

THE ROLE OF THE UNITED NATIONS SECURITY COUNCIL IN PROMOTING PEACE AND SECURITY IN INTERNATIONAL LAW

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Abstract

The United Nations Security Council (UNSC) was set up as an arm of the United Nations (UN) with the mandate to promote peace and security between countries in the world involved in one type of dispute or war, and the others. However, the UNSC has played a major role in promoting international peace and security under international law, even though it is often criticised for how well it does this. It is important to remember that the international system and the laws it operates under have also had problems. For independent states, the UNSC can only moderate state behaviours but cannot at all times control its operations perfectly, and the national interest of P5, which often reflects in their use of veto power, remains a challenge to the council's efficiency. This research is aimed at exploring the role of the UNSC in peace and security promotion under international law. The study adopted a doctrinal research methodology for interrogating the existing legal structures available for the UNSC to see how well it has played its role under its mandate. Findings from the study revealed both positive and negative strides. For example, the P5 has the power to veto UNSC decisions, which can be problematic. The study concluded that although there have been challenges in some cases, the UNSC has, to a large extent, executed its mandate in the maintenance of international peace and security under the international legal framework available; thus, the argument that the UNSC is completely irrelevant does not hold. The study recommends that major reforms be introduced to ensure effective administration of the Council's functions. These include that international laws guiding the operations of the UNSC should be encouraged not only in letters of the law but also in practice to achieve the main purpose for which it was created.

Keywords: International Law, Peace, Security, United Nations, United Nations Security Council

1.0. Introduction

The United Nations (UN) was officially formed on October 24, 1945, by a group of people representing about 50 nation-states. The UN Charter, completed and signed in San Francisco at the same time, was the cardinal instrument of the newly formed body.¹ The UN's founding mission was to provide a platform for nations to collectively pursue, promote, and maintain international peace and security.² The UN Security Council (UNSC), one of the UN's six principal organs,³ was also formed at the same time as the UN and charged with the responsibility of maintaining international peace and security.⁴ The UNSC's structure was reflective of current events at the time of its formation. The UN Charter initially provided for a total of 11 members of the UNSC, five of whom were permanent and six to be non-permanent. The Permanent Members (P5) represented the great

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¹ The 1945 San Francisco Conference and the Creation of the United Nations
<<https://www.nationalww2museum.org/war/articles/1945-san-francisco-conference-and-creation-united-nations>>. Accessed 1st May 2024

² Art 1 of the UN Charter (1945).

³ *Ibid.*, Art 7.

⁴ *Ibid.*, Art 24.

powers that had contributed much to the end of World War Two (WWII), while the remaining members were elected from countries in different geographical regions of the world.

The UNSC currently comprises the P5, who wield Veto Power, and ten non-permanent members elected for a term of two years.⁵ Any action taken by the UNSC has to receive not less than nine (9) votes,⁶ but substantive matters, as opposed to procedural matters, have to pass without a P5 (China, France, the Soviet Union, now Russia, the United Kingdom and the United States of America) member exercising the veto.⁷ An abstention by any member of the P5 does not constitute a veto.⁸ The UN Charter specifically mandates the UNSC to handle activities aimed at the promotion of peace and security internationally,⁹ and any decision in that respect represents and is binding to the entire UN organization.¹⁰ The core of the UNSC model lay in the great power consensus between the P5 and the other members of the UNSC and the significance of that unity to the promotion of peace and security.¹¹ The Veto power structure confers on the P5 members of the UNSC the right to obstruct through a single vote any resolution it deems not appropriate to the promotion of international peace and security. The Charter does not explicitly mention the veto, except to affirm that any substantive matters brought before the UNSC can only be passed by affirmative votes of nine members, including by concurring votes of the P5.¹² The members of the UN's P5 were arguably the most powerful military state at the time of the formation of the UN. The US played a key role in the initial period of talks held at Dumbarton Oaks and would,¹³ together with China, the Soviet Union, Britain, and France,¹⁴ impose the veto and permanent membership to the five members of the UNSC.¹⁵

2.0. The UN Security Council

Kennedy¹⁶ and the United Nations Foundation¹⁷ recorded that the victors who had invested much in ensuring an end to WW II and an establishment of world peace were – China, France, the USSR, the UK and the US. These countries, known as the Great Victors or Great Powers, were seen as responsible for containing an overly ambitious Germany in its quest for world domination. More than any other country in the world, this group had contributed the most in terms of military strength, financial support and diplomacy – to ending the war. With the leadership of the Great Powers and the support and agreement of the war allies, this new order was born, and the floundering and ineffective League of Nations gave way to a new and promising UN with the following purpose:¹⁸

- a. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of

⁵ Art 23 (1) of the UN Charter (1945).

⁶ G Weiss, et al., *The United Nations and Changing World Politics* (3rd ed.) (Colorado: West view Press, 2007)

⁷ P Kennedy, *The parliament of man: The past, present, and future of the United Nations*. (New York: Vintage Books, 2006).

⁸ F Ochieng, *An Assessment of the United Nations Security Council in Maintenance of International Peace and Security*. *University of Nairobi Collections* (2012) < <http://hdl.handle.net/11295/95391> > Accessed 2nd May 2024.

