

Veto Provision in UN Charter: Issues and Dimensions

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The veto is the absolute and unaccountable power of the five permanent members of the Security Council (the P-5) that ensures their control over it, and the rest of the United Nations. The P-5 have guarded this power jealously, and used it liberally to protect their interests. It has been the most controversial provision of the UN Charter, and the leading cause of frustration over the working of the Security Council. Any reform of the UN Charter without addressing it would be meaningless even though any proposal to modify it would be dead on arrival.

The veto is a derived power, originating from Article 27.2 of the Charter which states that the decisions of the Security Council shall be made by an affirmative vote of nine members “including the concurring votes of the permanent members”. There are two exceptions. It does not apply to decisions on procedural matters, and in matters relating to the peaceful settlement of disputes a party to the dispute is required to abstain. This provision was incorporated in the draft of the UN Charter prepared by the four powers - the USA, the Soviet Union, the UK, and the Republic of China - at Dumbarton Oaks in Washington D.C. in October 1944. This provision was reaffirmed by Franklin D. Roosevelt, Joseph Stalin, and Winston Churchill at Yalta in February 1945.

At the San Francisco Conference later in the year, there was strong opposition to this provision from several participating countries. It was led by the Australian Foreign Minister, Herbert Vere Evatt, who proposed that it should not apply to cases relating to peaceful settlement of disputes. His proposal was supported, among others, by Mexico, Belgium, El Salvador, Chile, Colombia, Peru, and New Zealand. Evatt said that the

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(This opinion piece was received from the author on April 3, 2020)

Security Council had been drawn up in the “exclusive interests of major powers” who deemed themselves entitled “by reason of their contribution to victory in World War II.”¹

The argument given by the permanent members in support of the veto was that they had saved the world from the Axis Powers, and only they could meet any future threats to international peace and security. They assured the participants that they would jointly provide security to the world, and for this it was essential that all decisions of the Security Council have their concurrence. They promised that, in accordance with Article 43 of the Charter, they would equip the Security Council with an armed force, and give it a Military Staff Committee comprising their Chiefs of Staff to advise and assist it on all questions relating to its military requirements.

The permanent five made it clear that the veto was not open to negotiation. Six weeks into the conference, they issued a joint statement reasserting the reasons for their claim to the veto:

In view of the primary responsibilities of the permanent members, they could not be expected, in the present condition of the world, to assume the obligation to act in so serious a matter as the maintenance of international peace and security in consequence of a decision in which they had not concurred. Therefore, if a majority voting in the Security Council is to be made possible, the only practicable method is to provide, in respect of non-procedural decisions, for unanimity of the permanent members plus the concurring votes of at least two of the non-permanent members.²

The permanent members argued that their proposal did not invest them with a new right since the permanent members of the League of Nations also had it. In the Council of the League, all decisions had to be unanimously taken by the permanent and non-permanent members, except if a member was party to the dispute. The permanent members argued that their proposal was more pragmatic since it made “the operation of the Security Council less subject to obstruction than was the case under the League of Nation’s rule of complete unanimity.”³ Thus, the League’s precedent was cited in support, but used selectively.

The debate was settled by a senior delegate of the host country, Senator Tom Connally, who declared that without the veto there would be no United Nations and, to demonstrate his resolve, he tore his copy of the text. Evatt’s proposal, nevertheless, got 13 votes in the committee. There were 14 votes against it.

The head of the Indian delegation, Sir R. M. Mudaliar, who had abstained in the vote on the Australian proposal, made a brave attempt to make the veto inapplicable at the General Conference. The idea of a General Conference, to be held after ten years, was proposed by the permanent members as a sop to mollify the participants who were resentful of the cavalier treatment being meted to their proposals. Mudaliar said that while his country and many others disagreed with the veto, he realised that “combined and joint action can best be secured by the formula that was evolved at Yalta.”⁴ He then proposed a way out:

[I]f this unanimity rule were not to be applied at the end of ten years to any proposal regarding the amendment of the Charter, we could safely, and with good conscience and with complete trust and confidence in the five great powers, agree to the complete Yalta formula during the intervening period of ten years.⁵

The Indian proposal, however, met with the same fate in the vote in the committee as that of the Australian.

