

Veto Power: A Legal Debate in the United Nations Security Council

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Abstract

Historically, the United Nations Security Council has been the dominant international venue for discussing on matters relevant to the maintaining of global security and peace. The term “rule of law” refers to a political and social structure in which everyone is held to the same legal standards. On the other hand, the concept that everyone is equal before the law is undermined when the veto power gives the Permanent Members the opportunity to disregard its accountability. This article aims to overview the use of veto powers in the United Nations Security Council that reflects the Rule of Law. Due to the fact that this method of research is qualitative, the data that was gathered and analysed came from non-numerical sources such as journals, articles, and news reports. The goal is to gain a deeper understanding of the conventional notions of Rule of Law as well as the ways in which the veto system is in opposition to Rule of Law. According to the findings of the research, there is a contradiction between the veto system and the Rule of Law, notably the notion that all individuals ought to be treated with equal regard to the law.

Keywords: United Nations Security Council, Veto Power, Russia-Ukraine War, Democracy, Rule of Law.

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1. Introduction

The criticism that is levelled at the Security Council is not new, particularly in reference to the veto power that is given to the Permanent Members of the Council. As a consequence of this, these five world powers were in a position to restructure the political institutions that make up the worldwide community. Ensuing the conclusion of the conflict between Russia and Ukraine, the topic of rule of law conflicts inside the Security Council has once more risen to the forefront. The military action that Russia conducted against Ukraine in February 2022 has brought up the issue of the problem with the power of permanent Members of the UN Security Council (also called the “Security Council”) once again. In spite of the datum that the United Nations has repeatedly asserted that it is committed to the Rule of Law, certain clauses in the United Nations Charter (“UN Charter”), most notably the power vested in Permanent Members, are fundamentally conflicting by means of the Rule of Law theory.

Without discussing the complex history of Russian invasion to Ukraine dated back to the 90s (Levin,2022), the Russian invasion gained a similar reaction worldwide by the international community. Life is a priceless gift and need to be protected (Mohd Zamre Mohd Zahir et al, 2019b: 144). However, on 21st February 2022, Ukraine was alleged by Russia of destroying a border facility operated by the Federalnaya Sluzhba Bezopasnosti and killing five Ukrainian soldiers who had made an attempt to get into Russia. Hence, on the same day, President Putin directed the Russian military to Donbas in the name of the Peacekeeping Mission (United Nations [UN], 2022). Finally, on 24th February, President Putin ordered an Invasion on Ukraine, and the war is still ongoing. Ever since the invasion, court proceedings against Russia have been commenced such as under the International Court of Justice (also known as the “ICJ”) and the International Criminal Court (also known as the “ICC”).

2 .Methodology

This paper adopts qualitative method. Qualitative research is a means of gathering information for study using both primary (Afzali and et al.,2023) (Mohd Zahir and et al,2022b) and secondary data (Mohd Zahir and et al, 2022a). The data will be analysed carefully using available materials (Althabhwawi,2022). Therefore, this article will draw a conclusion based on this research method, which will provide a certain reference for the research. Content analysis can be used (Tan Jass Key and et al,2022:83) to analyse the data (Ramalingam Rajamanickam and et al,2019) from the primary and

secondary sources in this paper. The data and literatures were collected by library study (bagh (Abdi,2018:92). The usage of older literatures that have been put to use in the past can serve as a reference (Mohd Zamre and et al,2022:21). The data analysis involved discussing and analysing the data using thematic analytical interpretations in accordance with the existing literature and the applications of the legal framework adopted in the study of the veto power system in the Security Council and Rule of Law.

3 .Legal Actions Taken against Russia under International Court

An application was given in to the International Court of Justice (ICJ) by the Ukraine on February 26, 2022. In it, the country asked for provisional measures regarding the Convention on the Prevention and Punishment of the Crime of Genocide, as well as its interpretation, application and fulfilment. Ukraine requested that the Russian Federation quickly end the military operations that had begun on February 24 of that year, and that any military or irregular armed units that may be aimed or backed by it, along with all organisations and individuals that may be beholden to its direct authority, path, or impacts, would not engage in anything in continuation of the military operations. Ukraine also asked Russia to make sure its armed forces and any irregular armed groups it may instruct or support do not commit any of the crimes against humanity that the International Court of Justice (ICJ) said were obligatory in both instances (Ukraine and Russian Federation, 2022).

