FIVE CHALLENGES FOR THE UN SECURITY COUNCIL

Address by Professor the Hon Gareth Evans, former Foreign Minister of Australia and President Emeritus of the International Crisis Group, to the UN Security Council 12th Annual Workshop for Newly Elected Members hosted by Government of Finland, Greentree Foundation, Manhasset, New York, 13 November 2014

Usually when you write a book about international relations, you worry about it being so quickly overtaken by further events that within a few months it will have no conceivable relevance to any current issue. I’m afraid I have to report that’s not a problem I have had with what some of you may remember as my ‘blue book’ on UN reform, Cooperating for Peace, which I launched in New York back in 1993 when I was Australia’s Foreign Minister.

The sad reality is that a great deal of the analysis there – about what the UN should be doing when it comes to maintaining, restoring, enforcing and building peace, and regenerating the Security Council – reads almost as if were written yesterday, not over two decades ago.

What I’d like to do this evening is revisit, five particular themes from that book which I think are still highly relevant to the credibility and effectiveness of the Security Council. These are, one, the need for better peacekeeping and conflict prevention; two, the need to re-establish consensus on how to address atrocity crimes so extreme that they may require a military response; three, the need, again in relation to mass atrocity crimes, to reach agreement on veto self-denial; four, the need to forge a new mindset among member states that the collective interest is in fact the national interest; and five, the need not to postpone forever creating a Security Council whose structure reflects the world of the 21st century, not the middle of the last century.

Of course I don’t underestimate for a moment the degree of difficulty in implementing any of these various process, mindset and institutional changes, not least because the working environment for the Council is more demanding now than it has ever been. Events have been erupting at a crazy pace in recent times: more crises in more places, more breaches of humanitarian and human rights law, and more people displaced by conflict than has been the case for decades, and ever more expectations that that the Security Council will say and do or say something meaningful about all of them. All of this means that the daily grind of the urgent, tends to drive out what might in the long run be even more important so far as the longer term credibility of the institution is concerned.

Can I also say at the outset, that I don’t undervalue the Council’s performance in recent times, and don’t want to overstate the scale of its current credibility problem. You did well to force Syria to give up its chemical weapons, and to authorize humanitarian access without the regime’s consent. You have authorized more peacekeepers in the field, with more robust civilian-protection mandates, than ever before. You have applied more sanctions regimes, to a wider range of targets, than ever before. You have shown confidence in the International Criminal Court by referring cases to it. You stopped an imminent massacre in Libya in 2011 by agreeing (at least at the outset) that the “responsibility to protect” norm justified military action, and in some 20 other resolutions since then have used language recognizing basic R2P
principles. You responded decisively to the Ebola crisis, and have passed some important counter-terrorism resolutions. And you have been consulting more widely and debating issues more openly.

But all that said, we know that human security issues are currently overwhelming very large swaths of Africa and the Middle East in particular. And we know that too often the Security Council has gone missing, for whatever reason, on some of the world’s most serious security and human rights problems. If not completely paralysed, then the Council has been something very close to it in some of the most alarming crises of them all, in Ukraine, Gaza, Syria, and Iraq.

The bottom line is that indefinite continuation of the Council’s institutional legitimacy as the world’s foremost decision-maker on issues of peace and security simply cannot be taken for granted. With no army to enforce its will, the Council’s authority – like that of the League of Nations before it – will last only as long as the willingness of the overwhelming majority of the international community to accept it. If the Council doesn’t look the part in terms of its institutional structure, and if it regularly fail to act the part in exercising its awesome global responsibilities, with narrow self-interest being seen to trump cooperative commitment, it’s only a matter of time before its authority slides away.

I think these are some useful things you can do to stop that creeping erosion, for which future generations will be profoundly grateful to you. So let me work through them, starting with the area of peacekeeping and conflict prevention, to which you have been already devoting a lot of attention, but maybe not yet quite enough on some things that really matter.

