

## Chapter 1

# INTRODUCTION

The United Nations was established in 1945 by means of the Charter of the United Nations. The membership of the organization currently comprises almost every recognized state in the world, the notable exceptions being Kiribati, Nauru, Tonga, Tuvalu, and Switzerland. Every member state is represented in the General Assembly where it holds a single vote. This forum holds debates on any matter within the scope of the Charter and passes decisions by a simple majority or exceptionally a two thirds majority of members present and voting. Under article 24 of the Charter, the Security Council has primary responsibility for “the maintenance of international peace and security”. This mandate includes the authorization of the use of force for purposes other than self-defense. This body includes 5 permanent members or the P-5; the United States, the United Kingdom, China, France, and Russia. In addition, 10 other seats of the Security Council are held by non-permanent member states that are elected for a term of 2 years<sup>1</sup>. Although decisions of the Security Council are made by the affirmative vote of 9 of the 15 members, the P-5 holds the power of veto over any such decision. This debate must incorporate two themes of argument, specifically concerning whether the power of veto has been abused, and whether the United Nations has become redundant in terms of international security and thus the veto power is rendered immaterial. The latter theme can form the substance of an entirely new debate and is discussed only briefly below. A common subsidiary

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<sup>1</sup> UN Charter, Article...

argument concerns the practical difficulty of bringing agreement among the P-5 to abolish their prerogative power. The proposition must be careful to avoid this arid speculation dominating a thorough examination of some of the most pressing matters of international relations.

A veto, Latin for "I forbid", is the power of an officer of the state to stop unilaterally a piece of legislation. In practice, the veto can be absolute as in the U.N. Security Council, whose permanent members can block any resolution or limited as in the legislative process of the United States, where a two thirds vote in both the House and Senate may override a Presidential veto of legislation.<sup>2</sup>

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<sup>2</sup> Dr. H. O. Agarwal , *International Law & Human Right* , 12<sup>th</sup> ed, (Allahabad: Central Law Publication), 2005, pp. – 704 -707.

## **Chapter 2**

# **VETO POWER**

### **2.1 What is Veto**

The right to veto means that if any of the five countries disagrees with a decision made by the UN Security Council, then the UN decision will not be carried through. For example, in the 1960s some countries wanted to introduce compulsory sanctions against South Africa, but the USA and Britain did not agree, so the UN could not introduce compulsory sanctions.<sup>3</sup>

Security Council

Veto is a power which is used by the permanent members of the Security Council. Those are the most giant countries. These states got the write to ensure balance in the world. But unfortunate to speak now they are using those unfettered power to control the emerging states and the new competitors much. If any state like these stands against a resolution of the United Nations that will never be effected. So for conducting the world peace and tranquility this particular power must have to be used with dedication and sincerity which will ensure welfare of the human civilization.

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<sup>3</sup> Malcolm N. Shaw , *International Law* , fourth Edition , (London: Cambridge University Press), PP - 846- 848.

## **2.2 Use of veto power**

Almost half the vetoes in the history of the Security Council were cast by the Soviet Union. Since shortly before the fall of the USSR, the United States has been the most frequent user of the veto.<sup>4</sup>

Between the fall of the Berlin Wall in 1989 and the end of 2004, vetoes were issued on 19 occasions. For that period, usage breaks down as follows:

the United States used the veto on 13 occasions (11 regarding the Middle East, one Bosnia, one in 1989 following its invasion of Panama)

### ***Russia/Soviet Union***

In the early days of the United Nations, the Soviet Union commissar and later minister for foreign affairs, Vyacheslav Molotov, said no so many times that he was known as "Mr. Veto". In fact, the Soviet Union was responsible for nearly half of all vetoes ever cast—79 vetoes were used in the first 10 years. Molotov regularly rejected bids for new membership because of the U.S.'s refusal to admit the Soviet republics. Since the collapse of the Soviet Union, Russia has used its veto power sparingly.<sup>5</sup>

### ***United States***

Ambassador Charles W. Yost cast the first U.S. veto in 1970, regarding a crisis in Rhodesia, and the U.S. cast a lone veto in 1972, to prevent a resolution relating to Israel. Since that time, it has become by far the most frequent user of the veto, mainly against resolutions criticizing Israel. This has been a constant cause of friction between the General Assembly and the Security Council, as seen with the 2003 Iraqi war which was not endorsed by the UN.<sup>6</sup>

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<sup>4</sup> Dr. S. K. Kapoor, *International Law and Human Rights*, (Allahabad: Central Law Agency), 2004, p. - 379.

