A New Concept for Implementation of Preventive Diplomacy Under the Revised United Nations Security Council

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This is the third academic paper concerning the subject of preventive diplomacy following to my previous articles published in "Journal of Asia-Pacific Studies," No. 18 in March, 2012 and No. 16 in May, 2011. Study Group of Preventive Diplomacy in the Institute of Asia-Pacific Studies, Waseda University has made the continuous discussion on the subject for implementation of new preventive diplomacy system under the revised United Nations Security Council, which is proposed to prevent the abuse of the right of veto by permanent five member states.

1. Introduction

In the current international security concern, Syria's serious situation has been focused. United Nations (UN) reckon that 70,000 Syrians, mostly civilians, have died. The true figure is probably far higher, thousands of have gone missing or have been locked up. In the past few weeks of 5,000 people have fled every day. The UN's High Commission of Refugees (UNHCR) says the number now exceeds 860,000, but many more have fled uncounted. The number displaced within the country is higher still. More than 4 millions Syrians now lack fuel, electricity, a telephone line and food.[1] One of the main reasons of emerging tragedy in Syria is caused by the exercise of veto by Russia and China against the proposed Security Council Resolution, which aimed for earliest settlement of dispute in Syria.

There are many questions the current UN security system, whereby all disputes in the world are directly brought to Security Council like the Syria case. It has been suggested that, when a disagreement and conflict occurs between government and anti-government force, regional and the permanent five states (P-5) should start primary discussions.

The most important issue currently facing the Security Council is the fact that P-5 members, China, France, Russia, the United Kingdom and the United States, which should take the lead in upholding world peace.

The P-5 members lead the Security Council in working out resolutions and dispatching peacekeeping forces to disputed areas. This contradiction impedes settlement of dispute by the UN Security Council.

Thus, this article focuses on the reform of Security Council, and how to avoid the abuse of veto power by permanent five members of Security Council for implementation of earlier preventive diplomacy

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to take quick action for crucial situation in conflict area.

2. The Preventive Diplomacy system under the current United Nations

This Chapter below discusses the practice of preventive diplomacy by the Security Council. Even though it is vested with primary responsibility to maintain international peace and security, the Council has not been the lead actor in the exercise of preventive diplomacy. Previously, this may have been due to the Cold War environment, but, even in the post-Cold War and the post-post-Cold War eras, the Security Council has not led the charge in spearheading preventive diplomacy, most likely due to political calculations based on interests of P-5 members.

Nevertheless, the Security Council has laid down important policies of preventive action in a number of resolutions and statements. The Council starts from the premise that conflict prevention is within the responsibilities of member states. In other words, member states should act in accordance with the norms of international law and should settle their disputes peacefully.

The resolution acknowledges the essential role of the Secretary-General in preventing armed conflict and the importance of efforts to enhance that role in accordance with Article 99 of the UN Charter. It expresses the Security Council's "willingness to give prompt consideration to early warning or prevention cases brought to its attention by the Secretary-General" and encourages the Secretary-General to convey to it his or her assessment of potential threats to international peace and security with due regard to relevant regional and subregional dimensions.[2]

The Council has stressed the need to enhance the Secretary-General's role in conflict prevention including by increased use of UN interdisciplinary fact-finding and confidence-building missions to regions of tension, developing regional prevention strategies with regional partners and UN Organs and Agencies, and improving the capacity and resource base for preventive action in the Secretariat.

The Council has also stressed the need to address the root causes and regional dimensions of conflicts. It has expressed serious concern over the threat to peace and security caused by the illicit trade in—and the excessive and destabilizing accumulation—of small arms and light weapons in areas of conflict and their potential to exacerbate and prolong armed conflicts. The Council called on all member states to ensure timely and faithful implementation of the UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All its Aspects in July 2001, and to take all necessary measures to prevent and combat the illicit flow of small and light weapons in conflict areas.[3]

The drafted resolutions submitted to the Council stress the need to create conditions for durable peace and sustainable development by addressing the root causes of armed conflict. The resolution reiterates that early warning, preventive diplomacy, preventive deployment, practical disarmament measures, and post-conflict peacebuilding are interdependent and complementary components of a comprehensive conflict prevention strategy. It calls on member states as well as regional and subregional organizations and arrangements to support the development of a comprehensive conflict prevention

strategy as proposed by the Secretary-General.