Investigations are going to be conducted by the Office of the Prosecutor in the ICC beginning on March 2, 2022. These investigations are going to be conducted with the purpose of finding evidence of a suspect's innocence or guilt by gathering and examining evidence, interrogating persons under investigation, and interrogating victims and witnesses (International Criminal Court [ICC], n.d.).

Yet, it is important to note that Ukraine and Russia are not Rome Statute parties. This fact should be acknowledged (ICC, n.d.). Notwithstanding this, there is still a chance that the International Criminal Court will hear evidence regarding the situation in Ukraine. Before the crisis in 2022, Ukraine had previously acknowledged the jurisdiction of the ICC over the purported crimes that had happened on Ukrainian soil between the dates of 21 November 2013 and 22 February 2014. (ICC,2022). Even though it is highly unlikely that Russia will agree to be subject to the authority of the International Criminal Court (ICC), the jurisdictional prerequisite outlined in Article 12(3) of the Rome Statute has been encountered because the

alleged crime took place on the territory of Ukraine, as stated in Article 12(2)(a) of the same Statute.

4 .Actions Taken against Russia under United Nations

The development of an international legal framework is something that has the potential to function as a point of reference (Tengku Noor Azira Tengku Zainudin and et al,2021:221). For instance, in pursuant to Article 1 of the UN Charter, the United Nations is a well-recognized international organisation that has over 190 member States and is responsible for the preservation of peace, improvement of international affairs, realization of international collaboration, and establishment as a hub for harmonizing state practices. Since its founding in 1945, under Article 7 of the United Nations Charter, the organization's organs-namely, the General Assembly, the Security Council, the Economic and Social Council, the International Court of Justice, and the Secretariat-have played a significant part in influencing the application of international law. This is a reflection of the political, economic, and social realities that are present all over the world. As a consequence, the prompt response from the United Nations to the aggression committed by Russia against Ukraine is significantly greater than was anticipated. Especially considering the fact that Russia is one of the five states that hold permanent seats on the Security Council. As Russia's activity was clearly in breach of international law, it is only fitting that legal action be taken against the state in light of this fact. Nonetheless, in spite of the legal actions that have been taken against Russia in international court, there is another significant issue regarding the legal implications of Russia's invasion.

In Chapter VII of the UN Charter, the Security Council is given the authority not only to impose sanctions and establish peacekeeping operations, but also to authorise the use of force against states. This power is in supplementary to the Council's existing authority to establish peacekeeping operations and impose sanctions. It is ironic that Russia is a member state of the United Nations, given that the primary objective and guiding principle of the United Nations Charter is to ensure that international peace and security are preserved. As a result of this battle, there has been renewed debate regarding the extent of the power held by the permanent members of the state. The inability of the United Nations to take any action against Russia raises the question of the power held by the states that are members of the permanent five-member security council, as well as

how the capacity to use the veto power contradicts with the ideal of the Rule of Law.

5 .Jurisprudence of Rule of Law

The Latin saying “*imperium legum,*” which factually tells “the empire of laws and not of men,” was transferred into the English phrase “Rule of Law” (Sellers,2015). Not only that, but the phrase “Rule of Law” is demarcated as a system in the Oxford Advanced Learner’s Dictionary as one in which “the state and all of its residents are subject to the law,” which was written by Alok Kumar Yadav (n.d.). This is an additional point of interest.

The tradition of debating the Rule of Law can be drawn back to Aristotle, who lived around 350 BC; it continued through the early modern era in the literatures of John Locke (1689); it continued during the European Enlightenment in the literatures of Montesquieu (1748); and it continued into the modern era in the writings of A. V. Dicey (1885) and Lon Fuller in the United States (1964). Due to the fact that the development of the idea is so intrinsically linked to its application in the modern world, there are a few aspects that should be emphasised (Waldron, 2016).

