# The Political Origins of the UN Security Council's Ability to Legitimize the Use of Force

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# The Political Origins of the UN Security Council's Ability to Legitimize the Use of Force

## Erik Voeten

**Abstract**      Since, at least, the Persian Gulf War, states have behaved "as if" it is costly to be unsuccessful in acquiring the legitimacy the UN Security Council confers on uses of force. This observation is puzzling for theories that seek the origins of modern institutional legitimacy in legalities or moral values. I argue that when governments and citizens look for an authority to legitimize the use of force, they generally do not seek an independent judgment on the appropriateness of an intervention but political reassurance about the consequences of proposed military adventures. Council decisions legitimize or delegitimize uses of force in the sense that they form widely accepted political judgments on whether uses of force transgress a limit that should be defended. These judgments become focal points in the collaboration and coordination dilemmas states face in enforcing limits to U.S. power while preserving mutually beneficial cooperation. In this article, I discuss the implications for the Council's legitimacy and theories of international legitimacy.

In a 1966 article, Claude observed that the function of collective legitimization in global politics is increasingly conferred on international organizations (IOs), and that the United Nations (UN) has become the primary custodian of this legitimacy. Claude argued that "the world organization has come to be regarded, and used, as a dispenser of politically significant approval and disapproval of the claims, policies, and actions of states."[1] This assertion is even more relevant now than it was in 1966. States, including the United States, have shown the willingness to

1. Claude 1966, 367.

incur significant cost in terms of time, policy compromise, and side-payments simply to obtain the stamp of approval from the UN Security Council (SC) for military actions. To be sure, if the attempt to achieve a SC compromise proved unsuccessful, the United States has not shied away from using other means to pursue its ends. Nevertheless, the failure to acquire SC approval is generally perceived as costly, giving SC decisions considerable clout in international politics.

Given its lack of enforcement capabilities, the SC's leverage resides almost entirely in the perceived legitimacy its decisions grant to forceful actions.[2] Governments across the globe appear more willing to cooperate voluntarily once the SC has conferred its blessing on a use of force. Why has the SC become the most impressive source of international legitimacy for the use of military force? That it would be so is far from obvious. Claude, for instance, thought of the UN General Assembly (GA) as the ultimate conferrer of legitimacy.[3] Franck argued in his influential 1990 treatise on legitimacy that if one were interested in identifying rules in the international system with a strong compliance pull, the provisions in the UN Charter that grant the SC military enforcement powers (Chapter VII) should be set aside.[4] Since then, these provisions have been invoked with great regularity to legitimize uses of force.

The development is also puzzling from a theoretical perspective. Most theorists seek the origins of modern institutional legitimacy in legal or moral principles. However, the SC has been inconsistent at best in applying legal principles; its decision-making procedures are not inclusive, transparent, or based on egalitarian principles; its decisions are frequently clouded by the threat of outside action; and the morality of its (non-) actions is widely debated. Hence, it is unlikely that the institution has the ability to appear depoliticized, an argument that motivates most constructivist accounts of institutional legitimacy in the international arena.[5]

On the other hand, scholars who study the strategic aspects of international politics have largely dismissed the UN from their analyses.[6] This article provides a firmer base for the role of the SC in strategic interactions. I argue that when governments and citizens look for an authority to legitimize the use of force, they generally do not seek an independent judgment on the appropriateness of an intervention; rather, they want political reassurance about the consequences of proposed military adventures. The rationale is based on an analysis of the strategic dilemmas that impede cooperation in a unipolar world. In the absence of credible limits to power, fears of exploitation stifle cooperation. Because no single state can credibly check the superpower, enforcing limits on the superpower's behavior involves overcoming a complex coordination dilemma. A cooperative equilibrium that implies self-enforcing limits to the exercise of power exists but is unlikely to emerge spontaneously given that governments have conflicting per-

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2. See Barnett 1997; Caron 1993; and Hurd 1999 and 2002.
3. Claude 1966, 373.
4. Franck 1990, 42.
5. See especially Barnett and Finnemore 1999.
6. Hoffmann 1998, 179.

ceptions about what constitute legitimate actions and fundamental transgressions by the superpower. The SC provides a focal solution that has the characteristics of an elite pact: an agreement among a select set of actors that seeks to neutralize threats to stability by institutionalizing nonmajoritarian mechanisms for conflict resolution. The elite pact's authority depends on the operation of a social norm in which SC approval provides a green light for states to cooperate, whereas its absence triggers a coordinated response that imposes costs on violators. The observance of this norm allows for more cooperation and restraint than can be achieved in the absence of coordination on the SC as the proper institutional device. Hence the extent to which the SC confers legitimacy on uses of force depends not on the perceived normative qualities of the institution, but on the extent to which actors in international politics believe that norm compliance produces favorable outcomes.

The attractiveness of the elite pact account resides partly in its ability to explain the emergence of a limited degree of governance in the international system without assuming the existence of a collective global identity that generates an ideological consensus over appropriate forms of global governance. There is little evidence that such a consensus exists. Thus accounts that require only a limited set of a priori common values appear more plausible. Furthermore, the elite pact model better fits the SC's institutional design than alternative accounts and provides a plausible explanation for the sudden surge in authority following the Gulf War. Finally, the model stresses that elite pacts need to be self-enforcing. This opens a more promising avenue for analyzing norm stability than the constructivist assumption that norms are internalized.

The article proceeds with a broad overview of temporal fluctuations in the extent to which states have historically put weight on SC decisions. The next section explains why SC authority stems from its ability to legitimize uses of force and provides an operational definition. While there is a large literature that asserts that SC decisions confer legitimacy on uses of force, explanations for this phenomenon are rarely made explicit. One of the contributions of this article is to more precisely identify the various plausible roles of the SC in the international system. After discussing the four most common (though often implicit) explanations, the elite pact argument is introduced more elaborately. The conclusion discusses the implications for theories of international legitimacy and the future of SC legitimacy.

## The Security Council and Its Authority over Uses of Force

When states sign the UN Charter, they pledge not to use or threaten force "against the territorial integrity or political independence of any state, or in any manner inconsistent with the Purposes of the United Nations."[7] The Charter delegates significant authority to the SC to decide whether particular uses of force meet these

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7. UN Charter, Article 2(4).

purposes. This delegation is necessitated by the incompleteness of any contract that seeks to regulate the use of force but falls short of forbidding it outright. The Charter provides some guidance by explicitly specifying two general circumstances in which force may be exercised.

First, Article 51 of the Charter affirms the inherent right of states to use force in individual or collective self-defense against armed attacks. In principle, states are not obliged to obtain the approval of the SC for invoking this right.[8] However, states routinely resort to expanded conceptions of self-defense in attempts to justify unilateral uses of force. SC resolutions conceivably provide judgments on the merit of self-defense claims. An example is Resolution 1373, which reaffirms the right of the United States to act forcefully in its self-defense against terrorist activities and de facto legitimized the U.S. military action in Afghanistan.[9] This resolution, however, was quite exceptional. In nearly all other controversial claims to self-defense the SC has been unable or unwilling to rule on the legitimacy of self-defense claims; instead allowing the GA to adopt highly politicized and mostly ignored resolutions about the legitimacy of uses of force.[10]

Second, Chapter VII of the Charter defines a more active role for the SC in the management of international security. This chapter lays out a set of procedures through which the SC can authorize uses of force in response to the "existence of any threat to the peace, breach of the peace, or act of aggression." [11] Before 1990, the SC adopted only twenty-two resolutions under Chapter VII, most of which authorized sanctions rather than uses of force.[12] The two most important exceptions were the Congo peacekeeping force and the Korean War (1950). In the latter case, authorization was possible only because of the temporary absence of the Union of Soviet Socialist Republics (USSR) to protest the exclusion of the People's Republic of China from the Council. In anticipation of deadlock when the USSR would retake its seat, the SC adopted the 1950 "Uniting for Peace Resolution," which allowed the GA to take responsibility in security affairs if the SC were unable to act. It has been invoked ten times, most notably in 1956 to order the French and British to stop their military intervention in the Suez Canal and to create the UN Emergency Force to provide a buffer between Egyptian and Israeli forces.