The drafted resolutions also invite the Secretary-General to refer to the Security Council information and analyses from within the UN system on cases of serious violations of international law, including international humanitarian law and human rights law, and on potential conflict situations arising from ethnic, religious, and territorial disputes, poverty, or lack of development. The Council also expresses its determination to give serious consideration to such information and analyses regarding situations that it deems to represent a threat to international peace and security.

Contemporary security studies warn of new dangers such as global terrorism and the accelerated horizontal and vertical proliferation of weapons of mass destruction. Moreover, in a rapidly globalizing world, the threat has become ever stronger with the emergence and proliferation of technologies that facilitate the spread of weapon of mass destruction to both state and nonstate actors and the dangers of terrorists using weapons of mass destruction. In a globalizing and multidimensional security environment, the meaning of security is no longer confined to state or national security and the preservation of territory integrity.[4]

It is stressed that no single country can achieve its security or safety against threats in isolation and that beyond regional analysis and cooperation, there is a need for international and global cooperation. Furthermore, security and development objectives have become increasingly interdependent.

An important initiative has been launched at the UN to draw on diplomacy to prevent genocide. This initiative is still at an early stage and needs broad-based support to succeed. The General Assembly and the Security Council have established an impressive legal framework on preventing nuclear terrorism, and the Counter-Terrorism Committee of the Security Council is endeavoring to promote international cooperation to prevent terrorism through dialogue. The process is at a fairly early stage, and it remains to be seen what results it will yield. The nontraditional threats to security that are on the horizon call for dynamic and innovative responses. As a matter of principle, there must be room to marshal preventive diplomacy.

It is imperative to that the Security Council make its global watch more systematic over potential threats that could endanger the maintenance of international peace and security. Ways must be found to help the Council keep track of the nontraditional threats to security.[5]

3. The Necessity of Reform of Security Council of the United Nations

The many ethnic and regional conflicts have arisen after the post-Cold War. These conflicts are sometimes small in scale but more complex in nature, because these are not easy judge which side is right and which side is wrong. The UN security system's failure to properly respond to such international conflicts has triggered argument that there is a limit to what the UN can do.

It was decided in the UN Charter, that China, France, the United Kingdom, the United States and the Soviet Union at that time should be permanent members of the Security Council and that each should have a veto over Council decisions. The Council would be a small body originally with only 11

members. The P-5, plus rotating members who would each serve for only 2 years. Now the Security Council has been expanded a little bit. The 5 permanent members plus now 10 non-permanent countries, but with still only a 2 year rotating period. The element of the privilege permanent seats, and the power of veto were vigorously contested. The vision of new world order formed by the principle of the Charter was combined with the narrow presumption that only victors could guarantee the realization of those principles.

At that time, it should also be recalled that neither the Soviet Union nor the United States would have ratified the UN Charter without the veto provision. The veto acts as a sort of safety fuse in the UN system by making it impossible for the organization for a simple majority vote in the Security Council to go to war with one of the great powers under Chapter 7 of the UN Charter.[6]

In the past, state efforts to increase their own security by expanding their military capabilities and forming alliances with other military powers, invaluably threatened the security of other states. The struggles for national security were perpetual zero-sum game in which some states won and others lost.