<sup>5</sup> [[http://en.wikipedia.org/wiki/United\\_Nations\\_Security\\_Council\\_veto\\_power](http://en.wikipedia.org/wiki/United_Nations_Security_Council_veto_power) last visited on 25 March 2010 at 2000 hrs].

<sup>6</sup> *Ibid*

<sup>7</sup> *Ibid*

### ***United Kingdom***

The United Kingdom used its Security Council veto power, along with France, to veto a draft resolution aimed at resolving the Suez Canal crisis in 1956. They eventually withdrew after the U.S. instigated an 'emergency special session' of the General Assembly, under the terms of the "Uniting for Peace" resolution, which led to the establishment of the United Nations Emergency Force I (UNEF I), by the adoption of Assembly resolution 1001. The UK also used the veto unilaterally seven times because of Rhodesia.<sup>7</sup>

### ***France***

France uses its veto power sparingly. It used it in 1976 on the question of the Comoros independence, when the island of Mayotte was kept in French territory due to the vote of the local population. The threat of a French veto of resolution on the Iraq war caused friction between France and the United States.<sup>8</sup>

### ***China***

Between 1946 and 1971, the Chinese seat on the Security Council was the government of the Republic of China (from 1949 on Taiwan) during which its representative used the veto only once (to block the Mongolian People's Republic's application for membership in 1955 because the ROC considered Mongolia to be a part of China). This postponed the admission of Mongolia until 1960, when the Soviet Union announced that unless Mongolia was admitted, it would block the admission of all of the newly independent African states. Faced with this pressure, the ROC relented under protest.

After the Republic of China's expulsion from the United Nations in 1971, the first veto cast by the present occupant, the People's Republic of China, was issued in 25 August 1972 over Bangladesh's admission to the United Nations. As of December 2008, the People's Republic of China has used its veto six times; observers have noted a preference for China to abstain rather than veto on resolutions not directly related to Chinese interests.<sup>9</sup>

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<sup>8</sup> *Ibid*

<sup>9</sup> *Ibid*

## Chapter 3

# SECURITY COUNCIL

### 3.1 Formation of Security Council

The Security Council is the United Nations' most powerful body, with "primary responsibility for the maintenance of international peace and security." The Security Council shall consist of fifteen members of the United Nation. The Republic of China, The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America are the five permanent members of the Security Council. The General Assembly shall elect ten other members of the United Nation to be non permanent members of the Security Council.<sup>10</sup> Five powerful countries sit as "permanent members" along with ten elected members with two-year terms. Since 1990, the Council has dramatically increased its activity and it now meets in nearly continuous session. It dispatches military operations, imposes sanctions, mandates arms inspections, deploys election monitors and more.<sup>11</sup>

This site presents a useful Introductory Article as well as a wide range of other information. There is material on Membership of the Security Council, including a list of current and former Council members, information on Council presidencies and sanctions committees, and information about the often controversial process of Membership Elections. We also present Tables and Charts on the Security Council, including the frequency of its meetings, number of resolutions, etc.

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<sup>10</sup> United Nations, *UN Charter*, Article 23, clause 1, p – 17.

<sup>11</sup> Bhee Helmets, *A Review of United Nation peace keeping* , 2<sup>nd</sup> edition, Newyork,1990

The Security Council is part parliament, part secret diplomatic conclave. It follows a Program of Work set out each month by its rotating President. We present information on the different types of meetings of the Council, including a section on Informal Consultations where the Council conducts most of its business behind closed doors. GPF has also collected information on Council field missions who go to crisis regions and panels of experts that provide some of the UN's most explosive and revealing reports.