Although the UN's effectiveness and decisiveness were often limited, the UN was actively involved in the management of many international conflicts in the first twenty-five years of its existence. Decisions by the UN's political organs carried some weight, even to realists such as Hans Morgenthau, who argued that the United States should be willing to compromise to "to keep the United Nations in

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8. See Schachter 1989; and Franck 2001. Under the Charter, states do have an obligation to notify the SC.
9. SC Resolution 1373, 28 September 2001.
10. Schachter 1989.
11. UN Charter, Article 39.
12. Bailey and Daws 1998, 271.

existence and make it an effective instrument of international government." [13] Between the late-1960s and 1989, however, neither the GA nor the SC exercised much influence over when or whether states resorted to force, a development characterized by Haas as evidence for "regime decay." [14] States, including the great powers, repeatedly intervened militarily without considering UN authorization and routinely ignored resolutions condemning their actions. Most obviously, this holds for major Cold War interventions, such as the Soviet invasion of Afghanistan and the U.S. military action in Vietnam. But it also pertains to smaller conflicts. U.S. President Ronald Reagan famously claimed that the 1983 GA resolution condemning the United States for its intervention in Grenada "didn't upset his breakfast at all." [15] This disregard for the authority of the UN over uses of force continued at least until December 1989, when the United States invaded Panama without considering asking approval from any IO. A GA resolution deploring the intervention had no discernable impact on domestic public or elite support for the intervention, and neither did a SC resolution that the United States vetoed. [16]

The successful cooperation between states in the first Persian Gulf War abruptly turned the SC into the natural first stop for coalition building. [17] It is important to appreciate the magnitude of the sudden the shift in SC activity immediately after operation Desert Storm. Between 1977 and the start of the Gulf War, the SC had adopted only two resolutions under Chapter VII. [18] Between 1990 and 1998, the Council approved 145 Chapter VII resolutions. [19] The number of UN commanded missions that used force beyond traditional peacekeeping principles went from one (Congo) before 1990 to five thereafter. [20] The number of missions where the authority to exercise force was delegated to interested parties went from one (Korea) to twelve. [21] Since 1990, the SC has authorized uses of force by coalitions of able and willing states in Europe (for example, the former Yugoslavia), Africa (for example, Sierra Leone, Somalia, the Great Lakes Region), Latin America (for example, Haiti), Oceania (for example, East-Timor), and Asia (For example, Afghanistan).

This spurt in activity does not simply reflect a newfound harmony in the preferences of the five veto powers. China and Russia frequently abstained from SC votes and often accompanied their abstentions with statements of discontent. [22] Reaching agreement often involved difficult compromises that had a noticeable

13. Morgenthau 1954, 11.
14. Haas 1983.
15. Cited in Luck 2002, 63.
16. Luck 2002, 64.
17. Baker 1995, 278.
18. See SC Resolution 502, 3 April 1982; SC Resolution 598, 20 July 1987; and Bailey and Daws 1998, 272.
19. Bailey and Daws 1998, 271.
20. Jakobsen 2002.
21. Ibid.
22. Voeten 2001.

impact on the implementation of operations, as exemplified most prolifically by the Bosnia case.[23] On several occasions, the United States made significant side-payments to obtain SC blessing for operations it could easily, and de facto did, execute alone or with a few allies. For instance, in exchange for consent for the U.S. intervention in Haiti, China and Russia obtained sizeable concessions, including a favorable World Bank loan and U.S. support for peacekeeping in Georgia.[24] Thus, attaining SC approval for a use of force is no easy task.

Governments outside the United States have also placed considerable weight on SC decisions. SC authorization was crucial to Australia's willingness to intervene in East-Timor.[25] India has since 1992 committed to a "pro-active" approach toward UN peacekeeping missions, providing generous troop contributions across the globe to UN-approved missions while refusing to supply to troops for non-UN approved missions.[26] New interpretations of Basic Law provisions that restrict German military activity abroad have made exceptions for German participation in UN peace-keeping and peacemaking missions, as well as North Atlantic Treaty Organization (NATO) and West European Union (WEU) operations directed at implementing SC resolutions.[27] Japan has adopted a law that makes military contributions of most kinds conditional on SC authorization.[28] Thus even for these powerful states that lack permanent membership, SC approval has become almost imperative for participation in cooperative military endeavors.

The increased significance of SC authorization is also apparent in public opinion, both in the United States and elsewhere. There is a wealth of evidence that Americans consistently prefer UN actions to other types of multilateral interventions and even more so to unilateral initiatives. For example, in a January 2003 poll, the Program on International Policy Attitudes (PIPA) asked respondents whether they "think the UN Security Council has the right to authorize the use of military force to prevent a country that does not have nuclear weapons from acquiring them." Of all respondents, 76 percent answered affirmatively to this question, whereas only 48 percent believes the United States without UN approval has this right.[29] What is impressive about these findings is their consistency across interventions, question formats, and time.[30] Public opinion outside the United States tends to insist even more strongly on UN authorization.[31] This suggests that SC authorization may facilitate foreign leaders to participate in military actions.

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23. See Christopher 1998.
24. Malone 1998.
25. Coleman 2004.
26. Krishnasamy 2003.
27. Bundesverfassungsgericht [Federal Constitutional Court] 90, 286, 12 July 1994.
28. Law Concerning Cooperation for United Nations Peacekeeping Operations and Other Operations (the International Peace Cooperation Law) originally passed in June 1992. For other examples, see Hurd 1999.
29. PIPA 2003a. Poll conducted among 1,063 American adults, margin of error $+/-3$ percent. The order of the questions was randomized.
30. Kull 2002.
31. See German Marshall Fund and Compagnia di San Paolo 2003; and Thompson 2004.

The observation that, since the Persian Gulf War, it has become costly to circumvent the authority of the SC is not completely undermined by the two main cases where this authority has been ignored: the Kosovo intervention and the 2003 Iraq intervention. The absence of SC authorization for the Kosovo intervention was generally (and explicitly) perceived as unfortunate by the U.S. administration and even more so by its allies in the North Atlantic Treaty Organization (NATO).[32] NATO motivated its actions by referring to previous SC resolutions and obtained SC authorization for the peacekeeping mission and transitional authority that were set up in the immediate aftermath of the military campaign. Similarly, the United States went to considerable length to persuade the SC to authorize the Iraq intervention, argued repeatedly that it was implementing past SC resolutions, and returned to the SC in the immediate aftermath of the intervention.[33] Moreover, the absence of SC authorization is often used domestically in the argument that the lack of allies makes the war unnecessarily expensive. That NATO and the United States eventually went ahead without SC authorization does demonstrate, however, that the SC may raise the costs of unilateral action but cannot prevent it altogether.[34] As former U.S. Secretary of Defense William Cohen said about SC authorization for the Kosovo intervention: "It's desirable, not imperative." [35]

## Legitimacy

The previous section illustrates that since the Persian Gulf War, the main states in world politics have behaved "as if" it is costly to circumvent the authority of the SC when deciding on uses of force. How can one explain this observation given that the SC lacks independent capabilities to enforce its decisions? Several commonplace explanations for IO authority apply poorly to the SC. There are few, if any, institutional mechanisms that allow states to create credible long-term commitments to the institution, making it an unlikely candidate for locking in policies, along the lines suggested by Ikenberry.[36] The tasks that the SC performs are not routine and do not require high levels of specific expertise or knowledge. Thus, delegation of decision-making authority to the SC does not result in similar gains from specialization that plausibly explain why states are willing to delegate authority to IOs such as the World Bank[37] and the International Monetary Fund (IMF).[38]

In the absence of obvious alternative sources, the origins of the SC authority are usually assumed to lie in the legitimacy it confers on forceful actions.[39] Actions

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32. Daalder and O'Hanlon 2000, 218–19.
33. See also Frederking 2003.
34. See also Hurd 2003, 205.
35. See *New York Times*, 12 June 1998, A1.
36. Ikenberry 2001. Accordingly, Ikenberry focuses on NATO and GATT/WTO.
37. Nielson and Tierney 2003.
38. Martin 2003.
39. See Caron 1993; and Hurd 1999.

that are perceived as legitimate are obeyed voluntarily rather than challenged. Hence, obtaining legitimacy for proposed interventions is valuable. This clearly implies that legitimacy resides entirely in the subjective beliefs of actors.[40] This contrasts with the conception that legitimacy properly signifies an evaluation on normative grounds, usually derived from democratic theory. In this view, if an institution fails to meet a set of specified standards it is illegitimate, regardless of how individual actors perceive the institution. While it is important to evaluate how democratic principles ought to be extended to a global arena,[41] such a normative approach is unlikely to generate much insight into the question why SC decisions confer the legitimacy they do.