Peacekeeping and Conflict Prevention. As to peacekeeping, I don't think you need me to tell you what the issues are: they have been excellently analysed by, among others, Under-Secretary-General Hervé Ladsous in a Brookings Institution presentation in June and US Permanent Representative Samantha Power in a speech just last week, and are now to be the subject of detailed report by the High-Level Independent Panel on Peace Operations, chaired by Jose Ramos Horta, that was initiated and announced a few days ago by the Secretary-General.

In short, we have more peacekeepers on the ground, in more places, and in more complex conflicts, than ever before, and are asking them to do more than ever more – not least to routinely, not totally exceptionally as in the past, to forcibly protect civilians at risk of violent harm. Yet – largely due to foot-dragging by states in the global North, possessing many of the world’s most capable militaries – their numbers remain in desperately short supply, and we are not giving them anything like the equipment, logistic support, training and in some cases the leadership they need.

The Council is now, much more than in the past – and certainly than when I wrote the blue book – giving peacekeepers the formal mandates they must have. But they are not getting anything like the resources they need, and the whole system hovers perpetually on the brink of breakdown. The Horta panel is going to have to, like the Brahimi panel fifteen years ago, make recommendations which are tough and far-reaching, and this Council’s credibility will significantly depend on its commitment to following them through. One good way to demonstrate that commitment would be for the Council to lead by example, with every one of
its members with the capacity to do so, and to the extent they are not doing so already, contributing significant personnel and other resources to peacekeeping operations.

As to conflict and crisis prevention, the Council’s rhetoric has been fine, but more attention needs to be devoted to matching it with better formal process, in particular improved early-warning and briefing mechanisms. Anticipating and responding to major human-rights violations – which are so often the precursors to full-scale conflict – should be thought of as just as much core Council business as peacekeeping, and frankly acknowledged as such in a way that has not yet been the case. The Secretary-General’s Rights Up Front Action Plan has much worthwhile to say about mainstreaming and improving management of human rights issues within the Secretariat, but conspicuously lacks any reference to ensuring engagement with the Security Council in that respect.

In this context I think it is time to revisit the old chestnut of the Secretary-General actually exercising his formidable authority under Article 99 of the Charter to bring to the attention of the Council “any matter which in his opinion may threaten the maintenance of international peace and security”. Maybe less formal mechanisms work most of the time, but I do think Council members should no longer discourage the Secretary-General from using Article 99 whenever he sees fit to initiate an early warning process, and in fact make this the primary mechanism for integrating the preventive work of the Secretariat with that of the Council.

**R2P and Military Intervention.** Moving to my second theme, going to the most extreme human rights violations, involving mass atrocity crimes, it is hugely important for the Council’s credibility that it find a way, sooner rather than later, of burying the paralysing differences over the question of coercive military intervention under Pillar Three of the Responsibility to Protect norm which have afflicted it since the dispute arose over the implementation of the mandate to forcibly intervene in Libya in 2011.

True, the problem only exists with the hardest of R2P cases, involving clear-cut genocide, other crimes against humanity or major war crimes, and where the prospect of achieving effective civilian protection by other means is so slight as to prima facie raise the question of coercive military intervention. Elsewhere, R2P principles – Pillar One, Pillar Two, and to some extent the non-military dimensions of Pillar Three, are alive and well, and being applied. But the coercive military cases are the talismanic ones, and we have to get them right if we are not to re-live Rwanda, Srebrenica and the other horrors of the 1990s and earlier years.

