



I Don't Make the Rules, I Just Think Them Up and Write Them Down¹ – The Paradox of Veto Powers in Resolving International Conflicts
By John Chambers

"It is important to remember that the U.N. is not just the chamber behind me. It is tens of thousands of women and men around the world – standing, delivering, [and] extending a lifeline of hope."²

“Russia Invades Ukraine”, “Kyiv Under Siege” “The Beginning of World War 3?” Horrifying headlines like this have flooded the news stream since Russia initiated a military offensive into the Ukraine on Feb 23, 2022.³ While the world had its eyes centered on Kyiv, a

¹ Clip from *South Park* season 15 ep. 5, Trey Parker & Matt Stone, Paramount Global, <https://www.youtube.com/watch?v=0VTzQ1zIFj8> (aired May 25, 2011).

² Statement by UN Secretary-General Antonio Guterres. See Michelle Nichols & Humeysa Pamuk, *As U.N. Security Council met, Russia attacked Ukraine*, REUTERS (Feb 24, 2022), <https://www.reuters.com/world/europe/un-security-council-met-russia-attacked-ukraine-2022-02-24/> [<https://perma.cc/PJC2-NECJ>] [hereinafter REUTERS 1].

³ These websites have a number of the top headlines from the day, with a healthy peppering of terms like “peril” “condemns” and other attention grabbing phrases in all of them. See *Headlines from The New York Times for*

very different battle was taking place on the diplomatic front in New York City. The UN Security Council was meeting in a last-effort attempt to defuse the mounting tensions between Russia and Ukraine.⁴ But this meeting was doomed from the start as Putin broadcasted his announcement of the invasion of eastern Ukraine just as the meeting convened.⁵

When the Russian ambassador broke the news at the meeting, the other members were shocked and horrified, and promptly condemned the invasion.⁶ The UN Secretary General said that the news was “the saddest moment” in his 5-year tenure, and implored President Putin to withdraw from the invasion “in the name of humanity.”⁷ Once a resolution to condemn the invasion was presented to the Security Council, it was immediately vetoed by the Russian UN ambassador and President of the UN Security Council, Vassily Nebenzia.⁸ The rejected draft demanded that Russia “immediately cease its use of force against Ukraine” and “immediately, completely, and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.”⁹ Even before the vote, the language and substance of this resolution was softened considerably to secure China’s abstention from the vote.¹⁰ While ultimately the effects of these revisions were inconsequential, it helps highlight a key obstacle to the efficacy of UN Security Council actions – the veto power.

The Security Council is 1 of the 6 main organs of the UN,¹¹ and made up of 15 states – 5 permanent members¹² and 10 non-permanent members that are voted in by the UN General Assembly every 2 years.¹³ As the international body committed to the maintenance of international peace and security, it has a wide range of powers at its disposal to effectuate this

Wednesday, Feb. 23, 2022, NEW YORK TIMES (Feb. 24, 2022), <https://www.nytimes.com/issue/todaysh headlines/2022/02/23/todaysh-headlines> [<https://perma.cc/6FJ7-TZC4>].

⁴ See REUTERS 1, *supra* note 2.

⁵ See *id.* The official minutes of the meeting can be found here. See U.N. SCOR, 8974d mtg., U.N. Doc. SC/14803 (Feb. 23, 2022), <https://www.un.org/press/en/2022/sc14803.doc.htm> [<https://perma.cc/9E7T-VTCQ>].

⁶ French U.N. Ambassador Nicolas de Riviere said, “This decision shows the disdain that Russia has for international law and for the United Nations.” Britain’s U.N. Ambassador Barbara Woodward described the invasion as “unprovoked and unjustified.” However, the degree of their reactions varied widely as China’s U.N. Ambassador Zhang Jun noted that “the door to a peaceful solution to the Ukraine issue is not fully shut, nor should it be.” On the other hand, Ukraine’s U.N. Ambassador Sergiy Kyslytsya told the Russian ambassador at the end of the council meeting: “There is no purgatory for war criminals. They go straight to hell.” See REUTERS 1, *supra* note 2.

⁷ *Id.*

⁸ *Id.*

⁹ The precise language of the draft can be found in the official meeting minutes. See U.N. SCOR, 8979d mtg., U.N. Doc. SC/14808 (Feb. 25, 2022), <https://www.un.org/press/en/2022/sc14808.doc.htm> [<https://perma.cc/3WFR-X54V>].

¹⁰ There were fears among Security Council members that China would also cast a veto. While their vote would be superfluous, it poses a very different diplomatic message than Russia standing alone in the support of the invasion. This exchange only underlines the significant diplomatic obstacles posed by the veto powers of permanent members. See Michelle Nichols & Humeyra Pamuk, *Russia vetoes U.N. Security action on Ukraine as China abstains*, REUTERS (Feb. 25, 2022), <https://www.reuters.com/world/russia-vetoes-un-security-action-ukraine-china-abstains-2022-02-25/> [<https://perma.cc/6F8Z-UAZK>]. [hereinafter REUTERS 2].