We post materials on many of the major crises addressed by the Security Council, including alternative interpretations of what is happening. One will find such information on the Index of Countries on the Security Council Agenda: Afghanistan, Angola, Myanmar, Burundi, Republic of Chad and Central African Republic, Democratic Republic of Congo, East Timor, Ethiopia/Eritrea, Haiti, India/Pakistan, Iran, Iraq, Israel/Palestine

One of the key reform issues is The Veto. The five permanent cast members gave themselves this right when the UN was set up in 1945 and have clung to it ever since. More than sixty years later, debate on the veto continues. At issue is not just the exercise of the veto, which is rare, but the "Hidden Veto" which is used constantly by permanent members as a threat to get their way. GPF follows the issue, and provides Tables and Charts on the Veto, including a comprehensive list of all the vetoes and the subjects vetoed in the Security Council since 1945.

### **3.2 Administrative body**

The Presidency of the Security Council is held in turn by the members of the Security Council in the English alphabetical order of their names. Each President holds office for one calendar month.

Ten non-permanent members are elected by the General Assembly for two-year term and not eligible for immediate re-election. The number of non-permanent members was increased from six to ten by an amendment of the Charter which came into force in 1965.

### **3.3 Decision making process**

Each Council member has one vote. Decisions on procedural matters are made by an affirmative vote of at least nine of the 15 members. Decisions on substantive matters require nine votes, including the concurring votes of all five permanent members. This is the rule of "great Power unanimity", often referred to as the "veto" power.

Under the Charter, all Members of the United Nations agree to accept and carry out the decisions of the Security Council. While other organs of the United Nations make recommendations to Governments, the Council alone has the power to take decisions which Member States are obligated under the Charter to carry out.<sup>12</sup>

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<sup>12</sup> United Nations, *UN Charter*, Article 25, p – 19.



## Chapter 4

# EMERGENCE AND APPLICATION

### 4.1 Emergence

The UNSC veto system was formalized at the Yalta Conference, 4-11 February 1945 and was established in order to prohibit the UN from taking any future action directly against its principal founding members; in large part a legacy of the expulsion of the Soviet Union from the League of Nations in 1939, at the outbreak of World War II. It had already been decided at the UN's founding conference in 1944, that Britain, China, the Soviet Union, the United States and, "in due course" France, should be the permanent members of any newly formed Council.<sup>13</sup>

France had been defeated and occupied by Nazi Germany, but its role as a permanent member of the League of Nations, its status as a colonial power and the activities of the Free French forces on the allied side allowed it a place at the table with the other four.

The Soviet Union had adopted an "empty chair" policy at the Security Council from January 1950, owing to its discontent over the UN's refusal to recognize the People's Republic of China's representatives as the legitimate representatives of China, and with the hope of preventing any future decisions by the Council on substantive matters. Despite the wording of the Charter (which

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<sup>13</sup> [[http://en.wikipedia.org/wiki/United\\_Nations\\_Security\\_Council\\_veto\\_power](http://en.wikipedia.org/wiki/United_Nations_Security_Council_veto_power) last visited on 22 February 2010].

makes no provisions for passing resolutions with the abstention or absence of a veto-bearing member), this was treated as a non-blocking abstention. This had in fact already become Council practice by that time, the Council having already adopted numerous draft resolutions despite the lack of an affirmative vote by each of its permanent members.

#### **4.2 Application by different Giant States**

The veto power holders used the power according to their demand in holding proper control over the states. But this power was given to protect the illegal use of force along with ensuring the peace in the world. Considering their application of the process it brings evidence to the critics as to they are abusing the power.