Aristotle is generally recognised to be the person who established the tradition of Rule of Law (Zanghellini,2016:222). It was in ancient Greece, and more specifically in the writings of Aristotle, that the concept of the Rule of Law was originally articulated. In his book “*Politics,*” Aristotle explores the question of which is more desirable: having the finest rules or having the best leader to lead (Sethi,2022:791-792). He reasoned that rules should be appropriate for the majority of societies because they should be well-thought-out and should be able to be enforced in the vast majority of circumstances. As a result, it is critical that people be ruled not by men but rather by the most effective laws.

The idea that everyone in society, including the king, is responsible for upholding the law comes from Aristotle's statement that “The Rule of Law is greater to that of any individual” (Sethi,2022:791-792). This indicates that everyone in a community, including both private persons and public leaders, is responsible for upholding the law, and doing so in a fair and just way is required in order to accomplish so. Because it serves as the foundation for a free society, the Rule of Law’s main aim is to provide protection against the possibility of arbitrary rule.

Aristotle’s concept of the Rule of Law can be summed up as equality before the law, in the sense that the law applies to and is upheld by everyone; a call

to good governance; and the protection of good administration through the enactment of good laws that are typically obligatory on public servants and are judged to be excellent in accordance with the criterion of the common good. In other words, the Rule of Law is a call to good governance and the protection of good administration

In 1689, John Locke maintained that even magistrates are required to observe the law in Section 202 of Chapter XVIII, "On Tyranny," in his Book II of the *Two Treatises of Government*. This chapter is titled "Of Tyranny." "Wherever law ends, tyranny begins". According to John Locke, the equality of all individuals in the eyes of the law is the cornerstone of the contemporary understanding of the Rule of Law in democratic societies. The fact that this theory was developed in the early 17th century. In the 1680s, when Locke was writing, the phrase sovereignty of the law referred to a situation in which even kings and their magistrates were required to submit to a higher authority than themselves. This idea has a revolutionary meaning. According to Locke (1989), any state official who goes beyond their legal bounds or otherwise breaches the law is no longer a magistrate and can face opposition just like any other man who forcibly infringes on the rights of another person. This is because any state official who goes beyond their legal bounds or otherwise breaches the law is no longer a magistrate.

Montesquieu's principal work, *The Spirit of the Laws*, which was published in 1748, has an illustration of the concept of the Rule of Law. The use of political authority is said to be officially bound by pre-existing standards that are incorporated in the substantive laws of the state, according to Montesquieu. It conveys the reminder that everybody is bound by the law and also that acts have consequences regardless of who they effect of the state must adhere to acknowledged rules on a continuous basis. According to Montesquieu, the primacy of the Rule of Law as the driving force towards government moderate is unmatched by any other single factor, which in turn helps to preserve political liberty (Krause,2021:137-152).

Aside from the equal standing under the law, as there is no one that can stand above the law. the importance that Montesquieu attached to the separation of power principle, in particular the division of judicial power from administrative authority and legislative authority was one of the most important aspects of his political philosophy. The court must be capable of carrying out its responsibilities as the interpreter of the law without being derailed by recent judgements that were handed down when it was taking

into account the perspectives of lawmakers and policymakers (Krause, 2021:137-152).

Prof. A.V. Dicey contributed to the expansion of Sir Edward Coke's notion of the Rule of Law, also known as the supremacy of the law and the fact that it was successfully argued that the King should be subject to God and the law in situations where the King is at odds with both of these (Takwani, 2004:17). In his book titled "Law and the Constitution," which was published in 1885, he makes the argument that in order for the Rule of Law to be successful, it is necessary to uphold three requirements. These requirements are the supremacy of the law, the principle of equal treatment before the law, and the preponderance of a legal spirit (Alok Kumar Yadav, n.d.).

The first one is the pre-eminence of law in preventing any influence from being exerted by arbitrary power and preventing the government from exercising arbitrary power or having broad discretionary authority. Second prerequisite is equality before law (Stein,2019:188). This signifies the equal submission of all classes of people to the usual law of the state, which is administered by the courts that deal exclusively with ordinary law cases. In this sense, the notion that nobody is above the law is conveyed by the term "Rule of Law," which is short for "Rule of Law and Order".