⁹ Art 24 of the UN Charter (1945)

¹⁰ United Nations Security Council, 2013

¹¹ *Ibid*, at article 27

¹² *Ibid*

¹³ A Bennet, *International Organizations: Principles and Issues* (New Jersey: Prentice Hall, 1977).

¹⁴ P Gordon, *The Evolution of International Human Rights* (2nd Ed) (Pennsylvania: Pennsylvania University Press, 2003)

¹⁵ Hiscocks, *The Security Council*. (London: Longman Publishers, 1973)

¹⁶ P Kennedy, *The Parliament of Man: The Past, Present, and Future of the United Nations*. (New York: Vintage Books, 2006).

¹⁷ United Nations Foundations. *The UN Security Council* (2015). <<http://www.unfoundation.org/what-we-do/issues/united-nations/theun-security-council.html>> Accessed 10th May 2024

¹⁸ Art 1 (UN Charter, 1945).

- acts of aggression or other breaches of the peace, and to bring about peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
- b. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples and to take other appropriate measures to strengthen universal peace;
 - c. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
 - d. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

The UNSC is the globe's final decision-maker on issues pertaining to international peace and security. Though one of the smaller organs of the UN, it wields the most power and influence. Unlike all the other UN organs that can only make recommendations to UN member states, the UNSC is the only organ that can force binding obligations on members. Kennedy¹⁹ notes that to appease those who had contributed much to quashing Adolf Hitler, Nazi Germany and Japan's aspirations, it was agreed the Great Powers would maintain permanent status on the UNSC. Indeed, at the time, this appeared to make the most sense. These five were the most powerful nations at the time. They had the military might, tactics and deep financial pockets, and they had invested much to ensure global peace and security. With their permanent member status in the UNSC, the Great Powers came to be known as the P5.²⁰ The UNSC began operations with 11 member states comprising of P5 and six non-permanent members, and it was changed to ten in 1965, making the UNSC's membership reach 15.

2.1 UNSC Mandate

The UN Charter, in Chapters V, VI, VII and VIII, describe the purpose, functions, operations and procedures of the UNSC. Together with the General Assembly, the UNSC is responsible for electing judges to the International Court of Justice. In addition, as designated in the UN Charter, the UNSC has primary responsibility for the maintenance of international peace and security and has the authority to intervene in and settle disputes without prejudice between member states or non-member states that choose to bring their matters before the organ. The UNSC is made up of 15 members who take monthly turns to preside over the affairs of the organ.²¹ It is responsible for peacekeeping, as mandated in Chapter V of the UN Charter. It can prevent threats to peace or aggression by recommending measures such as mediation and economic and military sanctions. Regional arrangements like NATO and ECO-MOG can be used to enforce military action which all UN member states must accept UNSC decisions.²² The UNSC treats each crisis separately, taking issues and circumstances into account before making a decision about how best to respond to threats to peace. According to Okochi, the UNSC has several options available to it and reaches a decision after considering a range of issues, including the existence of a ceasefire, and the safety and security of UN personnel, to mention a few. In addition, the UNSC must adopt its resolution before a peacekeeping operation can be established. It monitors such operations and may amend mandates around these mandates as it deems necessary.²³ According to Sarooshi²⁴, the peacekeeping operations

¹⁹ *Ibid* .

²⁰ (n 8).

²¹ (n 7).

²² *Ibid* .

²³ (n 8).

²⁴ D Sarooshi, *The United Nations and the Development of Collective Security: The Delegation by the UN Security Council of its Chapter VII powers*. (Oxford: Oxford University Press, 2000)

are only dispatched to a crisis area following a ceasefire. Furthermore, Chapter VII of the UN Charter also grants the UNSC the authority to impose other measures in a bid to maintain peace and security; this includes economic and military sanctions.²⁵

2.2 The UNSC: 1945 to Present

The UNSC's non-permanent membership structure is set up to represent different geographical regions of the world. These different regions are responsible for providing ten members to make up the two-year temporary membership of the UNSC, as follows:

- a. The African Group - supplies three members.
- b. The Asian Group - supplies two members.
- c. The Eastern European Group - supplies one member.
- d. Latin American and Caribbean Group - supplies two members.
- e. The Western European and Others Group – supplies two members.

Ten representatives from the five groups above serve staggered two-year terms, with five completing their terms every year. In addition, all members take monthly turns to preside over the UNSC, rotating in alphabetical order of their names. The UNSC is permanently resident in the UN headquarters in New York, and its member countries must have representatives present at all times should the need arise for urgent or emergency meetings or responses to world events.

2.3 UNSC Voting

The UNSC reaches decisions through voting. On this, Article 27 of the UN Charter records that:

- a. Each member of the UNSC shall have one vote.
- b. Decisions of the UNSC on procedural matters shall be made by an affirmative vote of nine members.
- c. Decisions of the UNSC on all other matters shall be made by an affirmative vote of nine members, including the concurring votes of the permanent members, provided that, in decisions under Chapter VI and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting²⁶.