##### ***a) Russia/Soviet Union***

In the early days of the United Nations, the Soviet Union commissar and later minister for foreign affairs, Vyacheslav Molotov, said no so many times that he was known as "Mr. Veto". In fact, the Soviet Union was responsible for nearly half of all vetoes ever cast—79 vetoes were used in the first 10 years. Molotov regularly rejected bids for new membership because of the U.S.'s refusal to admit the Soviet republics. Since the collapse of the Soviet Union, Russia has used its veto power sparingly.<sup>14</sup>

##### ***b) United States***

Ambassador Charles W. Yost cast the first U.S. veto in 1970, regarding a crisis in Rhodesia, and the U.S. cast a lone veto in 1972, to prevent a resolution relating to Israel. Since that time, it has become by far the most frequent user of the veto, mainly against resolutions criticizing Israel (Negroponte doctrine). This has been a constant cause of friction between the General Assembly and the Security Council, as seen with the 2003 Iraqi war which was not endorsed by the UN.

##### ***c) United Kingdom***

The United Kingdom used its Security Council veto power, along with France, to veto a draft resolution aimed at resolving the Suez Canal crisis in 1956. They

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<sup>14</sup> Malcolm N. Shaw , *International Law* , fourth Edition , Cambridge University, PP-846 – 848.

eventually withdrew after the U.S. instigated an 'emergency special session' of the General Assembly, under the terms of the "Uniting for Peace" resolution, which led to the establishment of the United Nations Emergency Force I (UNEF I), by the adoption of Assembly resolution 1001. The UK also used the veto unilaterally seven times because of Rhodesia.<sup>15</sup>

***d) Abuse of veto power by china:***

In 1950, North Korea invaded South Korea. This invasion was also not justified on the ground of self-defense. The security council of the United Nations, therefore, decided to take enforcement action against Korea. China also intervened in Korea. China claimed that the presence of the United Nations forces in Korea was against the interest and self-preservation of china. But the United Nations declared the intervention of China as illegal intervention.

***e) Abuse of veto power by Russia***

In 1956, there took place a Civil War in Hungary. Russia sends its forces in Hungary and, suppressed the revolt there. Imri Negi, the then prime minister of Hungary, requested the United Nations to intervene. Before the United Nations could take action, Imri Negi was removed from the post of Prime Ministership. Russia claimed that she intervened in Hungary on the request of the Hungarian Government. But the United Nations established an Enquiry Committee which reported that Russian intervention in Hungary was not justified. The Civil War in Hungary started in October 1956. The people of Hungary wanted complete independence and with this objective in view they wanted to get rid of Russian influence and control. Imri Negi was the favorably leader of the people and they wanted to make him the Prime Minister. But in the meantime Janos Kadar established a parallel government at a distance of 50 miles from Budapest and asked Soviet Union to intervene in Hungary. On the other hand, Negi reacted by ending the Warsaw Pact. But Russia contended that Warsaw Pact can be terminated with the consent of all parties to the treaty. At the request of Kadar, Russian armed forces entered Hungary which was as against the Hungary's

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<sup>15</sup> [[http://en.wikipedia.org/wiki/United\\_Nations\\_Security\\_Council\\_veto\\_power](http://en.wikipedia.org/wiki/United_Nations_Security_Council_veto_power)

people and Negi took asylum in Yugoslavian embassy and later on he was expelled and sent to Rumania. Such an intervention is not permissible under the U.N. Charter.

Regrettably, the use of the veto by the P5 has led the UN Security Council to adopt unlawful resolutions that violated the UN Charter and therefore led an overwhelming majority of UN Member States to declare that they were not bound by the said Chapter VII resolution, thus undermining the credibility of the Council: This certainly happened with UNSC resolution 1422 of 2002, renewed once through resolution 1487 of 2003, which aimed at exempting peace-keepers and other military personnel conducting operations authorized by the Security Council from the jurisdiction of the International Criminal Court (ICC) for a period of 12 month. Resolution 1422 was purportedly based on Chapter VII of the UN Charter, but it did not contain any determination that "a threat to the peace, a breach to the peace or an act of aggression" (cf. art. 39, UN Charter) had occurred: Such a determination is an essential precondition to trigger the powers of the UNSC under Chapter VII. Resolution 1422 was adapted as a consequence to the US veto opposed on 30 June 2002 to the renewal of the Peace-keeping operation in Bosnia and Herzegovina, a State Party to the Rome Statute of the ICC, which contains -inter alia- citations of writings of Flavia Lattanzi, Kai Ambos and Claus Kress).<sup>16</sup>