Everyone, both those who govern and those who are governed, is held accountable to the same laws in accordance with the equality before the law requirement, which is the second requirement. There is not one law for the affluent and strong and another for the poor, the weak and the disadvantaged. The same laws apply to each and every person, as well as each and every entity and authority, regardless of whether they are public or private. Nobody, regardless of how far up they are in the hierarchy, is above the law (Li,2013:795-796). There is a separation of powers within the government, with laws being made by one body and administered by another. Moreover, there is an independent judiciary to guarantee that the laws are being administered in a fair and impartial manner (Alok Kumar Yadav, n.d.).

According to Li (2013), this is in line with what Thomas Paine observed in the 18th century and it fits well with his remark that to be sum up as "... the Law is King. Because, just as in absolute regimes, the king is the law, so too in free nations, the law itself should to be the monarch, and there should to be none other".

The final criterion, which concerns the preponderance of legal spirit, indicates that the constitution is the product of the common law of the land. According to Dicey, the written constitution of a country is responsible, in many nations, for granting citizens' rights for instance the right to personal liberty, freedom, and protection from arrest, among other protections.

A law in a society that has progressed should not only be fair, but it should also be up to date and simple to understand for everyone who is impacted in some way by it (Mohd Zamre Mohd Zahir and et al,2019a:355). One of the characteristics of a society that has advanced is the presence of this attribute. On November 16, 2006, in the House of Lords, Lord Bingham delivered a speech under the topic heading "The Rule of Law." During his talk, Lord Bingham presented a list of the eight fundamental concepts that, in his opinion, make up the Rule of Law. These eight tenets are currently considered to be the modern implementation of the legal idea of the Rule of Law. Because of its contemporaneity and attention to the matter at hand, one could reach the conclusion that the perspective held by Lord Bingham helps to bridge the gaps left by Dicey's theory.

The eight principles are as follows: First, the law should be easy to understand and follow; second, it should be applied uniformly and fairly; third, it should safeguard everybody's most fundamental rights; fourth, it should ensure that all people's rights to life, liberty, and security are respected; fifth, stakeholders in legal claims should be allowed to resolve their disagreements off one side having a significant advantage; and eighth, it should not be used to punish or punish those who break the law. (McCorquodale,2006:277-304).

Obviously, the notions or principles of Rule of Law brought forward by jurists such as Aristotle, John Locke, Montesquieu, Dicey, and Lord Bingham shared a resemblance in that they all emphasise the fundamental importance of equality before the law. It is possible that the fundamental concepts of equality before the law are at the heart of the rule of law as it is commonly understood. One of the many reasons why the Rule of Law is so vital is since it serves as the basis for good governance. This is due to the fact that the Rule of Law ensures that citizens can live and work without fear. People are not going to be subject to arbitrary government, and they will not be forced to, they are shielded from any misuse of authority on the part of the state (Li,2013:797). Rule of law is the cornerstone of good governance because, according to the notion of rule of law, the state is not

ruled by the ruler or the elected representatives of the people, but rather by the law itself (Alok Kumar Yadav, n.d.).

6 .In the Perspective of United Nations Security Council and Rule of Law

The General Assembly, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariat comprise up the United Nations, as specified in Article 7 of the UN Charter. The organization of the Security Council as well as its scope of authority are both spelled out in detail in Chapter V of the United Nations Charter. In 1965, the group was increased from its initial eleven members to its current complement of fifteen (United Nations Security Council [UNSC], n.d). (Britannica,2022). The members of the United Nations Security Council rotate on an annual basis. Ten non-permanent members are elected to serve for a period of two years, with half of those members departing the organization annually. A state's "contribution to the maintenance of international peace and security," which is typically expressed in terms of monetary or troop efforts to peacekeeping operations or leadership on concerns of regional security that are probably to be brought before the council, is the main criteria for eligibility as a member of the Security Council. This requirement, along with equitable geographical distribution, must be met in order for a state to be considered for membership in the Security Council (UNSC,2021). In contrast, each member serves as president for a month at a time (UNSC,2021).

The Security Council has duty for preserving global tranquilly and security pursuant to Article 24 of the United Nations Charter. No Article of the United Nations Charter grants the Security Council the power to legislate or make any decisions that could be construed as such (UN Charter,1945). The Security Council has the authority to deploy force, impose economic sanctions, and implement temporary measures under Chapter VII of the UN Charter. All of these step's stem from its resolution, or governing decision. All UN members, even "those members of the Security Council which voted against it and those Members of the United Nations who are not members of the Council," may be bound by the SC's decision (International Court of Justice [ICJ],1971; UNGA,1949; Oberg,2005). The United Nations Security Council is a political body charged with keeping the peace and enforcing other obligations set forth in the UN Charter (Wood, n.d.).

