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UN SECURITY COUNCIL AND THE AUTHORISATION OF FORCE

Summary

1. While prospects for a 'second resolution' on Iraq appear to be diminishing, it is important to put this in a wider context. As you have noted, there was no resolution authorising military intervention in Kosovo for precisely the reasons we see today, that is one permanent member blocking the authorisation of force.
2. It is also worth bearing in mind that prior to 1991 and the first Gulf War the Security Council was not the focus of international security. Governments seldom sought Security Council authorisation for use of force. Neither in Kosovo nor the Falklands War was there Security Council authorisation.
3. It is important to see in the present difficult situation the limitations of the UN Charter. I believe these need to be surfaced in the public debate.

Background

4. The Charter of the UN vested considerable authority in the Security Council (Chapter V) which was empowered to determine whether a given situation contained a threat to international peace or a breach of the peace or an act of aggression and, if it so determined, to require all UN members to take action against the delinquent. This collective authority was offset by the procedural obstacles to reaching in the first place a collective decision in the Council, namely, a majority of the Council and the assent of all its five permanent members.

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5. When the Security Council faced its first great challenge in June 1950 it seemed to be up to the task when it approved a US-led coalition under a UN mandate to deal with North Korean aggression. The Attlee government stood alongside the US with a British contribution second only to the American forces.

6. This early success was due to the absence of the Soviet Union, which had temporarily withdrawn from the Council on Stalin's orders. What had seemed like a triumph for the UN was, however, an aberration and there was to be no further collective response to aggression for four decades when Iraq invaded Kuwait in 1990.

7. During the Cold War the Security Council was effectively frozen for decades. Most conflicts and "threats to international peace and security" occurred outside the UN because of superpower rivalry. The Soviet interventions in Hungary (1956), Czechoslovakia (1968) and Afghanistan (1979) escaped censure and deliberation by the Security Council. The lengthy American intervention in Vietnam (1963-73) was another war fought without the UN. Both superpowers made extensive use of the veto but especially the Soviet Union. In the 1980s US military intervention in Grenada (1983) and Panama (1989) were equally without UN authorisation.

8. In the Falklands War of 1982 Mrs Thatcher based the British case on self-defence under Article 51 of the Charter. While the Security Council condemned the Argentine invasion it never authorised British military action. On the contrary, in SCR 505 in May 1982 it called for a cessation of hostilities between Argentina and the UK.

9. The end of the Cold War and the first Gulf War appeared to usher in a new era. For the first time since 1945 the Security Council appeared to be the focal point for international security. As the Charter envisaged the waging of war appeared to be shifting from the nation state to the community of nations. It is worth remembering however that while UK and US obtained the necessary support of the Security Council, they equally maintained throughout they were entitled to use force against Iraq under article 51.

10. The prospect of a collective response to threats to international security that the first Gulf War seemed to presage was however never quite fulfilled.

11. The Security Council's record since 1991 has been mixed. On Bosnia the establishment of a peacekeeping mission (UNPROFOR) and numerous resolutions did not stop continued civil war and culminated in the Srebrenica massacre in July 1995. It was only when the US intervened in September that year that the war was brought to a close. Even worse was the Rwanda genocide in 1994 when the Security Council refused to act altogether.

2
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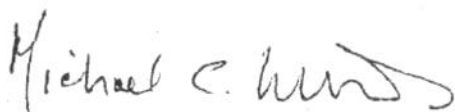
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12. In 1999, faced with mounting repression in Kosovo, the UK and the US decided, following the failure of talks held in France, that military intervention was necessary to avert humanitarian catastrophe. While there were resolutions condemning Serbian repression - SCRs 1160, 1194, 1203 - it was obvious Russia would not contemplate action authorised by the Security Council. No attempt was made for a resolution. In this regard you may find interesting Baroness Symons' written statement in the Lords:

"cases have arisen when, in the light of all the circumstances, a limited use of force was justifiable in support of purposes laid down by the Security Council but without the Council's express authorisation, when that was the only means to avert an immediate and overwhelming humanitarian catastrophe. Such cases would in the nature of things be exceptional and would depend on an objective assessment of the factual circumstances at the time and on the terms of relevant decisions of the Security Council bearing on the situation in question."

13. Historically, the record of the Security Council in meeting challenges to international security has been poor. Iraq has been the subject of more Chapter VII resolutions than any other country since the UN was founded. SCR 687 was based on Iraq disarming. Twelve years after its adoption Iraq palpably has not disarmed. SCR 687 is particularly important as there was no ceasefire or armistice following the end of the 1991 war as, for example, pertained in 1953 with the end of the Korean War.

14. SCR 1441 twelve years later powerfully reinforces 687. It is self-evident that the Security Council - barring a Damascene conversion - has failed to uphold its own authority. While the UK remains fully committed to the Security Council, we cannot at this critical hour not take heed of its shortcomings.



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