As illustrated above, the entire UNSC can reach decisions on procedural matters by a majority of votes, in this case, nine out of 15. All other matters, or substantive matters, must also have a majority of nine votes; however, each of the P5 must also cast a positive or 'yes' vote for that resolution to be carried. To this end, Kennedy²⁷ notes, there is no clear-cut definition of what constitutes procedural matters, and determining this is itself considered a substantive matter, needing full P5 agreement. He also records that the Charter was deliberately crafted this way to encourage the P5, particularly the US and the USSR (later Russia), to remain in the world body, for it was considered "better to have the larger nations inside the UN system rather than on the outside".²⁸ Indeed, as earlier mentioned, one of the weaknesses of the League of Nations was that it lacked membership of some strong powers.

Though skilfully and aesthetically written, the language in Article 27(3) empowers each of the P5 to stop decisions or resolutions they are in disagreement with by casting a 'no' vote or veto on such decisions. According to Mahmood,²⁹ it was the USSR which initially pushed for the P5 to have an unrestrained right to veto resolutions of the UNSC. The Soviet Union had been expelled

²⁵ *Ibid.*

²⁶ Art. 27 (UN Charter, 1945).

²⁷ (n. 5).

²⁸ *Ibid*, at pg. 54.

²⁹ F Mahmood, Power versus the sovereign equality of states: The veto, the P-5 and United Nations Security Council reforms. *Perceptions* (2013)18(4), 117.

from the League of Nations in 1939 after its attack on Finland and likely wanted to ensure a substantive decision could not be taken against it in this new world body. While several countries opposed this, the P5 made it clear that the UN could not exist without them having this veto power, as they were the most suitable to guarantee future international peace and stability.³⁰ The request was ultimately approved, and with their status, the P5 obtained the right to disallow any resolution from the UN that it so desired – in the interest of world peace. Thus, the leaders of the allied nations, which had come together to champion the war against the Axis Powers, transformed their alliance into a permanent institution in which they essentially maintained leadership.

Since the UN's inception, numerous decisions have been disallowed through the use of the P5's veto, causing the UN and other UNSC members to seek alternative measures. The UN's official record of vetoes from 1946 to 2016 shows 194 public matters disallowed by one or more members of the P5. As of October 2022, there have been 2656 UNSC resolutions. Some members, such as the USSR (later Russian Federation) and the US, have been more vigilant in using the veto. The USSR was largely responsible for the use of the veto in the first two decades, with a famous no vote on 16 different matters in December 1955. Kennedy notes that the US did not exercise their right to veto matters in the first 25 years of the UNSC's existence, but suggests that most matters went in its favor.

3.0. The Role of UNSC under International Law

The legal term international law, also referred to as Laws of Nations, was first coined by Jeremy Bentham in 1780. It is a body of rules that governs the relationship between states. Every country is referred to as a 'state' in International Law. It encompasses a set of rules, agreements and treaties that are binding between countries. Countries come together to make binding rules that they believe will benefit the citizens. It is an independent system of law existing outside the legal framework of a particular state.³¹ In *Queen v. Keyn*³² (1876), Lord Coleridge, C.J., defined international law as “the law of nations is that collection of usages which civilized States have agreed to observe in their dealings with one another. The above definitions have provided a clue on what the term international law is, and it is, therefore, seen that significantly the existence of international law is the result of increased interstate engagement. It mainly aims to promote international peace and security among different states, which is the main interest of this work. Specifically, it helps in:

- a. promotion of friendly relations among the member states (members of the international community, for example, the United Nations),
- b. providing for basic humanitarian rights,
- c. to solve international problems through international cooperation,
- d. to refrain the state from using threat or force over the territory of any other state to provide for the right to self-determination to people, and
- e. to use peaceful methods to settle international disputes are few of its functions.³³

3.1 UNSC'S Role in the Maintenance of International Peace During the Cold War

The cold war rivalries' activities determined largely the operation of the UNSC. Majorly, there was the issue of the Soviet Union boycotting the UNSC in reaction to the UN's recognition of Taiwan as the legitimate government of China, seriously affecting the legitimacy of UNSC decisions during the Korean War. An attempt by the Soviet Union to bring a resolution to recognize China in the UNSC faced stiff opposition from the US, who promised to veto such a resolution. The Soviet Union thus

³⁰ B. M Russett, B O'Neill, & J. S Sutterlin, *Breaking the restructuring logjam*. In B. Russett (Ed.), *The Once and Future Security Council*. (New York: St Martin's Press, 1997) (pp. X – Y).

³¹ International law- meaning and Definitions (2020)<<https://www.google.com/amp/s/blog.ipleaders.in/international-law-meaning-definitions/%3famp=1>> Accessed 7th May 2024.

³² (1876)2 Ex. D. 63, 153, 154.