I define legitimacy perceptions as the beliefs of actors that the convention or social norm that the SC authorizes and forbids discretionary uses of force by states against states should be upheld. Discretionary uses of force are those that do not involve direct and undisputed self-defense against an attack. Thus the authority of the SC resides in the beliefs of actors that violating this social norm is costly, undesirable, or inappropriate. This focus on perceptions and on the social aspect of legitimacy is consistent with constructivist approaches.[42] It also fits rationalist accounts of self-enforcing conventions and social norms.[43]

The primary actors are governments, who decide on uses of force and are the members of the UN. However, because governments, especially democratically elected ones, rely on the support of citizens, the perceptions of individuals also matter in an indirect way. In addition, it may well be that actors in the state with the intent to use force, most often the United States in our examples, and actors in other states may have different motivations for insisting on SC authorization.[44]

## Explanations

Why do state actors believe that a failure to achieve SC authorization is undesirable? What sustains these beliefs? To find convincing answers to these questions one needs to appreciate not only why states demand some form of multilateralism, but also the reasons that would lead actors to rely on the SC rather than alternatives, such as the GA, regional institutions (for example, NATO), or multilateral coalitions that are not embedded in formal IOs. Thus, pointing to a general inclination toward multilateralism does not form a satisfactory explanation of the empirical pattern.[45] Besides institutional form, a persuasive account must provide useful insights about the sources for temporal variation in the authority of the SC, includ-

40. Weber 1978.
41. For example, Held 1995.
42. See especially Hurd 1999.
43. See Lewis 1969; and Young 1993.
44. See also Thompson 2004.
45. See Ruggie 1993.

ing its sudden surge following the Gulf War. Moreover, it should give a plausible explanation for how these beliefs can be sustained given the behavior of the SC.

Most theoretical accounts argue that the legitimacy of international institutions resides in their ability to appear depoliticized by faithfully applying a set of rules, procedures, and norms that are deemed desirable by the international community.[46] I discuss three variants of this general argument that each stresses a different role for institutions: consistently applying legal rules, facilitating deliberation, and increasing accountability and fairness. Alternatively, the origins of the SC's legitimacy may lie in beliefs that granting the SC the authority to legitimize force generally lead to more desirable outcomes. The public goods explanation discussed below fits this mold, as does the elite pact account.

*Legal Consistency*

Much legal scholarship assumes that the SC derives its ability to legitimize and delegitimize the use of force from its capacity to form judgments about the extent to which proposed actions fit a legal framework that defines a system of collective security. Although the SC is explicitly a political institution rather than a court, there is a body of customary and written international law that provides a basis for determinations about the legality of self-defense actions and other uses of force.[47] The indiscriminatory nature of legal norms potentially makes legal uses of force more acceptable to governments and citizens than actions that do not meet legal standards. To maintain its standing as a legitimate conferrer of legal judgments, an institution must thus strive for consistency in its rulings and motivate deviations from past practice with (developing) legal principles. This standard has usefully been applied to other bodies, such as dispute resolution mechanisms in trade organizations[48] and the European Court of Justice (ECJ).[49] That legal consistency is the institutional behavior that reinforces legitimacy beliefs also motivates concerns by legal scholars that the SC squanders its legitimacy when it behaves in ways that are inconsistent with general principles of international law.[50]

There is, however, no empirical evidence that legal consistency has been a driving force behind SC decisions. During the Cold War, the judgments by UN bodies on the legality of self-defense actions were widely perceived as politically motivated and not persuasive on the issue of lawfulness.[51] The SC has not developed a consistent doctrine on this matter since the end of the Cold War. The most noteworthy decision is the previously noted Resolution 1373, which affirms the right of the United States to act forcefully in its self-defense against terrorist activities. The extensive scope of the resolution has led some to question its legal founda-

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46. Barnett and Finnemore 1999, 708.
47. See Murphy 1997 for an overview.
48. Kelemen 2001.
49. Burley and Mattli 1993.
50. See Alvarez 1995; Farer 2002; Glennon 2001; and Kirgis 1995.
51. Schachter 1989.

tions. As Farer puts it: "At this point, there is simply no cosmopolitan body of respectable legal opinion that could be invoked to support so broad a conception of self-defense." [52]

With regard to Chapter VII authorizations, the most basic determination is whether a situation presents a threat to international peace and security. Such "Article 39 determinations" have been stretched on multiple occasions to accommodate immediate political objectives. For example, Iraqi actions in Kurdish areas in 1991, the humanitarian tragedy in Somalia in 1992, the civil war in Angola in 1993, the failure to implement election results in Haiti in 1994, and Libya's unwillingness to surrender its citizens accused of terrorism have all been deemed threats to international peace.[53] Most importantly, there has been no serious effort at motivating the Article 39 determination on these resolutions. As Kirgis points out: "[I]f we are concerned about the responsible use of power by a marginally representative international organ that at present is not subject to recall or judicial review, we should expect the Security Council to be conscious of how and why it is expanding the definition. It should also contemplate the limits to be applied to the broader definition. It should, in other words, make principled Article 39 determinations, publicly explicated, that do not set unlimited or unintended precedents." [54]

Legal scholars have noted a variety of other difficulties considering SC decisions, including the common practice to delegate the use of force to individual states or groupings of states, the failure to define a greater role for judicial review through the International Court of Justice, and the extent to which the Charter obliges states to seek peaceful resolutions before authorizing force.[55] Glennon has concluded that coherent international law concerning intervention by states no longer exists.[56] Others counter that the Charter does not impose meaningful restrictions on the set of cases in which the SC can legally authorize forceful means.[57] Clearly, either view precludes that legal consistency is the driving force behind the SC's legitimizing ability. This does not mean that legal norms do not affect the use of force. The norm to ask for approval from the SC for the use of force can itself be understood as a legal norm. The observation that this norm is mostly obeyed even though the SC itself has shown little regard for legal principles warrants an explanation.

### Forum for Deliberation

A second set of scholars claim that while legal arguments are not decisive in the SC, law plays a broader role in the process of justificatory discourse.[58] This view

52. Farer 2002, 359.
53. See SC Resolution 688, 5 April 1991; SC Resolution 794, 3 December 1992; and SC Resolution 940, 31 July 1994.
54. Kirgis 1995, 517. See also Gordon 1994.
55. See Alvarez 1995; Glennon 2001; and Kirgis 1995.
56. Glennon 1999 and 2001.
57. Franck 1999.
58. See Johnstone 2003; and Sandholtz and Stone Sweet 2004.

relies on the notion that governments generally feel compelled to justify their actions on something other than self-interest. This may be so because governments seek to acquire the support of other governments, domestic political actors, or public opinion. Or, it may be that governments have internalized standards for appropriate behavior that are embedded in international legal norms. The importance of law in persuasion resides in its ability to put limits on the set of arguments that can acceptably be invoked.[59] Moreover, professional experts (international lawyers) help distinguish good arguments from poor ones in the evaluation of truth claims. Of course, the extent to which legal specialists can perform this function depends on the presence of a relatively coherent body of international law that regulates uses of force.