7 .The Permanent Five

Previously, the Security Council who has five permanent members i.e.: China, France, Russia, the United Kingdom, and the United States of America. These five have power to use their veto under the UN Charter. Through veto power, any one of the five permanent members can vote against a resolution or a decision, effectively killing it (UNSC, n.d.). This authority is exercised to safeguard national interests, support foreign policy principles, and in some cases advance a single topic of vital to the state. Pursuant to Article 27 of the UN Charter, however, the permanent members do not have veto power over all decisions in the Security Council and instead only need nine of the fifteen votes.

The veto power has been used to varied degrees by each state. Since 1946, permanent members have exercised their veto power roughly 300 times, according to the Dag Hammarskjöld Library (The,2022; Callahan,2022). As the most frequent user of the veto, the Union of Soviet Socialist Republics (USSR), now known as Russia, has exercised it 120 times over the course of history. More than any other permanent member, the United States has exercised its veto power 82 times. The most recent veto was a protest against efforts to bring those responsible for terrorist acts to justice, help them recover, and reintegrate them into society. Whereas France has cast only 16, the United Kingdom has used 29 vetoes. From its inception on 25 October 1971, the People's Republic of China has used its veto 13 times (UNSC, n.d.).

Canadian Foreign Minister John Baird was quoted by Hurd (2002) as saying that clearly although it is obvious that the permanent five enjoy a position of privilege, this does not prevent the other non-permanent members from expressing their opinions, participating in the Security Council's deliberations on the issues at hand, and making use of the forum to communicate with outside parties.

In practise, permanent members have sway over three critical facets of decision-making: the creation of draught resolutions, the establishment of meeting agendas, and the use of informal veto threats. Even though formal veto votes have been uncommon since the Cold War's conclusion, the threat of an informal veto still important during discussions (Schindlmayr,2001: 218-234). It is called an informal veto when a permanent member threatens to use their veto authority to discard parts of the resolution or the entire resolution thru informal negotiations (Gifkins,2021).

During the 2003 Iraq War, the United States sought a resolution to legally authorise the use of force, but the resolution was vetoed in an informal manner. The so-called second resolution, which was not presented to a vote, was threatened with vetoes by both Russia and France (Alexander,2010). (Alexander,2010). Furthermore, the United Nations was able to secure a long-sought immunity from prosecution for persons from non-party states to the Rome Statute that founded the ICC, with the exception of Sudan for crimes committed in Darfur, after threatening to reject the draughts (Robert, 2006). These demonstrate that the veto system, and particularly the informal veto practised by the permanent members, impedes the bringing of the resolution to a vote and its subsequent modification.

8 .Rule of Law in the Security Council

As all UN member states agreed at the UN Global Summit in 2005, “international order based on the Rule of Law and international law” must be achieved through universal acceptance of the legal system and its application at both the local and global levels (United Nations General Assembly [UNGA],2005). Comparable to the judicial definition of Rule of Law discussed above, Rule of Law in the international legal regime has been described as the concept of government in which everyone, along with the state itself, is held to laws that are made known to everyone, are uniformly applied, are decided by impartial tribunals, and are in line with international human rights standards and norms (UNGA,2004).

The former Security General Kofi Annan also outlined the components of Rule of Law, to the rule of law, responsibility to the legal system, justice in the execution of the rule of law, checks and balances, public engagement in decision-making, legal clarity, the prevention of arbitrary nature, legal and procedures transparency, and so forth. The growing number of legal complications in the industry has sparked some discussion (Mohd Zamre Mohd Zahir and et al,2021:19). The task force was established to improve the UN’s “rule of law capacity” by making concrete recommendations (UNGA,2006). As a result, the General Assembly has classified rule of law into distinct “baskets,” including international rule of law, long-term growth and the rule of law, as well as the rule of law during and after conflict periods (UNGA,2006).