³³ (n 8).

boycotted the UNSC in protest and in support of China, whose communist ideology was closer to the Soviet Union.³⁴ Despite the challenges, the UNSC was involved in four major international peace and security crises. These included Palestine (1948), Korea (1950), Suez in 1956, and Congo in 1962. After Israel declared independence in 1948, war broke out between Israel and her neighbours Jordan, Egypt, Lebanon, and Syria.³⁵ The UNSC acting within its mandate and under Article VII ordered a ceasefire and then created an observer team, the United Nations Truce Supervision Organization (UNTSO), to supervise the ceasefire.³⁶ In 1950 the UNSC authorized action to repel the armed attack and restore peace and security during the Korean War between North and South Korea. After World War II, North Korea became allied with the Soviet Union, while South Korea was allied with the US. Forces from North Korea attacked South Korea. The UNSC passed a resolution declaring that North Korea had committed a breach of peace, thereby legitimizing US involvement to deter North Korean forces from South Korea. The UN General Assembly voted through the Uniting for Peace resolution to offer support for South Korea with authorization from the United Nations.³⁷

However, the Soviet Union was not in agreement with the rest of the UNSC members regarding military action against North Korea; in fact, at the time, the Soviet Union was absconding from its role and position in the UNSC. The uniting for peace resolution by the UN General Assembly was used in this instance by passing the UNSC and authorizing UN action³⁸. The seventh Report of the Commission to Study the Organization of Peace, issued in July 1951, concluded that the enforcement action undertaken by the UN in Korea was historical in the sense that it was the first major collective action decision taken by a community of states to deter aggression. In 1961 the UNSC also adopted a resolution³⁹ to take all appropriate measures to prevent war in the Congo. This set the stage for the deployment of UN peacekeeping operations in the Congo. The peacekeeping operations, however, faced serious challenges as superpower rivalries manifested in the country. In response to the 1973 Arab-Israeli war, the UN created the United Nations Emergency Force II (UNEF II) with a mandate to keep the warring parties apart, especially Egypt and Israel.⁴⁰ Its mandate was renewed by the UNSC after the 1979 truce to establish a demilitarized zone and supervise other provisions of the truce.⁴¹ The UNSC also acted decisively during the Iran-Iraq war in 1987- 1988 by imposing economic penalties on Iran for continuing the war⁴². The threat of sanctions helped force Ayatollah Khomeini to finally end the war. By the early 1990s, the UNSC had become effective in mobilizing the world community to repel aggression and maintain peace.⁴³

3.2 UNSC'S Role in the Maintenance of International Peace after the Cold War Years

The end of the Cold War brought an era of a more proactive role by the UNSC in addressing intra-state conflict, with interventions in Haiti, Sierra Leone, and Somalia. Despite the right to national sovereignty and self-determination under Article 2(7) of the Charter of the UN prohibiting the UN from intervening in matters of "domestic jurisdiction of any state", Chapter VII allows the UNSC to intervene if it sees any situation to be a 'threat to the peace, breach of the peace, or act of

³⁴ F Ochieng, 'An Assessment of the United Nations Security Council in Maintenance of International Peace and Security' *The University of Nairobi Collections* (2012) < <http://hdl.handle.net/11295/95391> > accessed 8th May 2024.

³⁵ G Weiss, et al., *The United Nations and Changing World Politics* (3rd ed.) (Colorado: West view Press, 2007)

³⁶ C. A Stavropoulos. 'The practice of voluntary abstentions by permanent members of the Security Council under Article 27, Paragraph 3, of the Charter of the United Nations' *American Journal of International Law*, (1967) 61(3), 737-752.

³⁷ Nye Jr, J. S. Soft power and American foreign policy. *Political science quarterly*, (2004)119(2), 255-270.

³⁸ N A Palmer, D D Perkins, & Q Xu, 'Social capital and community participation among migrant workers in China' *Journal of Community Psychology* [2011] (39) (1), 89-105.

³⁹ Resolution 161 A.

⁴⁰ (n 8).

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*

aggression; the UNSC uses this exception to Article 2(7) to justify interventions that could threaten international peace and security if they escalate beyond national borders.⁴⁴ Sovereignty no longer exclusively protects states from foreign intervention, especially where the welfare of the citizens is at stake. In 2005 at the UN World Summit, member states formally accepted the responsibility of states to protect their citizens from genocide, war crimes, ethnic cleansing, and crimes against humanity. If a state fails in respect to this role, then the UN has a formal responsibility to intervene on humanitarian grounds.⁴⁵ Chapter VII of the UN Charter grants special powers to the UNSC to enforce its mandate of maintaining international peace and security, such as economic sanctions, arms embargoes, financial sanctions, travel bans, and collective military actions, including the power to deploy and direct peacekeeping forces. Before the application of this power, the UNSC can attempt alternative steps under Article 34 of the UN Charter. This includes: calling for ceasefires, requesting discussions to resolve the issues leading to conflict, and creating investigations into disputes or situations that may disrupt international peace. Still in Iraq, the UNSC adopted several resolutions key including them resolution 1051 of 1996, which set up a mechanism for Iraqi imports and exports relating to weapons of mass destruction. In 1999 the council adopted resolution 1284, creating a new inspections mechanism: the U.N. Monitoring, Verification and Inspection Commission (UNMOVIC).⁴⁶