There has been discussion of increasing the number of permanent members. The countries who have made the strongest demands for permanent seats are Brazil, Germany, India, and Japan. Indeed, Japan and Germany are the UN's second and third largest funders respectively, while Brazil, the largest Latin American nation, and India, the world's largest democracy and second most populous country, are two of the largest contributors of troops to UN-mandated peace-keeping missions. This proposal has found opposition in a group of countries called Uniting for Consensus. On 21 September 2004, the G4 nations issued a joint statement mutually backing each other's claim to permanent status,

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last visited on 24 February 2010].

<sup>16</sup> Bhee Helmets, a review of United Nation peace keeping , 2<sup>nd</sup> edition, Newyork,1990

together with two African countries. Currently the proposal has to be accepted by two-thirds of the General Assembly (128 votes).

***Abuse of veto power by U.K., France and Israel in Egypt***

In 1956, Egypt nationalized Suez Canal on the ground of obtaining money to build Aswan Dam. France, Britain and Israel reacted strongly against this action of Egypt from nationalizing the Suez Canal. This was a flagrant violation of provisions contained in Articles 2(4) and 51 of the U.N. Charter. The problem was resolved through the efforts of Soviet Union, Security Council and General Assembly. Subsequently it was agreed that Egypt was entitled to realized taxes for the use of canal but the canal would remain free from international politics and would remain open for shipping to all states.<sup>17</sup>

***Abuse of veto power by America in Cuba***

In 1962, America enforced blockade against Cuba and justified its action on the ground of self-preservation. America claimed that the nuclear weapons which were going to be supplied by Russia would have jeopardized the security of America. The jurists are, however, of that view that the Cuban blockade enforced by America was not justified on the ground of individual and collective self-defense. It is difficult to find out that the Soviet Union violation any obligation of international law in shipping missiles to, and installing them in Cuba at the request of the Castro Government. Further, the quarantine itself was a preventive measure to be enforced with conventional weapons, prior to an armed attack by Cuba or the Soviet Union upon the United States, or any other American country and without authority of the United Nations or the consent of all the states which might be injured by its application. It could not be justified under the terms of Article 2, paragraph 4, of the Charter and the recognized exceptions, such as that in Article 51 to this general prohibition against the threat or use of force in international relation.<sup>18</sup>

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<sup>17</sup> [www.globalpolicy.org](http://www.globalpolicy.org) accessed on 01. 04. 2010

<sup>18</sup> *Ibid.*

***U.N. sanction against Taliban Government of Afghanistan and abuse of veto power by the America in Afghanistan***

On 6th October, 1999 the united State of America submitted a draft resolution in the Security Council of U.N. asking Taliban Government of Afghanistan to surrender Osama Bin Laden for trial and on failure to do so the United Nations will impose Air embargo and financial sanctions against it. According to America Osama Bin Laden is responsible for bomb explosions in America embassies in Kenya and Tanzania. As a result of these explosions 225 persons were killed and more then 4000 persons were injured. On 15 October, 1999 the Security Council of the U.N. passed a resolution asking Taliban Government to surrender Osama Bin Laden to the U.S. or some other country which promises to hold trial against him for terrorist acts by 14 November, 1999 and on failure to do so U.N. sanction against it will start. This resolution was unanimously passed in Security Council. America therefore, demands that Osama Bin Laden be surrendered and the said terrorists' activities be ended. On 13 December, 1999 Ambassador Michael Sheehan, U.S. coordinator for counter terrorism warned Taliban representative Abdul Hakim Mujahid in New York that the U.S. would hold the Taliban responsible for any attacks carried by Saudi millionaire terrorist Osama Bin Laden's network. Later on Taliban rulers of Afghanistan tried to assure America that Osama Bin Laden plans on attack on America. America not only shrugged of such assurances but said that it has credible evidence that Bin Laden's group may be planning more attack on America over the next few weeks. When on 11 September, 2001 Al-Qaida men attacked twin towers of World Trade Center in New York and a pentagon Building outside the Washington then Taliban Government and Osama Bin Laden reached its climax. As expected America reacted strongly and regarded it as an act of war against America. ON 7th October 2001 America retaliated by attacking military and guerilla bases in Afghanistan.<sup>19</sup>