Alternatively, discourse in the SC may be guided by rules that the international community collectively understands to guide the process of acquiring approval for uses of force, even if not codified by law.[60] This thesis relies on the presence of easily recognizable common values that facilitate the evaluation of arguments.

The above view provides a promising account for why states frequently appeal to legal arguments, precedents, and collective security rules, even if final decisions often violate those rules. However, this view does not provide a plausible explanation for the role of the SC in this discursive process. It is widely recognized that the SC falls far short of Habermasian conditions for effective communicative action.[61] There is only a shallow set of common values, participants are unequal, and the SC relies extensively on unrecorded and informal consultations between subsets of the permanent members.[62] U.S. Secretary of State Colin Powell's public exposition of evidence for the case against Iraq was highly unusual and of questionable efficacy as a persuasive effort.[63] More frequently, the most visible efforts at persuasion occur outside of the institutional context of the SC. SC debates are usually recitations by representatives of statements prepared by their state departments. Strategic incentives further impede deliberation. There are clear and obvious incentives for states to misrepresent their positions, as the stakes are clear and the relevant actors few. In short, it is hard to see how the institutional setting of the SC contributes to the process of justificatory discourse and why, if deliberation were so important, institutional reforms have not been undertaken or alternative venues such as the GA have not grown more relevant.

### Appropriate Procedures

An institution's decisions may be seen as legitimate because the institution's decision-making process corresponds to practice deemed desirable by members of

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59. Johnstone 2003.
60. Frederking 2003.
61. See Johnstone 2003; and Risse 2000.
62. See Bailey and Daws 1998; Woods 1999; and Wood 1996.
63. Colin Powell, "Remarks to the United Nations Security Council," New York City, 5 February 2003.

the community. Beliefs about the appropriateness of a decision-making process constitute an important source of authority for domestic political institutions, particularly in democracies. Citizens may attach inherent value to procedures that conform to principles widely shared in a society. As a consequence, decisions of an institution may be perceived as legitimate even if these produce outcomes deemed undesirable.[64] In a similar vein, accountability, procedural fairness, and broad participation are often seen as inherent elements of the legitimacy of IOs.[65] This assumption underlies the common argument that the main threat to SC legitimacy is that the institution is dominated by a few countries and that its procedures are opaque and unfair.[66] The assertion is that the SC's decisions would carry greater legitimacy if its procedures more closely matched liberal norms, which allegedly have become increasingly important in international society.[67]

The many attempts to reform the SC indicate that the legitimacy of the SC may be enhanced from the perspective of some if its decision-making procedures more closely corresponded to liberal principles. But one cannot plausibly explain the legitimacy the SC does confer on uses of force from the assumption that governments and citizens demand appropriate process. As outlined earlier, SC practice sets a low standard if measured against any reasonable set of liberal principles. One may object that a use of force authorized by the SC more closely approximates standards of appropriate procedure than unilateral actions. But if demands for appropriate procedure were strong, one would surely expect a greater use of more inclusive IOs, such as a return to the "uniting for peace" procedure popular in the 1950s and 1960s, perhaps under a weighted voting system. Instead, the GA has grown increasingly irrelevant for legitimizing uses of force. Alternatively, one might have expected reforms that increase transparency and accountability, which have been moderately successful in international financial institutions. Some argue that accountability has worsened in the 1990s, as the GA can no longer hold the SC accountable through the budget by qualified majority rule,[68] and because of the increasingly common practice of delegating the authority to use force to states and regional organizations.[69]

It is equally implausible that the general public appreciates the SC for its procedures. The public knows little about how the SC makes its decisions. Even in the midst of the Iraq controversy, 32 percent of the U.S. public claimed that the United States does not have the right to veto SC decisions,[70] and only 16 percent could name the five members with veto power.[71] Knowledge is not much better

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64. Gibson 1989.
65. For example, see Keohane and Nye 2001; and Woods 1999.
66. See especially Caron 1993.
67. See the discussion in Barnett 1997.
68. Woods 1999.
69. Blokker 2000.
70. According to PIPA 2003b, 55 percent thought that the United States does have that right.
71. German Marshall Fund and Compagnia di San Paolo 2003.

elsewhere, with correct identification of permanent members varying in a nine-country study from 5 percent in Portugal to 24 percent in Germany.[72]

Finally and most fundamentally, there is no set of common values that generate consensus about what constitutes appropriate global governance. Disagreements have become especially apparent in debates about voting rules and membership questions, but they have also surfaced in virtually any other area where meaningful reforms have been proposed.[73] Even liberal democracies generally disagree on if and how liberal principles ought to be extended to global governance.[74] Explanations that emphasize strong common values are less likely to be successful for a diverse global organization than for an institution with more homogenous membership.

*Global Public Goods*

An alternative view is that the SC helps solve collective action problems that arise in the production of global public goods.[75] Successful peacekeeping operations reduce suffering and save lives. Globalization and the end of the Cold War may have increased demands for international actions that produce such effects.[76] In addition, UN-authorized interventions may provide a measure of stability and security that benefits virtually all nations. For example, the first Gulf War reinforced the norm that state borders not be changed forcibly and secured the stability of the global oil supply.[77] These benefits accrue to all status quo powers and are not easily excludable.

Models of public good provision predict that poor nations will be able to free ride off the contributions of wealthier nations and that the public good will be under-provided because contributors do not take into account the spillover benefits that their support confers to others. The SC may help alleviate underprovision and free riding in three ways. First, the fixed burden-sharing mechanism for peacekeeping operations provides an institutional solution that helps reduce risks of bargaining failures and lessens transaction costs.[78] Second, the delegation of decision-making authority to a small number of states may facilitate compromise on the amount of public good that ought to be produced.[79] Third, the SC helps states pool resources.[80] The existence of selective incentives induces some states to incur more than their required share of the peacekeeping burden. For example, Kuwait paid

72. Ibid.
73. Luck 2003.
74. See Schmitz and Sikkink 2002, 521; and Slaughter 1995.
75. For analyses along these lines see Khanna, Sandler, and Shimizu 1998; Bobrow and Boyer 1997; and Shimizu and Sandler 2002.
76. Jakobsen 2002.
77. Bennett, Lepgold, and Unger 1994.
78. This system was put in place in 1973 by General Assembly Resolution 310.
79. Martin 1992, 773.
80. Abbott and Snidal 1998.

two-thirds of the bill for the UN Iraq-Kuwait Observation Mission through voluntary contributions. Australia proved willing to shoulder a disproportionate share of the peacekeeping burden in East-Timor. States are more likely to make such contributions when these add to the efforts of others in a predictable manner.

The absence of enforcement mechanisms implies that the survival of this cooperative solution depends on a social norm. This norm first and foremost requires states to pay their share of the burden. The more states believe that this norm is followed, the fewer incentives they have to free ride in any particular case. In individual instances, states must be willing to shoulder a larger share of the burden than they would with a voluntary mechanism, because they believe that the benefits from upholding the social norm (greater public good production in the long run) exceed the short-term benefits of shirking. Hence, interventions authorized by the SC could be perceived as more legitimate in the sense that they signal a longer-term commitment to global public good production.

Although this argument is plausible theoretically, it fails to account for some noticeable empirical patterns. First, the belief among rational actors that the SC plays this role should and probably has weakened considerably since the early 1990s. The much-publicized failures in Somalia, Rwanda, and Bosnia should have reduced beliefs that the SC is the appropriate mechanism for coordination that helps solve problems of public good production. Moreover, several wealthy states, most notably the United States, have failed repeatedly to meet their peacekeeping assessments. As of 31 January 2003, the United States had $789 million in peacekeeping arrears.[81] Other states owe the UN $1.4 billion in payments for peacekeeping. These arrears constitute a sizeable portion of the total peacekeeping budget.[82] Under the collective action model, the failure of states to meet their assessments gives other states clear incentives to shirk.