At the Closing Plenary, President Truman, who had flown down to attend it, tried to assuage the participants with the following assurance:

This Charter, like our Constitution, will be expanded and improved as time goes on. No one claims that it is now a final or a perfect instrument. It has not been poured into any fixed mould. Changing world conditions will require readjustments - but they will be the readjustments of peace and not of war.⁶

The importance of the UN armed force in the proposed security structure was reaffirmed by all permanent members at the Closing Plenary. It was declared to be the most important improvement in the proposed United Nations over the failed League of Nations.

The head of the Soviet delegation, Andrei A. Gromyko, said,

The decision of the Conference to give permanent seats in the Council to five great powers is recognition of the obvious fact that the Security Council can possess sufficient means and forces necessary for the maintenance of peace only if it permanently includes those countries which have sufficient resources in men and material necessary for the successful and effective fulfilment of its duties.

He said that, without cooperation among the Allied Powers, it would be “impossible in the future to carry out the task of preserving peace.”⁷

The head of the French delegation, Joseph Paul-Bancour, asserted more firmly that the new international organisation would no longer be unarmed,

“An international force is to be formed and placed at the disposal of the Security Council in order to ensure respect for its decisions.”⁸

In his report on the conference to his President, the head of the US delegation, Edward Stettinius, wrote, “The whole scheme of the Charter is based on this conception of collective force made available to the Organization for the maintenance of international peace and security.”⁹ He identified the key improvement over the League.

The League of Nations Covenant, the only comparable document of the past, did not contain any provision requiring member states to conclude agreements for the supply of forces to execute military sanctions. The insertion of such a provision in the Dumbarton Oaks text, thus, represented a long step forward.¹⁰

After the conference, the permanent members met in the Military Staff Committee to negotiate the terms of an armed force for the Security Council. However, they abandoned the effort in less than two years. Their failure should have nullified the veto, but a Council controlled by them would certainly not entertain such ideas.

The fragile unity of the Allied Powers collapsed before long, and the Security Council became a hapless bystander in global power politics. The Soviet Union, outnumbered by the West in the UN, exercised its first veto on an American resolution within a month of the first meeting of the Security Council. Eight more vetoes followed in 1946, all from the Soviet Union. Four were on the Spanish Question, and three to block the admissions of Transjordan, Ireland, and Portugal. It diligently vetoed resolutions on new memberships, the Greek war, criticism of the new People’s Republic of China, its actions in Czechoslovakia, and called for a reduction in armed forces. Until 1955, it was the only permanent member to have exercised the veto, 57 in all, of which 27 were to block membership applications.

In 1956, the UK and France used the veto for the first time to block resolutions criticizing their invasion of Egypt in the Suez crisis. They used their veto in tandem twice on the same day to block an American and a Soviet resolution. The Soviet Union did the same on an American resolution on its invasion of Hungary. The UK used the veto again in 1963, on a resolution moved by Ghana, Morocco, and the Philippines, calling upon it not to transfer power to a racist regime in Southern Rhodesia.

The USA used its veto for the first time in 1970, jointly with the UK, on the question of racism in Southern Rhodesia. By this time, the Soviet Union had forged a partnership with developing countries. It turned the tables on the

USA by cornering it repeatedly on apartheid policy in South Africa, and on Southern Rhodesia, Namibia, and Palestine. In the Reagan-Thatcher years, the two countries had to use the veto on other issues as well. In 1982, the USA joined the UK in blocking a resolution on the Falklands. It also had to use the veto to protect its actions in Nicaragua and Grenada in 1983-1984. France joined the duo to make it a powerful triple veto on 13 occasions - between 1974 and 1989.

