsed, indeed this has been the case ever since the war ended. Furthermore, it was virtually inconceivable that the military great powers, especially the US and the Soviet Union, should act jointly to handle international security. During the Cold War they were in opposition to each other, so there was no way they could jointly use military force to suppress aggression. The Great Powers that made up the Security Council, especially the US and Soviet Union, frequently used force, and the United Nations never constrained them.

What does the future portend? Will the principle of relying primarily on powerful states continue? Will the UN regain its legitimacy? If I may begin with a conclusion, this is difficult to imagine. The prospect that the sort of thing that happened in World War II, in which a great armed force exceeding the forces of aggression, was brought together and sent into battle, is remote.

The biggest problem facing peace and security in the post-Cold War era is the "war against terrorism," and some therefore argue that we must continue to rely primarily on the militarily powerful states. But, is this really the case? Terrorist activities must be prevented and eliminated, but we cannot, for example, use nuclear weapons to confront suicide bombers

who target several dozen people for attack. Also, the permanent members of the Security Council probably cannot unilaterally endorse what Israel is doing in Palestine, and what Russia is doing in Chechnya, because the commission of massacres, abuses, and torture cannot bring about international peace and security.

Needless to say, there will continue to be instances in which limited military force will be necessary. In cases where massacres and the like occur under conditions of continuing civil or regional war, there will be times when an international police force will be needed, but existing Peace Keeping Forces, perhaps with slightly heavier armament, should be sufficient to deal with such cases. In any case they should be addressed within such limits.

### *"Anticipatory Maintenance of Peace and Security"*

The basic point is that what is being sought is not the "maintenance of peace and security after the fact" by suppressing invasions once they have taken place, but "anticipatory peace and security" which, insofar as possible, nips in the bud invasions and armed conflicts before they erupt. In the conception of the "maintenance of peace and security for people," there is as well a certain time factor. The point is to resolve the issue so that it will not lead to eruption, rather than having to suppress a conflict after the fact.

The maintenance of peace and security requires protecting people's right to exist, safeguarding their jobs, facilitating the spread of health and hygiene, and disseminating education. This capacity does not fully exist within the United Nations. Hence, reform of the UN means, first and foremost, strengthening these capacities. There is, however, no relationship between being a militarily powerful state and shouldering such responsibilities.

"Anticipatory maintenance of peace and security" is, of course, altogether different from carrying out a "preemptive strike." The latter is the result of inattention and resourcelessness in the face of a growing crisis; it merely resorts to armed conflict, not its prevention. Such a course lacks any basis in international law.

In the event that states with permanent seats on the Security Council repeatedly initiate actions that lack all foundation in international law, reform of the Security Council requires, above all, efforts to restrain such acts. It is incomprehensible that those who pay no heed to the rule of law should shoulder such important responsibilities for security and peace in international society. The rule of law is essential to democracy, and to continue to perpetrate actions which ignore it is anti-democratic and lacks legitimacy.

For these reasons, the Security Council, based as it seems to be on the organizational principle of centrality of the military great powers, functionally does not respond to the demands of the time and politically is without legitimacy. Reorganization of the Security Council will change this situation. In that case, states that are able to advance this change should be added to the Council. Plainly, such a revision is necessary.

### *Is a Show of Hands Persuasive?*

When Prime Minister Koizumi addressed the UN General Assembly, he made a resolute case for Japan to be given a permanent seat on the Security Council. This was perfectly fine to the extent that it concurred with the terms of the reorganization of the Security Council in the context of a reform of the United Nations. In fact, as he well put it, a Security Council seat occupied for the first time by a non-nuclear state would enhance the UN's advocacy of peace and security and public order by peaceful means. He made the point that Japan was an economic great power and that that

situation was unlikely to change, but that it did not intend to become the kind of Security Council country that would perform the functions of a military great power. To emphasize that this will not result in further domination by the powerful states, he suggested that it would be even more significant if developing states were simultaneously advanced to permanent seat status on the Security Council. In this respect, however, there is a troubling aspect in this speech. I think we would be hard-pressed to say that, under present circumstances, we can convey to other countries the necessity for Japan to become a permanent Council member. We need first to clearly explain the arguments in favor of the necessity for change, second achieve consistency of views, and third frame a realistic plan.