Second, the public goods rationale does not explain why states value SC authorization even when they do not use its fixed burden-sharing mechanism. Between 1996 and 2000, estimated expenditures on non–UN-financed peacekeeping missions have exceeded spending on UN-financed operations by $11.5 billion.[83] Interestingly, many of these non–UN-financed operations have taken place with the explicit authorization of the SC. For example, the mandates of the various peacekeeping and peacemaking forces in Bosnia, Kosovo, and Afghanistan were all authorized at some point by SC resolutions,[84] but none of them are financed primarily through the UN system or executed by the UN.

Third, the decision-making procedures grant veto power to states that contribute little to UN operations and exclude some of the most significant contributors.

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81. See ⟨http://www.globalpolicy.org/finance/tables/core/un-us-03.htm⟩. Accessed 10 March 2005.
82. In the 2000–2002 period, yearly peacekeeping budgets were around $2.6 billion.
83. Based on data from Shimizu and Sandler 2002.
84. Initial SC resolutions for respective missions were SC Resolution 1031, 15 December 1995; SC Resolution 1088, 12 December 1996; SC Resolution 1244, 10 June 1999; and SC Resolution 1386, 20 December 2001.

Japan and Germany are the second and third largest contributors but have no permanent seat at the table. China contributes less than small European states such as Belgium, Sweden, and the Netherlands, but has the right to veto any resolution.[85] If public good provision were the prime concern, reform of these decision-making mechanisms would be in every state's best interest. It would prevent large contributors from abandoning the institution or refusing to pay their dues. International financial institutions, such as the World Bank and the IMF, have adopted weighted voting rules that better fit these objectives.

The value states attach to SC authorization rests not entirely in the extent to which it forms an institutional solution to free-rider problems that lead to underproduction of public goods. However, the public good argument is not completely without merit. Several SC-authorized peacekeeping missions have helped resolve conflicts and have contributed to the implementation of peace agreements.[86] Moreover, a global alternative is not readily available. The elite pact rationale suggests that the main function of the SC in this may be that it addresses a distributional issue that frequently impedes successful collective action.

## The Security Council as an Elite Pact

An alternative perspective is that the SC is an institutional manifestation of a central coalition of great powers.[87] This view does not proclaim that the SC enforces a broad system of collective security, but rather that it may serve as a useful mechanism that facilitates cooperative efforts in an anarchic world characterized by the security dilemma.[88] Concerts were historically designed to deal with situations of multipolarity that followed the defeat of hegemony. However, similar incentives for cooperation exist in a unipolar world characterized by interdependence. There are substantial potential gains from cooperation between the superpower and other states on economic issues such as trade and financial stability. Moreover, many governments face common security threats such as terrorism and states with the capacity and intention to challenge status quo boundaries or produce nuclear weapons. The main impediment to cooperation under the security dilemma is fear of exploitation.[89] Such fears are also relevant in a unipolar world where the superpower can use its preponderant capabilities to extract concessions, set the terms for cooperation, and act against the interests of individual states without being checked by a single credible power.

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85. Based on data in Shimizu and Sandler 2002.
86. Doyle and Sambanis 2000.
87. Rosecrance 1992.
88. Jervis 1985. Other realists believe that concerts were mostly epiphenomenal. See Downs and Iida 1994.
89. Jervis 1985, 69.

In such asymmetrical situations, credible limits to the use of force potentially benefit both the superpower and the rest of the world.[90] In the absence of credible guarantees, one observes suboptimal levels of cooperation as states pay a risk premium, captured for instance by increased military expenditure or other actions targeted at limiting the superpower's relative primacy. Institutions, such as NATO, help increase the credibility of security guarantees by raising the cost of reneging from a commitment. However, the absence of an outside threat and strong collective identity make such arrangements much more difficult to achieve at the global level.

Game-theoretic analyses that treat institutions as self-enforcing equilibria suggest an alternative route by which institutions help achieve better outcomes: they aid in solving the coordination dilemma among those actors that fear exploitation. Potential individual challenges are unlikely to deter a superpower from engaging in transgressions. However, the prospect of a coordinated challenge may well persuade the superpower to follow restraint. For this to succeed, states would have to agree on a mechanism that credibly triggers a coordinated response. For example, Greif, Milgrom, and Weingast argue that merchant guilds during the late medieval period provided a credible threat of costly boycotts if trade centers violated merchants' property rights.[91] Without these guilds, trade centers were unable to credibly commit to not exploit individual merchants and consequentially, merchants traded less than desired by the trade centers. As such, cooperation with the guilds became self-enforcing: it was in the self-interest of all actors to abide by the cooperative norm and defend against violations of the norm. Therefore, breaches of the norm came to be seen as illegitimate actions.

There is, however, a complicating factor in applying this analogy to the international arena. One can reasonably assume that merchants agreed on a common definition of what constituted a fundamental transgression by a trade center. Such consensus surely does not exist in the global arena. As the recent conflict over Iraq illustrates, what some states perceive as a proper use of force, others see as an encroachment. This introduces a political component to the problem. The strategic dilemma in the international system therefore more closely resembles that of achieving limited governance and rule of law in the context of ethnically, linguistically, and religiously heterogeneous societies, as analyzed by Weingast.[92]

In heterogeneous societies, actors usually have conflicting interests about many aspects of governance. Weingast's model assumes that each actor can classify each move by the superpower[93] as either a transgression or a legitimate action. However, actors do not necessarily agree on these classifications. A superpower can exploit this by rewarding a subset of actors and infringing on the interests of the

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90. Ikenberry 2001.
91. Greif, Milgrom, and Weingast 1994.
92. The informal discussion here relies on the formal analysis provided by Weingast 1997.
93. Sovereign in Weingast's case.

others. Although there are many such uncooperative equilibria, in a dynamic setting the Pareto-optimal cooperative outcome is also an equilibrium. In this equilibrium, no transgressions occur and states can cooperate beneficially. However, this equilibrium entails that states agree on a mechanism that triggers a coordinated response against an identifiable action by the superpower. It also requires that states use trigger strategies to punish one another for failing to cooperate in a coordinated challenge. The heterogeneous actors that occupy the international system are unlikely to resolve their coordination dilemma in a wholly decentralized manner.

In accordance with the literature on comparative politics, Weingast suggests that the most effective manner to induce limited governance in divided societies is through elite pacts.[94] An elite pact is an agreement among a select set of actors that seeks to neutralize threats to stability by institutionalizing nonmajoritarian mechanisms for conflict resolution. The SC can usefully be understood as such a pact that functions as a focal point that helps state actors coordinate what limits to the exercise of power should be defended. If the SC authorizes a use of force, the superpower and the states that cooperate should not be challenged. If, however, the United States exercises force in the absence of SC authorization, other states should challenge it and its allies, for instance, by reducing cooperation elsewhere. This equilibrium behavior can be understood as a social norm or convention. For a convention to be successful, it needs to be self-enforcing. This means that actors should find it in their interest to punish unilateral defections from the pact, for example, because they believe that deviations have the potential to steer international society down a conflict-ridden path. SC authorizations thus legitimize uses of force in that they form widely accepted political judgments that signal whether a use of force transgresses a limit that should be defended. This fits with the conventional interpretation that legitimate power is limited power.