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<sup>19</sup> *Ibid*

### ***Abuse of veto power in Iraq***

After overthrowing Taliban Government of Afghanistan, America directed its attention towards Iraq. While in respect of attack on Afghanistan, America had the support of the Security Council but in Iraq the position was quite different. America wanted to attack Iraq immediately but other members of the U.N. Security Council especially France, Russia and China did not agree with the view of America. But America was determined to go ahead and threatened that if the Council did not pass resolution in its favor, America alone would go ahead and attack Iraq. America alleged that Iraq had relations with Al Qaeda and that it possessed in large quantities weapons of mass destruction. Therefore, it was necessary to act against Iraq immediately and to destroy such weapons. 20

It is clear that if any member of the U.N. attacks another member state without the authorization of the U.N. security Council except on the ground of self-defence , it will be violation of International Law including the charter of the U.N. Thus America invasion of Iraq was clearly violation of International Law including the law of the U.N. One of the excuses for the U.S. to attack Iraq could be the presence of weapons of mass destruction in Iraq. Even after victory of Iraq and a lapse of nearly one year and five month, no evidence of W M D has been found in Iraq . There was therefore, no justification, legal or otherwise, for America to attack Iraq.<sup>21</sup>

#### ***Argument: The UN veto is anachronistic.***

The world no longer needs the Security Council veto. The P5 were given this privilege for two reasons that have no application in the post Cold War world. Firstly, the Allied powers, with the addition of China, tried to bind themselves to the UN Security Council, which was designed to prevent events like World War II repeating them. Secondly, the P5 held unrivaled strategic might through their possession of nuclear weapon technology or imminent nuclear capacity. However, to examine the status quo, the UN is no longer in danger of collapse. Considering the state of international politics and the symbolic meaning of the

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<sup>21</sup> [www.globalpolicy.org last visited on 02.04.2010].

UN, the P5 can no longer abandon the UN or the cause of global peace simply because the veto power is taken away.<sup>22</sup>

#### **4.3 Subject to Reformation Veto power**

Various discussions have taken place in recent years over the suitability of the Security Council veto power in today's world. Key arguments include that the five permanent members no longer represent the most stable and responsible member states in the United Nations and that their veto power slows down and even prevents important decisions being made on matters of international peace and security. Due to the global changes that have taken place politically and economically since the formation of the UN in 1945, widespread debate has been apparent over whether the five permanent members of the UN Security Council remain the best member states to hold veto power. While the permanent members are still typically regarded as great powers, there is debate over their suitability to retain exclusive veto power.

A second argument against retaining the UNSC veto power is that it is detrimental to balanced political decisions, as any draft text needs to be approved of by each permanent member before any draft resolution can possibly be adopted. Indeed, several proposed draft resolutions are never formally presented to the Council for a vote owing to the knowledge that a permanent member would vote against their adoption (the so-called 'pocket veto'). Debate also exists over the potential use of the veto power to provide 'diplomatic cover' to a permanent member's allies. The United States of America has used its veto power more than any other permanent member since 1972, particularly on draft resolutions condemning the actions or policies of the State of Israel.

Advocates of the veto power believe that it is just as necessary in the current geo-political landscape, and that without the veto power, the Security Council would be open to making democratic "majority rules" decisions on matters that have implications at a global level — decisions that may well go directly against the interests of a permanent member.