During this period, the Soviet Union used the veto very occasionally. It blocked a resolution on its invasion of Afghanistan in 1980, and on the shooting of a South Korean civilian aircraft in 1983. It also came to India's rescue thrice during the Bangladesh liberation war in 1971. These were part of the six vetoes the Soviet Union used for India – two on the India-Pakistan Question, in 1957 and 1962, and one on Goa, in 1961.

The Soviet Union exercised its last veto in 1984. The Russian Federation, which took its seat in 1991, was quiet for a couple of years. But a resurgent West had by now regained majority in the Security Council, and it was soon required to use the veto to protect its interests. This started with a resolution on Cyprus in 1993, followed by Bosnia and Herzegovina and Georgia. Then there were as many as thirteen resolutions on Syria, which Russia blocked to prevent military intervention by the USA. China joined it on some of these issues.

The USA, despite its majority support, continued to face trouble over Palestine, on which it was consistently out-voted, and had to exercise the veto repeatedly.

The PRC, which joined the UN in 1971, blocked the membership application of Bangladesh the very next year to please its all-weather friend, Pakistan. It used the veto again in 1997 on an innocuous resolution relating to peace efforts in Guatemala and, two years later, on renewing a peacekeeping mission in the Former Yugoslav Republic of Macedonia because of their relations with Taiwan. Later, China also used the veto to shield the regimes in Myanmar and Zimbabwe.

Both the UK and France exercised their last veto in 1989, a triple with the USA, on the situation in Panama.

But, the real power of the veto has not been the ability of the P-5 to kill 200-odd resolutions. The veto has enabled them to carve out spheres of influence by offering their protection-veto. It is noteworthy how rarely the permanent members have had to use the veto to defend their own military invasions. The Soviet vetoes on Czechoslovakia, Hungary, and Afghanistan,

and of the UK and France in the Suez crisis, have been such exceptions. This is because the threat of the veto has been sufficient to ward off resolutions against them. Thus, the USA never had to use a veto for its invasion of Vietnam or Iraq (in 2003), and the Soviet Union only once for its invasion of Afghanistan.

After 1986, during the Iran-Iraq war, the permanent five started the practice of informal meetings in which they would finalise a resolution and present it to the Council to rubber-stamp. This explains why in 2019, for instance, 85 percent of the resolutions were adopted unanimously. They have also used their position in the Security Council to dominate other organs of the UN and even the specialised agencies. Their control of the sanctions committees of the Security Council - which impose sanctions on individuals and organisations without any transparency or accountability - has been particularly objectionable.

Although the veto has been controversial since the inception of the UN, no attempt has so far been made to seek its abolition. The General Conference to review the Charter, mandated in Article 109, was to take place in 1955; but it never did. The only change in the Security Council came in the 1960s when its non-permanent membership was increased from six to ten. All attempts then, and later, have been to increase the size of the Council in the permanent or non-permanent categories, or both. The most determined bid for reform came from the G-4, comprising Brazil, Germany, India, and Japan, in 2005. On the veto, the group played safe by proposing a compromise under which the new permanent members would be given the veto, but with a moratorium on its use until a review after 15 years. The G-4 did not press for a vote on its proposal, and the reform process went into limbo.

Three years later, India formed a group of developing countries, the L-69 group, to gingerly revive discussion. As a result of its efforts, the General Assembly started an Intergovernmental Negotiation process on Security Council reform. It also identified five issues, one of which was the question of the veto. The proposals submitted by members were compiled, and a Framework Document containing a summary of the proposals submitted to the General Assembly in 2015.¹¹

Both the African Group (with 54 members) and the L-69 Group (with 42 members, 11 of whom are common with the African Group) tend to support the abolition of the veto; but they maintain that as long as it is there, it should be available to the new permanent members as well. India and Brazil are members of both the L-69 and the G-4. Some other countries have also

called for the progressive elimination of the veto. A large number of countries have suggested a code of conduct for the veto, and some have suggested that it be prohibited in situations of war crimes, genocide, crimes against humanity, and ethnic cleansing. Among the permanent members, the USA, the Russian Federation, and the People's Republic of China are strongly opposed to any dilution of their veto, or extending it to new members.