To domestic publics this convention performs a signaling function. Citizens are generally unprepared to make accurate inferences about the likely consequences of forceful actions. If the convention operates as specified above, SC agreement provides the public with a shortcut on the likely consequences of foreign adventures. SC authorization indicates that no costly challenges will result from the action. The absence of SC authorization on the other hand, signals the possibility of costly challenges and reduced cooperation. A U.S. public that generally wants the United States to be involved internationally but is fearful of overextension[95] may value such a signaling function. To foreign publics, SC approval signals that a particular use of force does not constitute an abuse of power that should lead to a coordinated, costly response.[96] Clearly this conception of the SC poses fewer informational demands on general publics than alternatives. Moreover, it does not rely on

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94. For example, see Lijphart 1969; Rustow 1970; and Tsebelis 1990.
95. Holsti 2004.
96. For a similar argument, see Thompson 2004.

the assumption that citizens share common values about the normative qualities of global governance. All citizens need to understand is that SC authorization implies some measure of consent and cooperation, whereas the absence of authorization signals potential challenges. The symbolic (focal point) aspect of SC approval allows for analogies to past experiences in a way that cooperative efforts through ad hoc coalitions do not.

More generally, the elite pact account does not depend on the existence of a broad set of common values that generates a consensus about what global governance should look like. For a cooperative equilibrium to survive, it is not necessary that each actor believe that the norm that sustains the equilibrium is morally appropriate, as long as most nonbelievers assume that other actors would react to violations. This is consistent with Weber's view on why a social order is binding on an individual level.[97] It helps explain the observation that governments insist on SC authorizations of uses of force even if they challenge the normative qualities of the institution. As observed earlier, powerful states such as Germany, Japan, and India, as well as many developing countries, regularly criticize the SC for its composition and decision-making procedures. Yet, they also insist on SC authorization of uses of force and in some cases even adjust their domestic laws to make cooperation conditional on SC.

The elite pact account has several other interesting implications that put it at odds with the alternative accounts. The remainder of this section discusses three of these: the mode of transformation, institutional design, and the self-enforcing character of the pact.

*Mode of Transformation*

The alternative explanations either do not give a clear prediction of how a shift in the authority of the SC takes place or (implicitly) assume that change occurs in response to gradual normative shifts toward greater reliance on liberal values or globalization.[98] The elite pact model predicts that if a shift toward a more cooperative equilibrium occurs, it will be in response to a discrete event. Elite pacts cannot be formed at just any time. In the most natural uncoordinated equilibrium, groups of actors exploit others and have no direct incentive to stop this practice. Elite pacts are therefore imposed following galvanizing events that disturb the beliefs on which a preceding equilibrium rested.[99] The conclusion of major wars is particularly likely to upset previously held beliefs and payoff structures.[100]

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97. Weber 1978.
98. See Barnett 1997; and Jakobsen 2002.
99. Weingast 1997. See also Rustow 1970.
100. This logic is also apparent in Ikenberry 2001, who also stresses the importance of creating credible limits to the exercise of power through institutions. However, the logic that grants the SC authority is different here than in Ikenberry.

This is compatible with the empirical record. Concerts were imposed following the defeat of a hegemon in a major war; a characterization that also fits the formation of the SC in the immediate aftermath of World War II.[101] Nevertheless, the pact was not self-enforcing and had little bearing on whatever stability there was during most of the Cold War.[102] The end of the Cold War created uncertainty in the perceptions of states about new equilibrium behavior. In such a situation it is highly likely that the manner by which a cooperative resolution to the first major international conflict was reached greatly influenced beliefs among policymakers, politicians and citizens about the future resolution of conflicts, and hence that adherence to the norm that the SC authorizes force helps enforce a stable (but limited) form of governance.

It is important to emphasize that the strategic dilemma that states faced in the Gulf War matches the game that motivates the elite pact account. First, there were clear incentives for cooperation. The Iraqi conquest of Kuwait constituted a violation of an international norm that nearly all states would prefer to uphold. Moreover, many states had strategic interests in the region that could be harmed by a unilateral response. Second, there were fears of exploitation. These were especially apparent in the USSR and motivated its initial preference for prolonged economic sanctions over multilateral intervention.[103] Such fears were also evident in China,[104] Arab states,[105] and even Europe, especially in France, where President Francois Mitterrand had to force the resignation of his defense minister over the issue.[106] Mitterrand explained to U.S. Secretary of State James Baker that SC approval was necessary even if lawyers believed that the intervention was legally justifiable without explicit authorization:[107] "Fifty-five million French people are not international lawyers. We need that resolution to ensure the consequences it will entail."[108] Thus, Mitterrand believed that his domestic audience desired reassurance and that SC approval would provide it. Finally, the U.S. motivation for seeking SC approval hinged strongly on the acquisition of political approval that

101. See Claude 1964; and Jervis 1985.

102. It is beyond the scope of this paper to speculate on the reasons. A potential answer is that its purpose, to restrain a weak defeated state (Germany), was rapidly resolved.

103. For example, Strobe Talbott wrote in 1991: "In one Kremlin session, a top official of the Defense Ministry predicted that U.S. forces would "stay in the Gulf region indefinitely," constituting a "new threat" to Soviet security. In effect, and perhaps in intent as well, he continued, the U.S. was taking advantage of the end of the cold war by moving its heaviest concentration of manpower and firepower from Europe to the soft underbelly of the U.S.S.R." See *Time Magazine*, 2 September 1991. Available at http://www.time.com/time/archive/preview/0,10987,1101910902-157772,00.html. Accessed 18 April 2005.

For more see Freedman and Karsh 1993, 79.

104. Fravel 1996.

105. See Faksh and Faris 1993; and Lesch 1991.

106. Jean-Pierre Chevenement, seen as the leader of a fraction of Mitterrand's Socialist Party, reportedly said that "American colonisation is more pleasant than Soviet invasion, but while the latter is not likely to happen, the former is going on every day." *Guardian*, 1 February 1991.

107. Namely through the previously mentioned Article 51 procedure.

108. Baker 1995, 315. Also cited in Thompson 2004.

would remove suspicions of exploitative behavior. Baker explained his logic of going through the SC in the following way:

> But to my way of thinking our disagreement about legalities was academic. As a practical matter, the United States had no real choice initially but to try a coalition approach in dealing with the crisis. . . . The credibility of our cause would be suspect, not just in the Arab world, but even to some in the West, including the United States.[109]

The Persian Gulf War was successful in that the first major conflict after the Cold War was resolved in a cooperative manner without the United States overextending. As I established earlier, there was a surge in SC activity immediately following the Persian Gulf War. Whereas the United States never considered asking for SC authorization for its intervention in Panama in December 1989, such requests became commonplace after the successful cooperative effort to remove Iraq from Kuwait. The suggestion here is that this development was directly related to the experience of the Gulf War in the uncertain environment of the end of the Cold War rather than an ideational change that stipulated greater sympathy for legal or liberal values.

There is much anecdotal evidence that policymakers and politicians across the globe were indeed at least moderately optimistic about the prospects for cooperation through the SC in the aftermath of the Gulf War.[110] That the experience would make a big impression on policymakers is also supported by studies of foreign policy decision making. For example, Khong has shown that war experiences that have consensual interpretations are likely to be uncritically, and perhaps inappropriately, used as analogies for future decisions.[111] Even those who believed that the legitimacy of the SC was based on false perceptions of reality usually did not argue that it was irrelevant, but rather that it was dangerous.[112] The success of cooperation also shaped perceptions among the general public. In a December 1992 *Newsweek* poll, 87 percent agreed with the statement: "The US should commit its troops only as part of a United Nations operation."[113] Before 1990, questions that suggested a primacy for the UN or the need for UN authorization for interventions were not even asked to the American public.[114] This too suggests a change in expectations about what the SC could and should do.

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109. Baker 1995, 279.
110. See, for example, the discussions in Bennett and Lepgold 1993; Russett and Sutterlin 1991; and Urquhart 1991.
111. Khong 1992.
112. See Krauthammer 1990/1991; and Lefever 1993.
113. 10 percent disagreed and 3 percent answered "don't know." Poll executed by Gallup on 3–4 December 1992.
114. This statement is based on searches for the 1980s in the archives *IPOLL*, *Polling the Nations*, and a collection of survey items sent by Clay Ramsay, Research Director Program on International Policy Attitudes, University of Maryland. Most questions related to the UN either asked about general support or support for peacekeeping missions in Third World countries.