As to the question whether in Libya in 2011 the UNSCR 1973 civilian protection mandate did or did not justify the regime change mission that was, in the event, pursued by the NATO-led forces, both the P3 and the BRICS have put strong opposing arguments. Rather than revisiting that debate, on which nerves are still somewhat raw, I think a more productive course would be to have a focused discussion, perhaps initiated by one of the new Council members in its Presidency month, on how to move forward and ensure that there are good prospects in the future for not only building initial consensus on these cases in the Council but sustaining it during the lifetime of any mandate agreed.
The way forward in this respect was shown by Brazil three years ago when it introduced into the debate the idea of supplementing R2P, not replacing it, with a complementary set of principles and procedures which it labelled “responsibility while protecting” or “RWP”. Reduced to its essentials, there were two core elements of the RWP proposal. First, that before the Security Council mandated any use of military force there should be explicit and systematic debate of the applicability to the situation of the set of prudential criteria – including last resort, proportionality and balance of consequences – which were initially mapped by the International Commission on Intervention and State Sovereignty which I co-chaired in 2001, and which although not formally adopted by the General Assembly or the Council, have been part of the general currency of international debate since. And second, that there should be some kind of enhanced monitoring and review processes – maybe in the form of a sunset clause for such resolutions, but it could be much less formal – which would enable such mandates to be seriously debated by all Council members during their implementation phase, with a view to ensuring so far as possible that consensus is maintained throughout the course of an operation.

While this proposal has so far met some resistance, it is clear that some ground is going to have to be given if un-vetoes majority votes are ever again going to be possible in the Council in support of Chapter VII-based interventions in extreme cases. There were some encouraging signs last year that our Chinese and Russian colleagues may be interested in pursuing further the idea of RWP or “Responsible Protection”: meetings of specialists to discuss the future of R2P, which addressed these and related themes, were sponsored last October in Beijing by the China Institute of International Studies, which I attended, and in Moscow by the Diplomatic Academy, attended by my colleague from the Global Centre on R2P.

The atmosphere might not be totally optimal right now for taking these thoughts further, but I hope they will be revisited by the new Council. I don’t think anyone really wants to drift back to the bad old days when either these assaults on our common humanity were either seen as nobody else’s business, or when, in really extreme cases, necessary military action to stop them could only be taken in defiance of the UN Charter.

Veto Self-Denial. Third, also on the subject of mass atrocity crimes, I hope the Council responds positively to the transformative change that has been proposed by France in relation to the veto, whereby the permanent members would voluntarily forswear using it in cases of mass-atrocity crimes certified as such by the Secretary-General or by some other acceptable process, at least where no vital national interests are claimed to be at stake – with all of this embodied at least in a P5 “statement of principles” if not a more formal code of conduct.

This is an idea which has been floated before, including in the Secretary-General’s High Level Panel report of 2004, and it does tend to bring out a number of states’ inner sceptic: I have myself been known to quote in this context the immortal words of Australia’s post-World War II Prime Minister, Ben Chifley, that “the trouble with gentleman’s agreements is that there are not enough bloody gentlemen”. But I can’t think of any other step the Council could take which would, at so minimal a cost to any of its members, so dramatically, visibly
and immediately demonstrate its commitment to the true spirit of the Charter, and in so doing bank legitimacy credits with the wider international community.

Cooperative Security and National Interest. My fourth theme involves no specific policy issue but, rather, what I think would be a helpful change of mindset in the way in which member states think about the relationship between the collective interest, which the Security Council is pledged to advance, and each state’s national interests. I know you will all say that you are committed to the kind of “cooperative security” principles that I, for one, spelt out in the blue book, and in the Council’s day-to-day business you manifestly very often are. But I think you will acknowledge that it is not at all uncommon in practice, both here in New York and certainly back home in capitals, for these collective perspectives to get subordinated to the notion that international responsibilities to advance global public goods are one thing, but protecting and advancing national interests are something quite different.

What I would like to urge upon you – for consideration here in New York in the hope that it will also filter back to capitals – is another way of thinking and talking about national interests, which recognizes that the collective interest can in fact be the national interest. We are all used to thinking of national interests as just the traditional duo of geopolitical, strategic and security interests on the one hand and economic interests on the other. But I have long argued that every state has a third national interest which deserves to be ranked right up there alongside the other two, i.e. its interest in being, and being seen to be, a good international citizen. The argument is that “purposes beyond ourselves”– be they concerns about poverty alleviation, or environmental problems, or nuclear arms control, or faraway human rights atrocities or other issues which seem to have no immediate security or economic consequences for a particular country – are really at the heart of that country’s core national interests, rather than being some kind of boy-scout-good-deeds afterthought to the real business of state.