However, thereafter, the global security must be broadened from its traditional focus on the security state, to include the security of people and economic factors rather than the military sense. Ballistic missiles, long range aircraft and weapons of mass destruction have made the security offered by national boundaries even more elusive. Efforts by great powers to preserve their military dominance will stimulate emerging powers to acquire more military strength at the same time, emerging powers' attempt to redress the military imbalance can only prompt traditional powers to reinforce their capabilities. The result of such vicious circle will be the rising political tension, wasted resources or worse, war by accident or inadvertence.

While these now may have reduced the frequency of interstate aggression, they have also had other less benign consequences. The concept of state sovereignty in security matters has often provided the rational for creating powerful national military systems, justifies budgetary policies that emphasize defense over domestic welfare and encourages measures that severely restricts citizens rights and freedoms.

Protection against external aggression remains of course an essential objective for national government and therefore for the international community but that is only one of the challenges that must be met to ensure global security. Despite the global safety of most of the world's states, people in many areas now feel more insecure than ever. The source of this is really the threat of attack from outside. Other equally important security challenges arise from the threat to the earth life support system, such as extreme economy deprivation, the proliferation of conventional small arms, the rising of civilian population by domestic factions and growth of violation of human rights. These factors challenge the security principles of security for a new era the world needs to translate these concepts of security into principles of the post Cold War era, that can be embedded in international agreement.[7]

The UN advisory boards, as set forth in the report of "Global Governance Commission" is consider-

ing that the following be used as norms for security policies in the new era. First, all people no less than all states have a right to secure existence and all states have an obligation to protect those rights. Second, the primary goals of global security policies should be to prevent conflict and war and to maintain the integrity of the global life support system by eliminating the economic, social, environmental, political and military conditions that generate threat to the security of people and by anticipating and managing crisis before they escalate into armed conflicts. Third, military force is not a legitimate political instrument except in self defense or in UN. auspices. Fourth, the development of military capabilities beyond that required for national defense and support of actions is a potential threat to the security of people. Fifth, weapon of mass destruction are no legitimate instruments of national defense. Six, the production and trade in arms should be controlled by the international community.[8] It should be recognized among member states that the future Security Council will follow these six principles as mentioned in the Report.

4.　Change of Exercise of Veto power under the Revised Security Council system

The Security Council is composed of 15 member states of the UN. Again, there are P-5 members of the Council and 10 which are elected by the Assembly for two-year term (Article 23). Its competence is mainly though not exclusively limited to issues concerning the maintenance of international peace and security, for which it bears primary responsibility within the UN system (Article 24). Although each member has one vote, decision on non-procedural matters must be adopted by the affirmative vote of nine members and include the concurring vote of the permanent members who therefore possess a veto with respect to substantive decisions. Abstentions, however, are not deemed to be vetoes. The powers of the Security Council in the areas of peace and security dispute settlement are explored in Articles 19 and 21. It suffices here to note that the Council has the power to adopt decisions which are binding on members of the UN (Articles 24 and 25).[9]

This is the sample in of veto power in Syria's case. Russia and China joined forces in a double veto on 4 February, 2012 to knock down a Western-Arab UN Security Council resolution backing an Arab League plan for Syria President Bashar al-Assad to step aside. The other 13 Council members voted in favor of the resolution, which would have said that the Council "fully supports" the Arab League plan aimed at ending 11 months of bloodshed as Syria has sought to crush an anti-Assad uprising. Mohammed Loulichki, the UN ambassador of Morocco, the sole Arab member of the 15-nation Council, voiced his "great regret and disappointment" that Moscow and Beijing struck down the resolution. Dropping the usual diplomatic courtesies, U.S. Ambassador Susan Rice said she was "disgusted" by the Russian and Chinese veto, adding that "any further bloodshed that flows will be on their (Russia's and China's) hands." French Ambassador Gerard Araud told the Council, "It is a sad day for this council, a sad day for all Syrians, and a sad day for democracy." He said Moscow and Beijing were now "complicit in the policy of repression" of Damascus. This is the second time that permanent members Russia and China have exercised a double veto on the Syria issue. In October, they vetoed a European-drafted res-

olution condemning Syria and threatening it with possible sanctions.[10] Thus, due to exercise of veto by Russia and China against the UN Security Council resolution, based on their national interests, the preventive diplomacy actions to be made by UN for Syria, was postponed sometimes.