*Institutional Design*

The argument advanced here does not presume that it was inevitable that the SC would play the role it did in the Persian Gulf War or that it would have risen to the same prominence had the Yugoslavian crisis occurred before the Gulf War.[115] Rather, I maintain that given that the SC functioned as it did at a time of great uncertainty about equilibrium behavior, it is plausible that it impressed beliefs on state actors that a cooperative equilibrium could be played with the SC as a focal solution. Nevertheless, the institutional design of the SC did make it a more viable candidate for such a role than alternative institutions.

First, elite pacts eschew majoritarian decision making and commonly grant influential actors the power to veto decisions.[116] This is understandable because the goal of elite pacts is stability, not proper procedure. Stability is threatened if those with the power to disturb it are overruled in the decision process. Thus the GA would be a poor coordination device and indeed has been largely irrelevant in security affairs throughout the 1990s.

Second, the process by which compromises in elite cartels are achieved is generally secretive rather than transparent. Public deliberation manifests heterogeneity and commits actors to take stands from which it is costly to recede. For the most part, the public record of SC meetings is uninformative about true motivations actors have as most compromises are achieved in unrecorded negotiations. Extensive public debate is uncommon and counterproductive, as commented on in the section on deliberation.

Third, elite cartels usually embrace principles of subsidiarity or segmental authority.[117] Delegating discretion to influential actors within their own domain helps preserve satisfaction with the status quo. It has become the modal option for the SC to de facto delegate the authority to use force to regional organizations (for example, NATO, Economic Community of West African States) or regional powers (for example, United States, Australia). This creates serious problems of accountability and has questionable legal foundations in the Charter.[118] It fits, however, within the purpose of an elite pact.

Although the elite pact's primary focus is to define instances of appropriate uses of power by the United States and hence to identify the circumstances under which other states may legitimately cooperate with the United States, it may also confer judgments on the use of force by regional powers. For instance, SC approval of Australia's intervention in East-Timor signals that this use of force is legitimate in that it should not trigger a coordinated response by other states. In the absence of such an assurance, a military intervention that enhances peace and security in the region may be more difficult to undertake for Australia in that the risks may be

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115. The latter hypothetical is especially interesting and, in my mind, unresolved.
116. Andeweg 2000.
117. Ibid.
118. Blokker 2000.

less clear to the government and the public. In this sense, the SC may enhance the production of public goods, although through a different mechanism than discussed in the previous section. It provides a political judgment on whether a particular use of force is sufficiently in the "public interest" such that it can be supported rather than challenged.

Although the SC's institutional characteristics reflect the general properties of an elite pact well, one can surely think of alternative and perhaps more efficient designs to tackle the coordination problem. For example, it may not be obvious why states would rely on a formal institution rather than a club-based organization with less explicit decision-making procedures, such as the Group of 7 (G-7) or the Concert of Europe.[119] First, formal institutions help solve time-inconsistency problems that sometimes impede mutually beneficial resolutions of distributional conflicts.[120] A formal SC authorization for military action raises the cost for China or Russia to withdraw from endorsing it because everyone knows they had the opportunity to veto the action. These costs may be lower in a club-based organization. Second, fixed decision-making procedures help clarify expectations and thus reduce uncertainties that may impede compromises to distributive conflicts.[121] Third, the institutional context of the UN facilitates the symbolic function that the SC performs for domestic publics. Finally, negotiating an entirely new elite pact is difficult. The fact that the SC is substantively charged with authorizing force and had some experience with doing so may help explain the pull toward the institution.

*Norm Stability*

Constructivists have criticized rationalist approaches for being ontologically inclined to revisionism and therefore unable to adequately explain the persistence of norms, since self-interested actors do not value the norms themselves, just the benefits directly accruing from them.[122] Instead, constructivists typically assume that actors internalize social norms. The concept of internalization is borrowed from the developmental and social psychology literature, where it is used to characterize the process by which humans absorb norms and values present in their social environment to develop standards for appropriate behavior. Once these standards are internalized, actors do not reevaluate adherence to them when choosing between alternative courses of action. There are both good theoretical and empirical reasons to suspect that internalization is not a prominent source of norm stability in the case under investigation. Theoretically, it is not at all obvious how the internalization

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119. For an argument that decisions in international finance are increasingly made in closed clubs; see Drezner 2003.
120. Weingast and Marshall 1988.
121. See Garrett and Weingast 1993; and Morrow 1994.
122. See Hurd 1999, 387; and Wendt 1999.

concept extends to state actors, especially when these are making decisions regarding behavior than can hardly be described as habitual: the use of military force. Empirically, there are examples aplenty where state actors consciously and explicitly evaluated the trade-off between the legitimacy benefits of the SC and the costs of compromise necessary to obtain those benefits.[123] This suggests a different thought process than internalization would.

That internalization is unlikely does imply that norm stability is a concern. In the elite pact model, a stable norm reflects a self-enforcing equilibrium. This indeed requires that governments must find that their expected utility of abiding by the norm exceeds their utility from acting otherwise. Whether the norm is self-enforcing depends at least partly on the behavior of the institution itself. If the SC conforms to the expectations of actors regarding its function, the legitimacy beliefs on which its authority is based are reinforced. If, however, the SC defies those expectations, these beliefs are undermined. If the behavior of the SC reinforces the social norm, more actors in more situations perceive it to be in their interest to adhere to it. If the behavior of the SC undermines the social norm, fewer actors in fewer situations support it. This self-undermining process can reach a critical level at which the equilibrium is no longer self-enforcing and institutional change should follow.[124] This point is consistent with the common assumption that regimes weaken when actual practice is inconsistent with the rules and norms that constitute the regime.[125]

Behavior associated with the SC reinforces the social norm if it contributes to keeping U.S. power in check while avoiding costly challenges and maintaining beneficial forms of global cooperation. It undermines the social norm if it either fails to provide an adequate check on U.S. power or leads to costly challenges. In observing a SC authorization for the use of force, one should not observe meaningful challenges to the United States by other states. If important states would retaliate even after the United States obtains SC authorization, the United States may be less inclined to follow the social norm in future instances. In addition, the decision to authorize force cannot merely be a rubber stamp. If those states that are delegated the responsibilities to constrain U.S. power give too much leeway, SC decisions lose their utility to other states. This implies that to maintain the equilibrium it will sometimes be necessary for permanent members to defend the interests of important states not represented in the Council.[126] If they would fail to do so, the social norm would be of little use to these states and they might challenge it.

Besides the Persian Gulf War, other reinforcing examples include the Haitian and Somalian invasions, and the various resolutions on Bosnia. These cases may

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123. For example, Voeten 2001.

124. Greif and Laitin 2004. Legitimacy beliefs can be understood as "quasi-parameters." These are parameters that can gradually be altered by the implications of the institution, but a marginal change will not necessarily cause behavior associated with the institution to change.

125. Krasner 1982.

126. On the practice of informal consultations, see Hurd 1997.

not have been resolved in a manner that is satisfactory from a moral, legal, or efficiency standpoint, but they did not result in an overextension of U.S. power or in costly challenges against its power, despite disagreements between states over the proper courses of action.

If the United States uses force in the absence of SC agreement, one should see countermeasures that are costly to the United States. If states fail to react, more people within the United States will believe that a lack of SC authorization carries no serious consequences and thus fewer believe that the social norm should be adhered to. To other states, the utility of the SC as an institution to limit power is diminished if the United States can engage in unpunished transgressions. Moreover, states should seek to punish other states that cooperate with the United States in the absence of SC authorization.