The point for the realists among us is that there is a hard-headed return for any state in being and being seen to be a good international citizen, respecting international law and actively engaged in finding cooperative solutions to these kinds of problems. First, enhancement of that state’s international reputation, which is bound to work, over time, to its economic and security advantage. And second, getting the benefit of reciprocity: diplomats are no more immune to ordinary human instincts than anyone else, and if I take your problems seriously, you are that much more likely to help me solve mine. In short, the idea of good international citizenship as a national interest squares the circle between realists and idealists by making the point that idealism can in fact be realistic.

I may be over-egging the pudding a little here, but I do think these mindset issues, trying to change the way we reflexively characterize particular situations and our reactions to them, can be tremendously important in practice in the process of building common ground. I think we have seen that in the way the Brundtland Commission’s coinage of the term “sustainable development” built new bridges between environmentalists and developers, and the replacement of the language of “the right to intervene” with the “responsibility to protect” helped break us out of the consensus-free zone of the 1990s. If we can get away from the traditional mindset that international relations inexorably involves a contest of narrowly defined national interests, and accept rather – and talk much more often than we do in these
terms – that, across the whole range of global public goods issues with which the Security Council and other intergovernmental institutions deal, advancing the collective interest is itself a category of national interest, I think we will have a much more consistently productive decision-making process, both here and in capitals, and that will be very good for the long-term health of the Council.

**Council Structure.** Fifth and finally, although I know this is probably the toughest issue of all, I don’t think the Council can ignore forever the question of its own composition. We all know the issues here, and the various possible options, because we have been debating them now – fruitlessly – for two decades. The major players in the world of the 21st century just do not have any kind of guaranteed seat at this top table. All efforts to change the structure of the Council have ground to a halt, even the extremely modest one to lift the limit on non-permanent members being immediately re-elected after serving a two-year term, so as to make possible continuous engagement – if not formal permanent membership – by the new major powers.

Leaving aside the inevitable disagreements about who are the states in each region whose influence and sense of responsibility is such that they deserve some more privileged role in the Council, we have to acknowledge that there may well be some force in the arguments that a bigger and differently constituted Council will be harder to manage and find it even harder to reach consensus on the tough issues than has been the case with the present one. But in international as in domestic politics, nothing ultimately trumps legitimacy. And the hard truth that has to be faced up to is that across most of the world of today the presently structured Council just does not have the representative legitimacy it needs to have if its survival in the long term is to be guaranteed. Changing that structure is not the most urgent task, but it remains one of the most important. My perception, for what it’s worth, is that if the Council continues to look the way it does, it is only a matter of time – maybe another fifteen years at best – before its credibility and authority will diminish to dangerous levels in the eyes of most of the world.

I am conscious that some of you here will think that I have rather exaggerated the extent to which the Security Council’s credibility, legitimacy and ultimately authority is really at risk: surely, for all the bumps along the way, we’ll just go on going on. All I can say in my defence is that I have been around long enough to have seen a number of extraordinary things happen almost overnight in international relations which, while they may not have been unpredictable, were certainly universally *unpredicted* to happen when and how they did. In this week commemorating the breaking open of the Berlin Wall, do we need any other reminders of just how mercurially the forces of history can flow?

I simply don’t think it is wise for any Council member to assume that, as presently structured and managed, its legitimacy, credibility and authority is destined to continue indefinitely. The tipping point might still be decades away, but it might also be much sooner: nobody can possibly predict. For all its supreme international authority, this is an institution whose foundations are a little more fragile than they seem. No institution has ever lost ground by anticipating the forces of change, and working to accommodate them before being absolutely compelled to do so. I think you would be very wise to get started now.