¹¹ U.N. Charter art. 7, ¶1.

¹² The permanent members are “the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.” *Id.* at art. 23 ¶ 1.

¹³ *Id.* at ¶ 2.

purpose.¹⁴ Despite their capacity to be influential in the resolution of international conflicts, the Security Council is helpless against the veto power vested in permanent members.¹⁵ While their resolutions are binding on all UN members¹⁶, all it takes is a veto by a permanent member to defeat a resolution and efficiently bring the entire international community to a halt.¹⁷

Russia may never be sanctioned despite the countless war crimes that have already been committed in just the first week of the conflict.¹⁸ This is true for *any* future international conflicts involving Russia. The same can be said for China, France, the United Kingdom and the United States. With this system in place, the UN effectively will never be able to sanction any permanent member for their actions in international conflicts without their permission.

While legal and political theorists alike have spent decades debating the geo-political motivations behind the Security Council's inefficacy,¹⁹ the Ukraine conflicts underlines the strong self-interest at play in these international decisions. While no one is surprised by Russia's actions, it is particularly concerning for our international community that any singular nation, must less the aggressor in an internationally condemned conflict, can exercise such influence. This inequitable distribution of power flies right in the face of the UN Charter and must be

¹⁴ "The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII." *Id.* at art. 24 ¶ 1,2. These powers include investigating disputes, applying sanctions, taking military actions and even exercising as a trustee role in strategic areas determined by the UN. *See id.*

¹⁵ The veto power is provided in the voting requirements in the UN Charter under Article 27. *See id.* at art. 27. It is described as "a special voting power" for permanent members that allows any one of the permanent members to prevent the approval of any resolution or decision decided by the 15-member Security Council. However, the language of the charter does not use such language, but instead requires "concurring votes of the permanent members" in any majority voted decision. While the charter also allows permanent members to abstain from voting, with only 15 members on the council, permanent members can still leverage influence with their affirmative votes as well. *See Voting System*, U.N. SCOR, <https://www.un.org/securitycouncil/content/voting-system> [https://perma.cc/Z8D8-LKZD].

¹⁶ *See id.* at art. 25. Considering that no analogous powers are vested in other organs of the UN, this article imbues even greater influence to Security Council positions and further exacerbates the power inequity inherent in the veto powers.

¹⁷ *See Voting System*, *supra* note 15.

¹⁸ Just the other day, the U.S. State Dept. presented a brief at the UN asking to recognize the war crimes committed by Russia in the ongoing conflict with Ukraine. The brief highlighted "numerous credible reports of indiscriminate attacks and attacks deliberately targeting civilians, as well as other atrocities," including the destruction of "apartment buildings, schools, hospitals, critical infrastructure, civilian vehicles, shopping centers, [] ambulances" and even a maternity hospital. It also reports that of March 22, more 2400 civilians have been killed in the siege of Mariupol alone. *See Press Statement*, Antony J. Blinken, Sec. of State, War Crimes by Russia's Forces in Ukraine (Mar. 23, 2022), <https://www.state.gov/war-crimes-by-russias-forces-in-ukraine/> [https://perma.cc/Z8L6-ABEB]. The UN has officially confirmed 1500 civilian casualties from other regions in the conflict and emphasizes that the actual toll is likely higher. *See Press Release*, Off. United Nations High Comm'r for Hum. Rts (OHCHR), Ukraine: civilian casualty update 23 March 2022 (Mar. 23, 2022), <https://www.ohchr.org/en/press-releases/2022/03/ukraine-civilian-casualty-update-23-march-2022#:~:text=From%204%20a.m.%20on%204,977%20killed%20and%201%2C594%20injured> [https://perma.cc/7VZY-CPG2].

¹⁹ *See Mats Berdal, The UN Security Council: Ineffective but Indispensable*, 45 SURVIVAL: GLOBAL POLITICS AND STRATEGY 7 (2003). For some different perspectives on the issue, *see also* John Van Oudenaren, *Effectiveness and Ineffectiveness of the UN Security Council in the Last Twenty Years: A US Perspective*, ISTITUTO AFFARI INTERNAZIONALI (Nov. 2009), <https://www.iai.it/sites/default/files/iai0930.pdf> [https://perma.cc/CH7U-ZX27].

resolved to ensure for smoother resolution of conflicts in the future.²⁰ However, since any amendments to the charter requires unanimous approval by all permanent members,²¹ it unlikely that any serious limits to the veto power will ever be effectuated.

²⁰ The purposes and principles of the United Nations include a commitment to “achieve international co-operation in solving international problems,” and “harmoniz[e] the actions of nations in the attainment of these common ends.” See U.N. Charter art. 1, *supra* note 11.

²¹ See *id.* at art. 108. The charter requires that any amendments are adopted and ratified by two thirds of the Members of the United Nations, including *all* the permanent members of the Security Council.