The Kosovo intervention presents the first important deviation from the norm.[127] The decision by the United States and its NATO allies to intervene forcefully without SC authorization did elicit protest from various sources, but it did not trigger an extensive coordinated response. There were two circumstances that modify the weakening implications for the SC somewhat, though not entirely. First, the action was executed by NATO, which implied some checks to U.S. power. Of course, if going through NATO would establish itself as an easier and risk-free alternative strategy the social norm that grants the SC authority is undermined. Second, although there was no explicit SC authorization to use force, there were two previous resolutions that at least implied a forceful response.[128] More importantly, the SC adopted new resolutions that defined an extensive role for the UN once the fighting ended.[129] The United States and its allies were willing to delegate authority to the UN in implementing their victory, thus alleviating fears of overextension somewhat. Nevertheless, the Kosovo episode should at least have had the consequence that fewer people in fewer situations believe that the absence of SC authorization for an intervention carries great costs.

The decision by the Bush administration in 2003 to invade Iraq in the absence of SC authorization presents a more serious challenge. A large number of countries clearly perceived the U.S.-led intervention as a transgression of acceptable limits to U.S. power. Failure to generate a coordinated response should seriously weaken the legitimacy of the SC. It leads U.S. decision makers to perceive that the benefit of SC authorization for future interventions is minor. Moreover, it should reduce the belief among states that the SC can provide a credible check on U.S. power, perhaps inducing these states to resort to other means.

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127. There are at least two cases where SC authorization was ambiguous: the 1991 enforcement of no-fly zones in Iraq and the 1998 bombing in Iraq by the United States and the UK. The 20 August 1998 bombings in Sudan and Afghanistan in response to the terrorist attacks on U.S. embassies in Tanzania and Kenya were not authorized. The action was motivated as an act of self-defense and limited in scope. Responses included various denunciations by states and organizations such as the Arab League, which stressed the absence of UN authorization. See *Al-Ahram Weekly Online*, 27 August 1998, issue 392. Available at ⟨http://weekly.ahram.org.eg/1998/392/foc6.htm⟩. Accessed 10 March 2005.

128. See SC Resolution 1199, 23 September 1998; and SC Resolution 1203, 24 October 1998.

129. In particular, see SC Resolution 1239, 14 May 1999; and SC Resolution 1244, 10 June 1999.

The early evidence is that challenging behavior is moderate. Pape has referred to it as "soft balancing," meaning that it relies on recalcitrance in international institutions, the use of economic leverage, and diplomatic efforts to frustrate American intentions.[130] The leaders of several European countries strongly opposed to the military action announced their intentions to increase military spending, strengthen military cooperation within Europe, and strengthen military ties with China.[131] Several states, most notably India and Japan, have made troop contributions conditional on SC resolutions. There is also some evidence that states who perceived the U.S. action as a transgression sought to "punish" states that cooperated in the absence of SC authorization. For instance, French President Jacques Chirac said the East European leaders who signed letters of support for the U.S. position on Iraq had "missed an opportunity to shut up," adding that he "felt they acted frivolously because entry into the European Union implies a minimum of understanding for the others." [132] These actions should reinforce beliefs that there are some costs associated with acting and cooperating without SC authorization. While it is too early to draw more definitive conclusions, the actions should also reinforce beliefs that, at least in the short run, the costs from disobeying the norm are not prohibitively large.

## Conclusions

The ability of the SC to successfully restrain the United States is at the heart of its aptitude to play a legitimizing role in international politics. In this conception, a legitimate exercise of power abides by certain accepted limits. SC authorization signals the observance of these limits, which are defined not by legal, moral, or efficiency standards, but by an undemocratic political process that seeks to achieve compromise among elite actors. It is important to understand that although the role of the SC depends entirely on the configuration of state interests, this fact does not make the institution epiphenomenal. There are many potential equilibria and convergence on a particular (semicooperative) equilibrium has important implications. This is true even if the restraint on the exercise of power is limited to raising the cost of unilateralism.

Theoretically, this conception of legitimacy corresponds best to those classical realists who did not consider power and legitimacy to be antithetical, but complementary.[133] Legitimacy, these theorists argued, helps convert power into authority. Authority is a much cheaper regulatory device than the constant exercise of coercion. Therefore, attempts to legitimize power are a persistent feature of political

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130. *Boston Globe*, 23 April 2003, H1.

131. Joint Declaration Meeting of the Heads of State and Government of Germany, France, Luxembourg and Belgium on European Defense, Brussels, 29 April 2003.

132. *International Herald Tribune*, 19 February 2003, 3.

133. On the UN see: Claude 1964, 1966; and Morgenthau 1954, 10–11. Unfortunately, contemporary Realists have mostly ignored legitimacy. See Barnett 1997, 529.

life, even in the anarchical global arena. However, these realists had little faith in legalities or moral values as the source for legitimacy. Instead, the process of legitimation primarily involves the acquisition of political judgments about the proper way in which the exercise of power ought to be limited. As Claude wrote in 1966: "[T]he process of legitimization is ultimately a political phenomenon, a crystallization of judgment that may be influenced but is unlikely to be wholly determined by legal norms and moral principles." [134] This statement contrasts sharply with the view that IOs derive their legitimacy precisely from their ability to appear depoliticized. One way of reconciling these views is that the latter focuses mostly on the role of IOs as bureaucracies or courts, whereas the first stresses their political arena role. The UN encompasses both roles, but the ability of the SC to legitimize the use of force stems from its function as a political meeting place. This political arena function of IOs has hitherto received too little attention in the theoretical literature.

The implications of this argument differ in important ways from alternative accounts. The common claim among scholars of international law that the SC threatens to lose its legitimacy if it adopts resolutions that do not fit a broader legal framework depends strongly on the (usually implicit) assumption that its legitimacy depends primarily on its ability to fulfill the role of legal adjudicator. This is the premise of Glennon's argument that the SC was a "grand attempt to subject the use of force to the rule of law," which has "fallen victim to geopolitical forces too strong for a legalist institution to withstand." [135] If the SC's legitimacy does not critically depend on its functioning as a guardian of a legal system, as I argue here, the legal consistency of SC resolutions should not per se be of great consequence to the legitimacy of the institution.[136]

Others claim that the gravest threat to the legitimacy of the SC is that a few countries dominate it and that its procedures are opaque and unfair.[137] If demand for proper procedures were the motivating factor behind the SC's authority, secretive backroom deals among the great powers would be considered illegitimate. Such deals are part of the elite pact account of legitimacy. This does not imply that actors view the procedural aspects of elite politics as desirable per se, but that these are useful to the higher purpose of stability. This situation suggests that successful reforms to make the SC more transparent may actually have adverse effects in that powerful states may flee the forum.[138] In the public goods rationale, the legitimacy of the SC depends critically on preventing free riding and effectiveness in producing global public goods. This is not necessarily the primary concern in the elite-pact rationale, although the proper functioning of the elite pact increases

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134. Claude 1966, 369.
135. Glennon 2003, 16.
136. Slaughter 2003; and Hurd 2003 make similar arguments in response to Glennon.
137. Caron 1993.
138. Drezner 2003 argues that reforms in the IMF have had such an effect. For a proposal of procedural reform that takes such incentives into account, see Buchanan and Keohane 2004.

public good production in comparison to uncooperative equilibria. Nevertheless, the failures of the SC in Rwanda and other places and the failure of the United States to meet its peacekeeping burden may have diminished esteem for the institution, but these failures appear to have had little effect on the belief that the SC is the proper authority to legitimize force.

The conclusion from this study should not be that states are not concerned with legal and moral principles or global public goods, but that the existing and persistent belief that the SC is the most desirable institution to approve the use of force cannot be explained persuasively from the assumption that states do. Legitimacy that relies on the effectiveness of an institution to resolve a particular dilemma is often thought to be inherently unstable. For example, it depends on outcomes that could be caused by a multitude of factors, not just the decisions of the institution. I agree that if the SC's legitimacy were based on a convergence of opinions on its normative properties, its legitimacy would be more stable than it is today. However, such agreement does not exist and is unlikely to emerge in the near future. The collective legitimation function of the UN helps shape state behavior because state officials have made it important by their actions and statements.[139] Those actions and statements could also undermine the Council's legitimacy.

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139. See also Claude 1966, 543.

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