9 .The Rule of Law Controversy in the Security Council

The permanent members have widely used their veto power pursuant to Article 27 of the UN Charter. The Security Council was chastised in 2006

for using double standards and tainting its image as a body responsible for ensuring peace and security. As Cuba put it, “We all know why different standards are applied when it comes to Israel. It is a typical example of what happens when a permanent member of the Security Council exercises its prerogatives arbitrarily” (UNGA,2006).

Cuba’s remark was made in reference to the March 30, 2006 open session of the Security Council. Discussions focused on the current state of affairs in the Middle East, with a particular emphasis on the Palestinian territories. Sad as it may be, States not represented on the Security Council were unfairly silenced during the discussion. The Security Council has been paralysed and silent despite overwhelming evidence showing that Israel committed the latest act of aggression in gross abuse of its duties pursuant to international law, most notably international humanitarian law (UNGA, 2006). The United States of America (USA) had used its veto authority to stop the deal from moving forward. The USA vetoed the UN Security Council a total of 29 times in regards to the situation in the Occupied Palestinian Territories. The timely draughts statement issued by the Qatari delegation in the wake of the prisoner attack in Jericho is just one example of a draught statement that was not acted upon due to repeated veto threats made in private meetings (UNGA,2006). When the Security Council sits on its hands, the Israeli government flagrantly disregards UN General Assembly and Security Council resolutions and norms of international law (UNGA,2006). A “double standard” in this context is a set of regulations that is applied differently and more rigidly to one group than another. The double standard employed by the Security Council in its treatment of Israel, which has committed an act of aggression in clear defiance of international law but has been met with nothing more than silence, and in which no opportunity has been given to the affected parties to voice their opinions. There is a direct contradiction between this and the principles of rule of law proposed by jurists, particularly with respect to the equality of law, which identifies that the law ought to be applied to and defended by all members of society. Since any of the five members of the Security Council can reject a resolution if it threatens their individual interests, this raises serious questions about the council’s efficacy, as argued by Al-Shraideh (2017). Since, according to Aristotle, “the Rule of Law is greater to that of any individual,” it is the responsibility of everyone in society, including the king, to uphold the law. Being treated equally under the law, with the same legal rights, responsibilities, protections, and opportunities as everyone else.

States that are not members of the Security Council were treated unfairly by being silenced during the public meeting held on March 30, 2006.

Given the public nature of the meeting, all members of international society, whether or not they are members of the Security Council, should have been afforded the same respect under the law, in this circumstance international law. From the perspective of the Rule of Law, the Security Council's decision to prevent the speaker from addressing the public at the open meeting was observable.

Where the law stops, tyranny begins, as John Locke put it. What this means is that when people are not treated equally under the law, it messes with the integrity of the legal system itself and makes it easier for some people to exert undue influence over others who are technically subject to the same laws. This is where tyranny enters the picture. Many resolutions addressing the situation in the Occupied Palestinian Territory have been blocked from adoption due to the United States' formal veto and informal veto, in the form of a veto threat. Furthermore, despite several acts of aggression and abuses of international humanitarian law, Israel was not entitled to sanctions by the Security Council. Furthermore, Israel flagrantly disregards resolutions made by the UN General Assembly and the Security Council.

There is evidence of dictatorship in the Security Council, as the United States has the ability to sidestep any penalties against Israel for its abuses of international humanitarian law. The United States of America and Israel both stand out as powerful nations in the eyes of the world community. Inaction in the face of Israeli aggression undermines the principle of equal protection under the law, which the Security Council insists on upholding at all times, and implies that Israel is entitled to preferential treatment and should not be held accountable for its wrongdoing. There must be uniform application of the law to all member states of the Security Council if the Rule of Law is to be maintained and equality before the law is to be upheld. That is to say, countries like Israel who break international law should face consequences in the form of sanctions. But the Security Council kept quiet and ignored Israeli transgressions due to a veto from the United States.