During this period, the UNSC adopted nearly 185 resolutions regarding peacekeeping missions in conflict areas. The UNSC also enforced sanctions against the government of Iraq in 1990, Yugoslavia in 1991, Libya in 1992, Haiti in 1993, UNITA in Angola in 1993, and Sierra Leone in October 1997. From 1990-96, the UNSC greatly increased its resort to economic sanctions as a means to compel compliance with its decisions, sometimes accompanied by naval blockades, as was the case for Haiti, Iraq, and former Yugoslavia.⁴⁷ It is interesting to know that even with the developments and increased consensus after the cold war, the P5 still protected their national interests and aspirations within the UNSC. This has to some extent, hindered the ability of the UNSC to execute its mandate. Where a particular humanitarian crisis falls within the national interests of P5 members or members, they are likely to withhold their support or even threaten to veto unless their national interests are withheld. For instance, Russia and later China obstructed the resolution calling for peace operations in Haiti.⁴⁸ Russia wanted UN endorsement of its intervention in Georgia in 1994. In the 1990s, Russia was uneasy about external interference in Eastern Europe and refused to recognize any form of humanitarian intervention in the evolving crisis in Kosovo. Russia was prepared to veto any resolution of the UNSC that would authorize military intervention. It took the unilateral intervention of NATO amidst mounting humanitarian crisis, acting without authorization of the UNSC but with informal support from the UN for action.⁴⁹

In recent times, there have been both consensus and division. In September 2013, the UNSC unanimously adopted a binding resolution on getting rid of Syria's chemical weapons. The vote came amidst accusations from human rights groups and international agencies that work against the proliferation of chemical weapons who accused Syria of using chemical weapons against its civilians. There are today, 12 active peacekeeping operations authorized by the council.⁵⁰ While during the

⁴⁴ S C Greitens, & T Farrell, 'Humanitarian Intervention and Peace Operations' J Baylis, J Wirtz, & S C Gray, *Strategy in the Contemporary World: An Introduction to Strategic Studies*, (2013)173-194.

⁴⁵ E Massingham, Military intervention for humanitarian Purposes: Does the Responsibility to Protect Doctrine Advance the Legality of the Use of Force for Humanitarian Ends? *International Review of the Red Cross*, (2009) 91(876), 803-831.

⁴⁶ Brown, C. S. Turkey in the Gulf Wars of 1991 and 2003. *Turkish Studies*, (2007) 8(1), 85-119.

⁴⁷ Art 1 (UN Charter, 1945).

⁴⁸ (n 8).

⁴⁹ SC Res.1160, 1199 and 1203.

⁵⁰ United Nations Department of Peace Keeping Operations Report, 2022 <<https://peacekeeping.un.org/en>> accessed 9th May, 2024.

cold war years, the operations were limited due to cold war rivalry, the end of the cold war saw an increase in the number of actions taken by the council. However, there have been failures regarding the maintenance of international peace and security key among them Somalia, Rwanda, and the Balkan Region.⁵¹ International peace has expanded so much in recent times to include the protection of citizens under the responsibility to protect, a concept that was unanimously adopted by UN member states during the UN World Summit in 2005. The UNSC has branded certain violations of human rights as a threat to international peace and security. In the next section, the study looks at R2P as a UN mandate in international peace and security.

4.0. Challenges Facing UNSC

4.1. The Challenge of the Veto Power

The power of the P5 members of the UNSC (China, France, Russia, the UK, and the United States) to veto any "substantive" resolution constitutes the UNSC veto power. The above members also constitute the nuclear-weapon states (NWS) under the terms of the Treaty on the Non-Proliferation of nuclear weapons. However, it is paramount to note that a P5 member's abstention or absence does not prevent a draft resolution from being adopted.⁵² The P5's veto power is controversial. In fact, critics attribute the undemocratic nature of the UNSC and its efficiency in addressing war crimes and crimes against humanity to the veto power structure of the UNSC P5.⁵³

For this chapter, the challenges of the veto power of the UNSC will be considered, and also the inability of the UNSC to act in Syria and a few other states will be looked into. The statistics of the P5's exercise of veto power are given by Thomas G. Weiss and Giovanna Kuele in their article "The Veto: Problems and Prospects" state as follows:

There have been a total of 190 resolutions vetoed since the UNSC's first meeting on 17 January 1946 – 162 through 1989 and 28 since.⁵⁴ In fact, between 1946 and 1956, the Union of Soviet Socialist Republics (USSR) vetoed 50 resolutions before other permanent members used the privilege. One hundred sixty-one resolutions were by a single member of the P5, but there were 16 double vetoes and 13 triple ones. Diplomatic protocol and political practicalities make these numbers lower than they otherwise might have been because a threatened veto often means that other states return to the drawing boards rather than pushing immediately for a showdown. For instance, over the last three years, there have been only three vetoes over Syria (all double-vetoes by Russia and China) despite the real-time horror of 150,000 deaths and 9 million people forcibly displaced. Paralysis pervades despite overwhelming revulsion categorically expressed in the General Assembly and the Human Rights Council.⁵⁵

According to Emma McClean and Aidan Hehir in an article titled "Ukraine: UN takes a step towards addressing 'veto problem' which stopped it condemning Russia".