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<sup>22</sup> *Ibid*



Discussions on improving the UN's effectiveness and responsiveness to international security threats often include reform of the UNSC veto. Proposals include: limiting the use of the veto to vital national security issues; requiring agreement from multiple states before exercising the veto; and abolishing the veto entirely. However, any reform of the veto will be very difficult, if not impossible. In fact, Articles 108 and 109 of the United Nations Charter grant the P5 veto over any amendments to the Charter, requiring them to approve of any modifications to the UNSC veto power that they themselves hold: it is highly unlikely that any of the P5 would accept a reform of the UN Charter that would be detrimental to their own national interests.

Nonetheless, it has been argued that the current UNSC 'power of veto' is, fundamentally, irrelevant. With the Assembly's adoption of the 'Uniting for Peace' resolution on 3 November 1950, it was made clear by the UN Member states that, according to the UN Charter, the P5 cannot prevent the UN General Assembly from taking any and all action necessary to restore international peace and security, in cases where the UNSC has failed to exercise its 'primary responsibility' for maintaining peace. Such an interpretation sees the UNGA as being awarded 'final responsibility' — rather than 'secondary responsibility' — for matters of international peace and security, by the UN Charter. Although not couched in the same language, various high-level reports make explicit reference to the 'Uniting for Peace' resolution as providing the necessary mechanism for the UNGA to overrule any vetoes in the UNSC; thus rendering them little more than delays in UN action.

## Chapter 5

### HUMAN RIGHTS AND VETO

#### 5.1 International Human Rights Law

Human rights law obliges a State to refrain from causing harm to its own nationals or other persons within its territorial jurisdiction. Thus, a State is not free to treat its nationals as it pleases despite the fact that it is sovereign. The greatest impact of human rights law has been to erode the absolute control which a State had in the classical period. The idea that human rights could be protected by International Law in addition to municipal law developed slowly mainly because State sovereignty—a fundamental principle of international law since its emergence in the seventeenth century, proved a stumbling block in the efforts to impose international legal obligations upon States to protect individuals.

1. The Bill of Rights was officially entitled as an Act for Declaring the Rights and Liberties of the Subject and for setting the Succession of the Crown. It was enacted by Charles II on the occasion of the accession of William of Orange and Mary Stuart to the throne of England.
2. Sweden in 1809, Spain in 1812, Norway in 1814, Belgium in 1831, Denmark in 1849, Prussia in 1850 and Switzerland in 1874 made a provision for the fundamental rights of man.<sup>23</sup>

The realization of the worth of the human personality led the Institute of International Law in 1929 to issue a proclamation of the rights of the man against

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<sup>23</sup> Dr.H.O. Agarwal , *International Law & Human right* ,twelfth edition,(Allahabad: Central Law publication), 2005, PP. 702 - 703.

the State. However, instead of enumerating the rights of human<sup>24</sup> beings it laid down six duties of the States which are : (1) to recognize the right of every individual to life, liberty and property and to accord to all within its territory the full and entire protection of their right without distinction as to nationality, sex, race, language or religion; (2) to recognize the right of every individual to the free practice, both public and private, of every faith, religion or belief; (3) to recognize the right of every individual both to the free use of the language of his choice and to the teaching of such language; (4) to recognise that no motive based directly or indirectly on distinction of sex, race, language or religion, empowers States to refuse to any of their nationals, private and public rights; (5) to recognize that the equality as contemplated herein is not to be nominal, but effective; (6) to recognize that except for motives based upon its general legislation, no State shall have right to withdraw its nationality from those whom for reasons of sex, race, language or religion, it should not deprive of the guarantee contemplated in this proclamation. The proclamation, being the will of the members of the Institute, did not impose any obligation on the States. However, it laid down for all nations the standard of conduct towards all men including their own nationals. The proclamation may be regarded as the first attempt towards the universalization of human rights.