The representative of Islamic Republic of Iran also stated in its letter dated on 31st of July 2006 to the Security Council on matters related to the situations in Middle East including Palestine that this august body has not been able to take any action to put an end to the huge assault directed against with the people of Lebanon and Palestine, as well as the horrible humanitarian disaster that has resulted as a direct consequence of this

violence. In a similar vein, the Security Council has indeed been precluded from responding to the routine threats of use of force against Iran, indeed the threat about using nuclear weapons, which have been expressed at the highest levels by the United States, the United Kingdom, and the lawless Israeli regime in infringing on Article 2(4) of the Charter. This has avoided the Security Council from fulfilling its responsibility under the Charter to maintain international peace and security (UNSC,2006).

The conflict in Syria, which dates back to 2011 and is known internationally as the Syria impasse, is another infamous example of Rule of Law disagreement in the Security Council. A total of sixteen resolutions pertaining to the situation in Syria had been vetoed by Russia and, on occasion, China (Webb,2021). As a result, the Syrian government and terrorist groups in the state cannot use it to justify their actions on a global scale. The question posed by Stewart M. Patrick may be relevant in highlighting the conflict with Rule of Law when different treatment was imposed to different States, “Why did the United Nations authorize an intervention in Libya, at the mere threat by former Libyan leader Colonel Muammar al-Qaddafi to slaughter his people, but remains idle while Syrian president Bashar al-Assad has already massacred over 5,000?” (Patrick, 2012) .

Sir Edward Coke’s argument that the King should be subservient to God and the law in a confrontation with the King is known as the principle of Rule of Law, which is the supremacy of the law. According to this logic, not even the King is above the law. As Russia and China have vetoed a total of 16 resolutions about the conflict in Syria, the situation in which the Syrian government and terrorist groups in the state are prevented from its international wrongfulness of massacring over 5,000 people has occurred. The fact that the Syrian government and terrorists alike are able to readily evade responsibility for their wrongdoing is proof that there is no essence to the supremacy of law, even though Sir Edward Coke believed that the King himself could not escape from the law .

In practise, veto authority takes precedent over the rule of law. Every person has the right to the highest attainable standard of health and humanitarian aid, and governments are obligated to take proactive steps to eliminate any risks (Mohd Zamre Mohd Zahir,2021:29). But the veto was so comprehensive that it had even blocked the delivery of essential aid to the needy. A resolution to suspend airstrikes in Aleppo and to expedite the delivery of humanitarian aid was introduced in 2016 by the French and the

Spaniards. The motion to end bombing and military flights over Aleppo received 11 yes votes but was ultimately rejected due to Russia's veto (UNSC,2016).

Even though Belgium, Kuwait, and Germany introduced a resolution to allow for cross-border humanitarian relief, Russia and China blocked it. In total, 13 people voted in favour of the proposal. To further the verbal conflict between Russia and the United States, the veto was called “reckless, irresponsible, and cruel” by Kelly Craft (Nichols,2019). In the case of *Bosnia v. Serbia*, the International Court of Justice issued its decision (Bosnia and et al,2007) that the international community has a clear obligation to prevent genocide in accordance with the Genocide Convention 1948. Nevertheless, the permanent members of the Security Council are able to not perform its international obligations based on their veto power. Despite the fact that the level of violence in Syria does not meet the threshold for genocide at the time, the number of vetoed draught resolutions made in relation to the conflict in Syria evidently shows the extent of the power the permanent States possess and how often the exercise of such power is politically motivated, in conflict with the Rule of Law.

Dicey defines Rule of Law as a system in which all citizens, including those in positions of power, are treated fairly and equally under the law. Regardless of how powerful one may be, they are still subject to the law. When permanent members of the Security Council use their veto to block a resolution from being enacted, it's clear that they believe themselves to be above the law and are willing to bend it to their own ends. This is due to Russia's veto of a resolution to end aerial bombardment of Aleppo, which was passed with 11 yes votes but ultimately failed. Remember that the draught resolution on cross-border humanitarian aid was rejected despite receiving thirteen yes votes, due only to vetoes from Russia and China. There is another evidence that those on the Security Council are not treated fairly.

The 2022 invasion of Ukraine by Russia is a frightening reminder of how easily history might be repeated. There were 11 votes in favour of the resolution condemning Russia's invasion and 3 abstentions after the invasion (Fassihi,2022). If adopted, the resolution would have demanded that Russia immediately cease its invasion on Ukraine and evacuate all armed forces (United Nations [UN],2022). Russia's subsequent veto was closely examined. U.S. Ambassador Linda Thomas-Greenfield said that Russia cannot “veto our voices” and that the veto was a misuse of power.