⁵¹ *Ibid*

⁵² Engelhardt, Hanns "Das Vetorecht im Sicherheitsrat der Vereinten Nationen". *Archiv des Völkerrechts*. (1963). 10 (4): 377–415. ISSN 0003-892X. JSTOR 40796759.

⁵³ Aisha S Maikudi, The United Nations Security Council's Permanent Five Veto Power: Time to Reform? (2018) *Abuja Journal of Public and International Law*, 88.

⁵⁴ T G Weiss, and G Kuele, 'The Veto: Problems and Prospects' (2014).

⁵⁵ Dag Hammarskjöld Library, 'Security Council-Veto List,' <http://www.un.org/depts/dhl/resguide/scact_veto_en.shtml> Accessed 12th May 2024.

The problem of the veto has been a bleeding sore for the UN, effectively dashing hopes and expectations of using the United Nations to maintain a truly collective security. While France and the UK have not formally used their veto since 1989, Russia and the US continue to deploy it and China, having only used it once during the Cold War, has used it 13 times since 1990.⁵⁶

The Syrian conflict emerged out of the Arab Spring in the Middle East. The demonstrations against President Bashar Al Assad's government have escalated to a level that threatens the region at large because the Assad regime became intolerant to protests and resolved to use military force against civilians. A rebel group thus emerged, and the war in Syria has since escalated and poses a serious threat to regional stability, represents a massive and growing humanitarian crisis, and has proved to be an extremely divisive issue within the council itself.⁵⁷ John Heieck⁵⁹ has argued that there is a need to look at the obligations of individual P5 members, not only the obligations of the UNSC as an organ of the UN. He states that Russia and China have breached their duty to prevent war crimes (which he calls a *jus cogens norm*) by exercising the veto in Syria. Webb went on to add that, in the absence of a clear legal obligation on the UNSC to act—and in the absence of its action in Syria—certain States have been taking their measures.⁵⁸ In September 2020, The Netherlands announced its decision to hold Syria responsible under international law for gross human rights violations and torture in particular. Its envisaged route (should bilateral negotiations fail) is the ICJ, not the UNSC, but the Dutch action is no doubt motivated by its frustration with the deadlock in the UNSC. In March 2021, Canada announced that it has requested formal negotiations under the Convention against Torture “to hold Syria accountable for the countless human rights violations it has inflicted on the Syrian people since 2011.”⁵⁹ The inability of the UNSC to effectively deal with the Syrian crisis can be attributed to the national interests of Russia and China and their use of the veto to block any such action by the UNSC. Russia has a considerable trade of arms with Syria and the government of Bashar Al Assad.⁶⁰ In 2012, Syria was due to take delivery of Russian BUK-M2E surface-to-air missile systems, Pansir-S1 armoured rocket complexes, and, according to some reports, Mig-29 fighter jets. Russia, therefore, vetoed the UNSC resolution on Syria together with China on 19th July 2012 despite an appeal from the UN for a concerted effort that would have pressured Syria owing to sanctions and possible military intervention.⁶¹ Eleven of the members of the UNSC voted in favour of the resolution. Russia and China vetoed, and Pakistan and South Africa abstained from the voting process. Any kind of sanction or military intervention would jeopardize Russia's economic interests with Syria; this would interfere with her national interest. Moreover, Russia has also been having domestic political problems with protests for political reform and free and fair polls; in this regard,

⁵⁶ Mclean et al., 'Ukraine: UN takes a step towards addressing 'veto problem' which stopped it condemning Russia. <<https://theconversation.com/ukukkraine-un-takes-a-step-towards-addressing-veto-problem-which-stopped-it-condemning-russia-18197>> Accessed 12th May 2024.

⁵⁷ Aljazeera, Inside story: United Nations, Time for Reform? (2014). <https://www.youtube.com/watch?v=1Ywr4_Sg0ag> Accessed 12th May 2024.

⁵⁹ Heieck, John. "The P5's Duty to Prevent Genocide under Customary International Law." *A Duty to Prevent Genocide*. (Edward Elgar Publishing, 2018.) 72-118.

⁵⁸ Webb, Philippa. "Deadlock or restraint? The security council veto and the use of force in Syria." *Journal of Conflict and Security Law* 19, (2014) (19) (3): 471-488.

⁵⁹ *Ibid*

⁶⁰ Syria gets Russian arms under deals signed since conflict began - Assad (Mar 2015). <<https://www.reuters.com/article/uk-syria-crisis-russia-arms-idUKKBN0MQOR120150330>> accessed 12th May 2024.

⁶¹ United Nations News Centre, Security Council fails to adopt a resolution on Syria (2012) <<http://www.un.org/apps/news/story.asp?NewsID=42513&Cr=Syria&Cr1=#.UI4pV1FROkg>. accessed 12th May 2024.

Russia has been very uneasy about participating in what it considers a domestic issue of another state.⁶² China has a significant bilateral trade agreements with Syria ranging back to the 1940s. While China denies being an arms supplier to Syria, there are reports of China assisting in the development of Syrian ballistic missiles. China participates commercially in Syrian oil: the China National Petroleum Company owns part of the Al-Furat oil company, Syria's main producer.⁶³ Ochieng, in his paperwork titled "An assessment of the United Nations Security Council in the maintenance of international peace and security", stated that "all this is centred on the issue of interests of states and how they are using the Veto to protect their interest and in so doing limit the ability of the UN to intervene to maintain peace and security in the international system. Syria, therefore, points to challenges inherent in the veto power model and the efficacy of the UNSC's role in maintaining peace and security in the International System⁶⁴."