## **5.2 Human Rights under the U.N. Charter**

The result was that the Charter contains a number of provisions for the promotion of human rights and fundamental freedoms in the Preamble and in Articles 1, 13(1)(b)<sup>25</sup>, 55, 56<sup>26</sup>, 62(2), 68 and 76(c)<sup>27</sup> which are as follows :

(1) The Preamble of the Charter in its first substantive paragraph laid down that.../we the peoples of the United Nations determined to reaffirm faith in

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<sup>24</sup> *Ser Re Drummond Wren*, 4 Ontario Reports, 77S; A.D. 12 (1943-45) No. 50; *Oyama v. California*, (1948) 332 U.S. 633; A.D. 16 (1949), No. 49.

<sup>25</sup> United Nations, *UN Charter*, pp. 11 - 12 .

<sup>26</sup> *Ibid*, pp. 36 – 37.

<sup>27</sup> *Ibid*, pp 46- 49.

fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small...'

(2) Para 3 of Article 1 of the Charter provided that the achievement of international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion shall be one of the purposes of the United Nations. The above provision shows that the desirability of promoting and encouraging respect for human

1. For instance Declaration of St. James Palace (1941) : Atlantic Charter (1941) ; United Nations Declaration (1942) ; Moscow Declaration (1943) ; Tehran Declaration (1943) ; Dumbarton Oaks Conference (1944) ; San Francisco Conference (1945).

2. The Declaration was signed by 26 States including the four Great Powers—U.S.A., U.K., U.S.S.R. and China:<sup>28</sup>

Rights and fundamental freedoms' without distinction as to race, sex, language or religion was generally recognized. There was a general agreement that all human beings are entitled to some basic rights. It marked the birth of the international and universal recognition of human rights. However, despite the differences as to what rights and freedoms are, the achievement of the maximum freedom and dignity of the human beings was the primary aim of the United Nations.

### **5.3 Promotion of Human Rights**

Promotion and encouragement of respect for and observance of human rights and fundamental freedoms is one of the purposes of the United Nations. The Charter of United Nations mentions the term promotion of human rights seven times, but makes no reference to "protection" of "human rights". A question arises how this purpose is achieved by the United Nations? It is to be noted that the role and scope of U.N. action in promoting and protecting human rights have

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<sup>28</sup> Dr.H.O. Agarwal , *International Law & Human right* ,twelfth edition, (Allahabad: Central Law publication), 2005, PP. 802.

tremendously increased in the last fifty seven years. The term promotion of human rights may mean setting of international Standard of human rights, education and dissemination. The prime responsibility for the promotion of human rights under the U.N. Charter rests in the General Assembly, in the Economic and Social Council and its subsidiary body—the Commission on Human Rights. The General Assembly by adopting treaties has set standards and socializes into those standards. Holding conferences and seminars to spread the World about human rights values found in these international documents are also included in the promotion of human rights.

The term protection of human rights which may mean implementation and enforcement action, does not find place in the U.N. Charter. Among the United Nations agencies only the Security Council and the International Court of Justice can engage in enforcement action; only they have a competence to pass a binding resolution or issue a binding judgment. The Security Council can threaten or vote sanctions in relation to its own previous actions or that of the Court. Enforcement is thus the authoritative application of human rights. All other actions beyond promotion but short of enforcement may be considered as implementation efforts.<sup>1</sup> Implementation thus includes passing non-binding resolutions about specific problems or States. When a U.N. agency approves a resolution calling on a specific State to take specific human rights action, it is considered to generate political pressure on the target and thus an effort at protection, not just promotion

## Chapter 6

# CONCLUSION

From the above discussion it is achieved that all the giant states who are the permanent member of the security council use their veto power as per the demand of their own states. When the United nation was established the first question was to ensure the peace and security in the world for the betterment of the human civilization. For that purpose Security Council was formed. Besides that some developed and powerful states were entitled with the special power. if those states are not satisfied no resolution will be passed. this was made with good faith but now a days it has become a matter power and preference only. America can attack any state of the world if they think themselves in unsecured situation though that may not be measured in the proper scale of credibility. Sometimes it is heard that veto powers need to be increased but it could be rightly apprehended that will not work properly. To over come this problems United Nation has to take steps. The veto power system needs to be modified. In addition to that majority rule may be introduced and hostility among the states should be controlled with the interference of the United Nation.

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