The truth is not subject to your veto. Our guiding values are not up for negotiation. They (the Ukrainian people) are immune to vetoes. The UN Charter cannot be overturned. “And you will not veto responsibility” (Greenfield,2022).

As a result, the General Assembly passed Resolution 68/262, in which it urged countries not to take any steps that could threaten Ukraine’s national unity and territorial integrity, such as attempting to alter the country’s borders through the use of force or other illegal means (Gruszczyski and Menkes,2018). Russia has occupied 15% of Ukraine’s territory (Rulac News,2022) after almost a year of conflict between Ukraine and Russia. This includes the cities of Luhansk, Donetsk, Kherson, and Zaporizhzhia. These areas are situated in western Ukraine and connect with Crimea, another region that Russia effectively acquired in 2014. Yet, as was to be expected, the proposed resolution sponsored by Albania and the United States cannot be enacted due to Russia’s veto.

One of Lord Bingham’s eight tenets of the Rule of Law is that all and sundry must be treated fairly under the law. While resolutions condemning Russia’s invasion of Ukraine have been introduced, they have been blocked by Russia's veto and have not been adopted. In light of the current situation in Ukraine and Russia, how can it be said that all members of the Security Council are treated equally under the law, given the presence of the veto power system?

When there is no way to challenge a resolution passed by the Security Council, it seriously jeopardizes the rule of law. The power of the Security Council is generally agreed upon to be based on the UN Charter and jus cogens standards (Chesterman,2008). Although the General Assembly has the authority to refer a Security Council resolution to another UN organ for recommendation via a censure resolution pursuant to Article 10 of the UN Charter, such a resolution would be futile in the face of the Security Council’s inaction in the current conflict between Russia and Ukraine. In addition, Chapter XVIII of the UN Charter outlines the process for amending the Charter. Two-thirds of the UN Members, counting all five permanent members of the Security Council, were needed to approve a change to Article 108 of the UN Charter, which in turn required ratification by each member state in accordance with its own constitutional procedures. As the veto power itself will be the pillar of any revisions, there is no practical method to change Article 27 of the UN Charter, the basis of the veto authority.

Obviously, there has been a stalemate in the argument over formal change, namely, changing the membership or voting procedures stated in the UN Charter, for quite some time (Peter,2016; Niemetz,2015). Thus, it may be most efficient to make changes to processes or methods in an informal setting. Due to this matter, the informal standards of the Security Council are not set in stone and are subject to change as the organisation develops (Luck,2016; Mackenzie,2015; Yamashita,2007).

10 .Conclusion

Finally, in some of the most complex conflict zones in the world, United Nations peace operations, that contain both peacekeeping and special political missions, “give the space for political solutions.” This is true despite the veto power system itself existing, which is against the Rule of Law. The UN Security Council's veto power mechanism has been a major issue because it allows one to avoid responsibility by being overruled by one of the Permanent Five, which are China, France, the Soviet Union, the United Kingdom, and the USA. When a resolution or decision is being considered for passage or adoption, the permanent members have the right to veto it. If they do, even though the majority of votes are in favour, the resolution or decision will not be accepted. Many wars, especially the most recent one, the conflict between Russia and Ukraine, have shown how the veto system and the Rule of Law collide. When a resolution drafted by Albania and the United States to forbid any actions intended to weaken the territorial integrity and national unity of Ukraine, including any threats, use of force, or other illegal means to change Ukraine’s borders, cannot be approved and adopted because it has been vetoed by Russia, a Permanent Member of the UN Security Council, it becomes clear that the veto power system conflicts with Rule of Law in this conflict.

A nation’s characteristics and fundamental elements in its formation and stability are extremely important in terms of national cohesion. Hence, it can be understood that the existence of veto power system seems contravenes the core idea of Rule of Law brought forward by most jurists which is equality before the law when in reality there is no equality at all before the law through veto. The so-called-upholding Rule of Law by UN Security Council can actually come into reality through the streamline of the UN Security Council itself and the UN Charter as a whole, modifying the veto power system so that it will not conflicts with the Rule of Law.

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