4.2. UN Collective Security Regime and the threat of the P5's National Interest.

The United Nations (UN) exists for the collective approach to handling the security of its members, but there are instances where the P5 countries have acted unilaterally in pursuing their national interests without knowing that no UNSC resolution would pass against them. One such example is the US's unilateral approach to the war in Iraq in 2003, which was not sanctioned by the UNSC and greatly undermined the UN.⁶⁵ The UN was left with the responsibility of helping with humanitarian support after the war.⁶⁶

The UNSC, under the UN Charter, is authorized to determine threats to peace,⁶⁷ breaches of peace, or acts of aggression and how to address them. This led to Resolution 660, which established the foundation for subsequent UN action against Iraq.⁶⁸ However, international scholars and jurists view the US and UK's invasion of Iraq under the claim of Chapter VII of the UN Charter without express authorization from the UNSC.⁶⁹

The US's power within the UN, economic might, budget allocation for the UN Organization, and the power of the veto all gave it the impetus to go unilateral in Iraq.⁷⁰ The US has also conducted considerable military intervention in South America, including sending troops to the Dominican Republic, overthrowing Salvador Allende's government in Chile, leading operation urgent fury in Granada, and invaded Panama in 1989.⁷¹ When it comes to Israel, the US has always vetoed any resolution that it perceives to be against its interest⁷². In 2011, it vetoed a UN resolution condemning all Israeli settlements established in occupied Palestinian territory since 1967 as illegal, arguing that it harmed chances for peace talks. Fourteen out of fifteen UNSC members, including four permanent members, voted in favor of the resolution.⁷³

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ (n 8).

⁶⁵ EveryCRSReport.com, Iraq War: Background and Issues Overview (2003)
<<https://www.everycrsreport.com/reports/RL31715.html>> Accessed 12th May 2024.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ Aisha Sani Maikudi, Legality of the War against Iraq: A Passing Frenzy? (2021).
<<https://www.researchgate.net/publication/350957437>> Accessed 12th May 2024.

⁶⁹ *Ibid.*

⁷⁰ M Berdal, 'The UN Security Council: Ineffective but Indispensable,' *Survival*, (2003) (45) (2), 10-11 and 21-23.

⁷¹ A History, Cold war and Coups by Proxy <<https://alphahistory.com/coldwar/coups-proxy-wars/>> Accessed 12th May 2024.

⁷² J W Young, & J Kent, *International Relations Since 1995: A Global History* (New York: Oxford University Press, 2004).

⁷³ *Ibid.*

Division among veto powers has hindered finding a lasting solution to Iran's nuclear arms issue. Britain, France, the US advocate for tougher sanctions,⁷⁴ while China and Russia maintain non-interference and resist support for UNSC resolutions that could lead to military intervention.⁷⁵

4.3. The Challenge of the Russia-Ukraine War

Responding to Russia's invasion of Ukraine, the UNSC and General Assembly have met on several occasions to discuss possible action to address the conflict's threat to international peace and security. In the process, these organs have used procedures unused in the United Nations for 40 years.⁷⁶ The UNSC has been heightened by the Russian troop buildup and invasion of Ukraine, leading to several meetings. The UNSC has the authority to adopt resolutions and instruct Member States to follow its decisions. It can call for peaceful dispute settlements and recommend actions to achieve a settlement. Chapter VII empowers the UNSC to determine peace breaches and acts of aggression, directing all UN Member States to restore international peace and security.⁷⁷ On the night of 23 to 24 February 2022, Russia launched a military offensive in Ukraine. The United Nations considers this attack to be a violation of the territorial integrity and sovereignty of Ukraine. It is contrary to the principles of the Charter of the United Nations. The United Nations General Assembly adopted, on Wednesday, 2 March, a resolution deploring the "aggression" committed by Russia against Ukraine (141 votes in favour, 5 against, and 35 abstentions).⁷⁸

The UN Human Rights Council adopted a resolution on 4 March calling for the "swift and verifiable" withdrawal of Russian troops and Russian-backed armed groups from the entire territory of Ukraine.⁷⁹ The UN Human Rights Council decided on 5 March to urgently establish an independent international commission of inquiry following Russia's aggression against Ukraine⁸⁰. On 16 March, the International Court of Justice ordered Russia to immediately suspend its military operations in Ukraine.⁸¹ On Thursday, 24 March, the UN General Assembly overwhelmingly demanded civilian protection and humanitarian access in Ukraine while also criticizing Russia for creating a "dire" humanitarian situation (140 votes in favour, 5 against, and 38 abstentions).⁸² On 7 April, the UN General Assembly adopted a resolution calling for Russia to be suspended from the Human Rights Council. The resolution received a two-thirds majority of those voting, minus abstentions, in the 193-member Assembly, with 93 nations voting in favour and 24 against. On 26 April 2022, the UN General Assembly adopted a new resolution calling on the P5 members of the UNSC to justify the use of the veto.⁸³ The UNSC adopted a statement on 6 May 2022 in which it strongly supports the Secretary-General's efforts to achieve a peaceful solution in Ukraine. The Secretary-General welcomed the fact that, for the first time, the UNSC is speaking with one voice for peace in Ukraine. On 30 September, Russia vetoed a UNSC resolution condemning the attempted annexation of Ukraine's regions.⁸⁴

⁷⁴ (n 8).

