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UN Veto: Need for Regulation and the Way Forward

SECURITY

A resolution (A/77/L.52) has been adopted on April 26, 2022 by the United Nations General Assembly requiring five permanent members of the Security Council to justify their use of the veto. This landmark resolution is initiated by Liechtenstein two years ago in a separate endeavor for the ongoing debate on the reform of the Security Council. This General Assembly Resolution is backed by three permanent members of the Security Council (the United States, France, and the UK) except China and Russia (also called P5). The objective of the resolution is to hold the five permanent members of the Security Council accountable for their use of the veto. This resolution states that the "Standing mandate for General Assembly debate when veto is cast in Security Council" is co-sponsored by 83 United Nations member states across the cross-regional support.

The text of the present resolution shares concern over the growing use of veto without any transparency and accountability. This aims to encounter the challenges in carrying out the responsibility as mandated in the United Nations Charter. This recent push for reform is revived by the Russia-Ukraine war. The measures suggest making the veto-holder states such as the United States, Russia, France, China, and the UK pay the higher political price when using the veto to strike down any Security Council Resolution. The Resolution suggests that the President of the Security Council convene a meeting within ten working days after one or more members use the power of veto to stop any resolution in the Council. The third paragraph of the resolution, asks for a report from the Security Council to the General Assembly within 72 hours of the exercise of the veto right. But it is unclear if one or more permanent member proposes any controversial text to force their rival to justify their stance publicly.

In this context, there arises some important questions. For example, where can a veto be exercised? What is the rationale for having in place the veto? How does it impact the prevention and prosecution of humanitarian crises under R2P (Responsibility to Protect)? How can the use of veto be decreased through the principle of Responsibility Not to Veto (R2NV)?

It is under Article 24(1) of the United Nations Charter, which confers a duty upon the members of the Security Council to act to maintain the peace and security of the world that the use of veto is highly controversial. The power to use veto is derived from Article 27(3) of the same Charter where the role of P5 in the decision-making of the Security Council is expressed. According to the article, the decisions of the Security Council on all other

matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members. Similarly, under Articles 108 and 109, the P5 approval is required to bring an amendment to the Charter along with two-thirds of the members of the General Assembly.

What needs to be understood is that the veto was granted to ensure that the interests of the P5 are not ignored and to ensure their participation in the UN in the aftermath of World War II. The larger issue that arises from such power is its exercise in not preventing mass atrocities and rescuing victims. In order to understand the impact of veto in humanitarian crises, we need to know what exactly is R2P and R2NV. In simple terms, R2P is the responsibility of each state to protect its population from genocide, war crimes, ethnic cleansing, crimes against humanity, and incitement. Further, it also includes the responsibility of the UN Member states to help each other exercise this responsibility before the crisis and after the conflict has erupted by building capacity and lastly, it also bestows a collective responsibility on the UN to respond when the national authorities have failed to protect their population from the four crimes listed above.

It is in this respect that the principle of R2NV assumes significance, which is **defined** by the International Commission on Intervention and State Sovereignty (ICISS) as proposed conduct on part of P5 to not exercise their veto powers in case of resolutions authorizing the use of force to prevent or end a humanitarian catastrophe when their national interests were not involved.

Historically, there have been efforts to undo the veto power. The first such effort to limit veto was at San Francisco in 1945 by Australia to exclude the veto from all possible arrangements, however, it could not see the light of the day. Another attempt was made through the Uniting for Peace Resolution in 1950 by the USA to circumvent the Soviet vetoes during the course of the Korean war. As per this resolution, the UNGA is required to respond to aggression and threats to international peace and security where the UNSC is prevented from fulfilling its obligations because of the threat of veto. However, unlike the UNSC, the UNGA cannot sanction military force nor create a binding resolution. In recent times, France with the support of several states has advocated for the UNSC permanent members to voluntarily and collectively regulate their right to exercise the veto, by suspending it when mass atrocities are under consideration.

The need of the hour is to realize that although United Nations Security Council has led many successful peacekeeping missions since 1945, it also failed many times to effectively prevent genocide and act of aggression on many occasions. Thus, as long as R2P remains an emerging norm without being a binding obligation, it requires R2NV as a procedural mechanism in order to be effectively implemented. Without R2NV the invocation of R2P would be entirely subject to the interests of individual veto-bearing states that could prevent resolutions supported by a majority of member states.

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