Since Independence, India spurned all talks of permanent membership; but it reversed its approach in 1993, and decided to campaign for it. It is currently pursuing this goal through two groups: the G-4, an alliance of four claimants; and the L-69, a group of 42 developing countries. Neither strategy has made any headway; nor is there any prospect of progress through either. In the circumstances, India can either continue stoically or roil the reform process by raising the more fundamental issue of the abolition of the veto. This demand has already been made by the African Group, the L-69 and a few other countries; but they have not made it the central focus of their campaign. Such a proposal will certainly garner more support in the General Assembly than the G-4 campaign, in which the smaller countries have little interest. The P-5 can be trusted to be outraged; but drawing the battle-lines on the principle of veto-abolition will earn greater credibility and support for India than its current campaign.

The Security Council was designed to create the hegemony of the P-5. India's main security concerns emanate from China, a permanent member, and its close ally, Pakistan. It cannot expect the Security Council to come to its assistance against either, even if it becomes a permanent member. The abolition of the veto will be a more meaningful and democratic reform than the unlikely seat on the high table.

The first Secretary-General, Trygve Lie, had made a prescient observation within a couple of years of the formation of the UN.

I have heard it said that the United Nations is dying. On the contrary, the United Nations is very much alive. It is doing very well indeed except when one or the other of the Big Powers fails to use it as it should be used or to live up to the terms of the Charter.¹²

The UN has survived, but the Security Council has been rendered useless by the veto provision. It is time to address the issue so that the UN @100 becomes a genuinely representative and democratic organisation that can meet the security needs of all its member-states.

Notes :

- ¹ David L. Bosco, *Five to Rule Them All: The UN Security Council and the Making of the Modern World*, New York, OUP, 2009 p. 36.
- ² Statement by the Delegations of the Four Sponsoring Governments on Voting Procedure in the Security Council, 7 June 1945, United Nations Conference on International Organization, Doc. 852 III/1/37(1), 8 June 1945, p. 713. France was not party to this declaration since its participation in the conference was limited due to the ongoing war .
Also see 500.CC/6–345: Telegram: The Chairman of the United States Delegation (Stettinius) to the Acting Secretary of State, SAN FRANCISCO, June 3, 1945. Para 9; available at: <https://history.state.gov/historicaldocuments/frus1945v01/d273>
- ³ *Ibid.*, p. 713
- ⁴ R. M. Mudaliar, *Verbatim Records of 5th Meeting of Commission III, 20 June 1945*, UNCIO, Doc. 1150/III/12, 22 June 1945, p. 175.
- ⁵ *Ibid.*, p. 175
- ⁶ Harry S. Truman, *26 June 1945 UNCIO Closing Plenary*, Doc. 1200 P/18, 26 June 1945, p. 715.
- ⁷ Andrei A. Gromyko, *26 June 1945 UNCIO Closing Plenary*, Doc. 1200 P/18, 26 June 1945, p. 695.
- ⁸ Joseph Paul-Bancour, *26 June 1945 UNCIO Closing Plenary*, Doc. 1200 P/18, 26 June 1945, p. 699.
- ⁹ Edward Stettinius, *Report to the President on the Charter of the UN, 2 July 1945*, US Senate, Hearings Before the Committee on Foreign Relations p. 23.
- ¹⁰ *Ibid.*, p. 60.
- ¹¹ The Framework Document can be accessed at www.centerforunreform.org/wp-content/uploads/2015/05/13-May-2015-IGN-Framework-Doc.pdf
- ¹² Trygve Lie, “The Hyde Park Address”, 12 April 1948, in Andrew W. Cordier and Wilder Foote (eds.), *Public Papers of the SGs of the UN, Vol. I, Trygve Lie, 1946–1953*, New York, Columbia University Press, 1969, p. 122.