⁷⁵ *Ibid.*

⁷⁶ Congressional Research Service (CRS) 2022. 'United Nations Security Council and General Assembly Responses to the Russian Invasion of Ukraine.'
<<https://www.google.com/url?sa=t&source=web&rct=j&url=https://crsreports.congress.gov/product/pdf/IN/IN11876&ved=2ahUKewje64uAilb7AhUwyLsIHRvKAeg4ChAWegQIDRAB&usg=AOvVaw2qlXZyeMyT7A84Wx-7ic5L>> Accessed 12th May 2024.

⁷⁷ *Ibid*

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

⁸¹ *Ibid.*

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴United Nations, "The UN and the war in Ukraine: key information" (2022)
<<https://www.google.com/url?sa=t&source=web&rct=j&url=https://unric.org/en/the-un-and-the-war-in->

In its first unanimous action on the Ukraine war, the UNSC on Friday adopted a statement expressing "deep concern" and "strong support" for diplomatic efforts by the U.N. secretary-general to find a peaceful solution.⁸⁵ UNSC statements must be approved by all 15 of its members, and the one adopted on Friday appeared to have averted Russia's veto by referring to the conflict as "disputes" rather than "war" — a term Russia has essentially criminalized within its borders. Russia instead maintains that its invasion, large military deployments, massive shelling, and widespread airstrikes constitute only a "special military operation."⁸⁶ The UNSC might continue to address aspects of the Russian invasion and its consequences. For example, the UNSC has already met for a briefing on the humanitarian and refugee crisis in Ukraine and is to consider a resolution addressing this crisis.⁸⁷ The Assembly has completed its initial emergency special session but may resume the session to consider new developments. The United States, its allies, and the majority of the international community might act in other U.N. bodies, such as the Human Rights Council or selected U.N. specialized agencies.⁸⁸ Russia's obstruction of UNSC action has given new momentum to arguments that the veto power is ill-suited to the principles of the United Nations. Unsuccessful past proposals for reform might reemerge, calling for an end to the preeminent position the permanent UNSC members, including the United States, occupy in the United Nations. Russia's participation in UNSC meetings and votes on the crisis, and its continued participation and membership in the United Nations, could be challenged by a growing number of member states.⁸⁹

5.0. Conclusion

The UNSC's role in maintaining international peace and security has been criticized for its limitations, particularly the overwhelming powers of the P5 members. The study recommends a complete overhaul of the structure to demystify these powers and create a more democratic UNSC. The veto power should be limited, not absolute, and a 2/3rd majority of UNSC members should dismantle any veto by the P5. The UNSC's role in maintaining global peace and security cannot be viewed from a perfect angle due to its numerous limitations. The best expectation from the UNSC is a body capable of mitigating and suppressing recurring acts that threaten global peace and security.

6.0 The study thus recommends the following:

That the UNSC can adopt other approaches, such as the involvement of regional organizations in attaining the goal of ensuring peace and security in the world.

The members of the UNSC must reflect on the philosophy behind the existence of the UN and the mandate cast on them as members of peace and security maintenance agents. This will bring forth a renewed sense of commitment towards the actualization of the goals for which the UNSC exist.

The P5 membership of the UNSC has been widely criticized for being undemocratic. This study recommends that it be reformed to accommodate other regions not covered. This will not only register a sense of belonging but will arouse the members' confidence in the operation of the UNSC.

[ukraine-key-information/&ved=2ahUKEwix8Jb9_YX7AhXi_7sHSHkB1gQFnoECAoQAO&usg=AOvVaw3CS_mpFNjVlwNMbWVCEVku](#)> Accessed 12th May 2024.

⁸⁵ UN Security Council makes first statement on Ukraine 'dispute' – but doesn't call it a war (2022) <<https://www.scmp.com/news/world/russia-central-asia/article/3176859/un-security-council-makes-first-statement-ukraine>> Accessed 9th May 2024

⁸⁶ *Ibid.*

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ UN News, Russia blocks Security Council action on Ukraine, (Feb 2022). <<https://news.un.org/en/story/2022/02/1112802>> Accessed 9th May 2024

This means that the veto power assigned to the P5 should be reformed. A limited approach in the exercise of the powers is best. Here two-thirds majority votes should be a threshold for the exercise of veto power by the UNSC members. In the same vein, the research submits that the international legal structure that governs the UNSC should be applied without reserve when it is in the best interest of the general good. Again, the involvement of disputants in the deliberations before decisions are taken can be another effective way to address the challenges affecting the UNSC. This would go a long way in improving deliberation before a vote is taken, as the UNSC can talk to the parties directly.