The Study Group of Preventive Diplomacy has retrieved the Syria's case in details, with respect to the veto power against submitted resolution in the UN Security Council. The Group now has a new proposal, that to avoid the abuse of veto power by P-5 members, it should be limited three times on the same subject resolution which has been discussed in the Council.

When the P-5 member exercises veto power over three times on the same subject resolution, then the Secretary-General of the UN is able to designate the subject matter as the "Matter of Grave Concern to International Peace and Security" to be discussed in the General Assembly (GA). Thereafter, in the discussion and voting in the GA, the resolution would be adapted for implementation with the approval vote of over eighty percent of the UN member states. Accordingly, the UN is able to take earlier preventive actions to save citizens in conflict areas. This is the most important step for the UN to take more effective preventive diplomacy actions with enforcement, such as sending the UN peacekeeping operation force to the conflict area quickly. In this report, the Study Group has reviewed that the Uniting for Peace resolution was adopted by the Assembly in 1950 because it was felt that such provisions had to be reinterpreted more specifically if the Assembly was to strengthen its role in dealing with international peace in the event of a veto in the Security Council. This resolution, organized by the Western nations whose influence predominated in the Assembly at that time, was founded on the view that as the Security Council had the primary responsibility for the maintenance of peace under Article 24, it could therefore be argued that the Assembly possessed a secondary responsibility in such matters, which could be activated in the event of obstruction in the Security Council.

The resolution declared that where the Council failed to exercise its responsibility upon the occurrence of a threat to the peace, breach of the peace or act of aggression because of the exercise of the veto by any of its permanent members, the GA was to consider the matter at once with a view to making appropriate recommendations to members for collective measures. Such measures could include the use of force when necessary in the case of a breach of peace or act of aggression, and, if not already in session, the Assembly would be able to meet within twenty-four hours in emergency special session.[11] Therefore, our recommendation, under such situation, is to secure the function of GA for decision making on the resolution with eighty percent approval voting.

5.   Conclusions

Though some member states point to the limits—of using force, as seen in Somalia and Bosnia, traditional multi-functional operations in Mozambique, which included ceasefire monitoring and election support, proved successful. Such was the case in El Salvador during 1994 as well. These cases were taken adequate preventive action and practice of UN peacekeeping operation, thereafter, without abuse of exercise of veto power by P-5 member state in the Security Council.

The efforts have been made by the UN member states to hammer out a concept for new global security policies for international society for the 21st century at the time of the last 10 years of the previous century. The various proposals have already submitted for introduction of new concepts for international security to take earlier preventive diplomacy action. One of the feasible proposals is that a Human Right Council be set up in place on the UN Trusteeship Council, which finished its role with the independence of the Palau Islands in the Pacific Region. Then, the Council should have the function for making more detailed procedure for preventive diplomacy action for conflict area.

There is also a proposal to achieve peaceful settlement of disputes through the judgment of the International Court of Justice (ICJ) at Hague by providing the UN Court with mandatory jurisdiction over international disputes. For settlement of territorial dispute, this proposal might provide legal justification through the judgment of ICJ. Thus, the various proposals for reform of United Nations system should be discussed and processed at this stage.

Notes

1. The Economist, "The country formerly known as Syria", 23 February, 2013.
2. Ramcharan, G., Bertland, "Preventive Diplomacy in UN", 2008, p. 16.
3. Ibid, pp. 27–28.
4. Ibid, pp. 192–193.
5. Ibid, pp. 214–215.
6. Saksena, K. P., "Restoring the United Nations—The Challenge of Reverence," 1993, p. 756.
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10. http://www.hufftingtonpost.com/2012/02/04/syria-un-resolution_n _1254441.html
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