First, the need for change, a precondition for affording Japan a permanent seat on the Security Council. Prime Minister Koizumi held that "to enhance the representative character of the Security Council," it might be well to make additions from the developing states. This was then an argument in favor of "reform," clearly pointing to structural problems of the organization. At the same time, he hastened to add that he was not going so far as to claim that, if Japan were to become a permanent member, that the Council (indeed, the United Nations itself) would definitely change, and that failure of Japan to gain the seat necessarily meant no change at all. Instead, he stressed how much Japan has already contributed to actions supportive of the "revival" of Iraq and Afghanistan and the well-established "role as a responsible participant state in the UN." Such a way of presenting the case sounds like an argument for some sort of collateral. Of course, the government will surely say that it is not seeking collateral. Still, since Japan can contribute so much without being on the Security Council and if it does not seek collateral, the need for it to be on the Security Council vanishes. The problem is not one of

past deeds, but of future changes. To that extent, just what the prime minister was trying to say remains unclear.

Second, consistency of positions. Through the first half of 2004, we often heard from the prime minister or from government officials that the UN was either unreliable or powerless. I have addressed elsewhere the incomprehensibility of such a position (see my book, *Kaiken wa hitsuyo ka? [Is Constitutional Reform Necessary?]*, Iwanami) and won't repeat those arguments here. But if the UN is useless, why would Japan want to occupy a position central to it? Either he has said contradictory things, or it's a useless institution that needs to be rebuilt. If the latter, then it is critical to discuss the history and structure of the UN, particularly the Security Council, make clear its weaknesses, and reform it. However, the Security Council must not be restructured so as to allow preemptive war on countries which may have weapons of mass destruction.

Third, the conformity of proposal and reality. One of the activities cited as a contribution appropriate to a Security Council member is Japan's "humanitarian relief" activities in Iraq. Yet is not such a claim based on a war that deeply divided the member countries, was not deemed legitimate by the Security Council, was declared "illegal" by international lawyers, and was also criticized as "illegal" by the Secretary-General of the United Nations? It continues to be seen as a war prosecuted in defiance of international law and majority opinion in the UN. How to deal with this will have to be addressed in future. Yet this "thorn" was blithely turned into a "contribution" in the Prime Minister's speech. He presented something that may have shaken the basic principle of the UN as a contribution to it, and sought to claim a contribution to the bilateral US-Japan relationship as a multilateral contribution. He is free to hold such a historical understanding, but it seems unlikely that he would persuade a majority of members with it.

At very least, there was misplaced complacency given the fact that countries and related organizations, for the past eighteen months, have feared that the United Nations might even have ceased to be a place where member nations could come together.

### *Are We Prepared for the Rule of Law?*

Delivering a speech before the heads of various countries, Secretary General Kofi Annan continued vainly to talk about the rule of law, almost as if he were continuing his speech of the previous year. The fact that he criticized by name the United States and Great Britain escaped close attention, most comment being limited to observing remarks that "the rule of law is at risk around the world."

"In Iraq we have seen prisoners disgracefully abused," Annan noted, and we cannot hide the fact that the normalization of circumstances in Iraq is, it would appear, the key issue for reviving the rule of law in the world. Citing the code of Hammurabi from ancient Iraq, he added that one of the major sources of the rule of law was "restraint of the strong, so they cannot oppress the weak." Clearly, the Secretary-General is deeply concerned over the structural crisis facing the UN

To be sure, this is not to say that insofar as we have international law, there will be peace in the world, or that order can be guaranteed. As an issue of principle, we must be clear about

the fact that we choose either the rule of law or the rule of might (or the rule of specific nations). Standing at this crossroads, countries aspiring to be permanent members of the Security Council must not hesitate to opt for the rule of law over unilateralism as the basis for relations among states. What is required, rather than abstract commitments, is the readiness to define clearly such an understanding of the present situation.

From this perspective, we appeal for a method that will prepare rationally for pursuit of the war against terror and stress rationality and democracy, not preemptive military strikes. It is no coincidence that the speech by Prime Minister Jose Luis Rodriguez Zapatero of Spain was greeted with a standing ovation on the floor of the General Assembly. "Reason," he said, " -- and only reason -- will lead us to victory in the fight against terror." States that aspire to be given permanent seats on the Security Council should be those that strive to abide by such principles.

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*This article originally appeared in Sekai (World), November 2004, pp. 20-24.*

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