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FACULTY OF LAW, UNIVERSITY OF LJUBLJANA

## United Nations **SECURITY COUNCIL**

(High School)

### **STUDY GUIDE**

Prepared by Metka Vodušek and Gal Gabrijel Vilfan

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Faculty of Law, University of Ljubljana

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TOPIC ONE

**ADDRESSING THE SITUATION IN UKRAINE**

*By Gal Gabrijel Vilfan*

## I. INTRODUCTION

The aim of this study guide is to introduce the topics which shall be discussed at the MUNLawS 2022 simulation of the United Nations Security Council (UNSC). By providing essential background information to the delegates, the following text was written as an overview of or rather an introduction to the topics titled *Addressing the Situation in Ukraine* and *Reform of the UN Security Council*. The participants are, however, urged to further research and prepare their statements from the viewpoint of the country they represent. In addition, broader knowledge attributes greatly to a fruitful (and interesting) debate. At the end of the Study Guide you will find a few recommended sources, which you should treat as such.

## II. HISTORIC OVERVIEW

The current full scale Russian invasion of Ukraine is an escalation of the years long conflict between the two states, reaching back to February of 2014 as the Maidan Revolution swept across Ukraine, sparking a series of events, most notably the Russian annexation of Crimea and the long lasting (mostly) internal military clashes between separatist and the Ukrainian forces across the Donbass.<sup>1</sup>

Yet to understand the reasons for the war and the initial conflict, one must both delve into recent history and examine the events leading up to the ongoing war. For a simple geopolitical answer concerning Russia's waning grip on the region would be too reductionist.

Let us first examine the announcement, or rather an ultimatum Putin made at the Geneva Summit, right before the war began, in which he posed three demands to the West, lest a military conflict would ensue.<sup>2</sup> First demand being that NATO should halt its expansion,

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<sup>1</sup> Kurko, Andrey. »Ukraine's Revolution: Making sense of a year of chaos« *BBC News*, November 21, 2014, <https://www.bbc.com/news/world-europe-30131108> (Accessed July 27, 2022).

<sup>2</sup> Gretskiy, Igor. »Putin's Ultimatum : High Stakes Poker, or a Chess Gambit?« *ICDS*, February 15, 2022, <https://icds.ee/en/putins-ultimatum-a-high-state-poker-or-a-chess-gambit/> (Accessed July 27, 2022).

which the Russian Federation deems a direct threat to their sovereignty, as NATO was founded to combat and defend against the now already dissolved USSR, and since further existence just antagonises the security of the Russian Federation. Second demand was aimed at a return to status quo of the year 1997, regarding the military borders of NATO and its allies, alongside with the withdrawal of their troops from Eastern Europe. Third demand was aimed directly at the United States of America, who would have had to rescind the vow of the Article 5 of the NATO charter, that they made to their Eastern European allies.

It is clear to anyone with any political knowledge, that the demands made by the Russian Federation were far too ambitious and unrealistic to satisfy and were, in short, mere excuses for what was to follow. Yet the escalation cannot be pinned on the Russian Federation exclusively. If one were to observe the numerous warnings and the western policies made in direct negligence of the former, the provocations of the West become hard to ignore.<sup>3</sup> Thus, proving once again the fact that in politics it takes (at least) two to tango. The issue, however, is that at the end of the day, attributing blame doesn't prevent wars or save lives, it is but a means towards achieving some sort of justice. Which is why we are gathered here today. But enough of that for the moment.

Let us continue with addressing the speech accompanying the commencement of the *special military operation* given by the Russian president Vladimir Putin on the 24<sup>th</sup> of February 2022. He proclaimed that Russia's advances into the Ukrainian territory are aimed at protecting the "people bullied and subjected to genocide by the Kyiv regime for the past eight years." And that he aims "to demilitarise the region and de-nazify Ukraine, bringing justice to those who've committed crimes towards civilians, including Russian citizens..."<sup>4</sup> In analysing such claims, we soon notice a commonality of narrative, a strategy, if you will, which Russia had previously rolled out in the invasion of Georgia<sup>5</sup> back in 2008, which also

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<sup>3</sup> Galen Carpenter, Ted. "Four Western Provocations that Led to U.S.-Russia Crisis Today" CATO Institute, December 28, 2021 <https://www.cato.org/commentary/four-western-provocations-led-us-russia-crisis-today> (Accessed July 27, 2022).

<sup>4</sup> Ensor, Josie. "Full Report: Vladimir Putin launches 'special military operation' to 'de-Nazify' Ukraine" The Telegraph, February 24, 2022 <https://www.telegraph.co.uk/world-news/2022/02/24/vladimir-putin-declares-start-attack-ukraine-explosions-heard/> (Accessed July 27, 2022).

<sup>5</sup> Kingsley, Patrick. »Ukraine reminds Georgia of its own war with Russia. That creates a Dilemma« *New York Times*, March 19, 2022, <https://www.nytimes.com/2022/03/19/world/europe/ukraine-georgia-war.html>, (Accessed July 27, 2022).

began under the guise of protecting the Russian separatists, who fought for independence of the self-proclaimed republics of South Ossetia and Abkhazia.

One can observe stark similarities between the two, since Russia justified the invasion of Ukraine by “protecting the people of the Donetsk and Luhansk People’s Republics, subjected to genocide by the Ukrainian regime.”

However, for one to understand these separatist’s movements in the first place and why Russia has a horse in the race when it comes to them, one must look back into the days of the USSR.

One of Stalin’s grand plans to subjugate the people of Ukraine and at the same time jumpstart the industrial revolution in the Soviet Union, resulted in a man-made famine in the early thirties of the last century, known also as the Holodomor.<sup>6</sup> State sponsored raids brought the Ukrainian people to their knees as millions succumbed to famine and millions more either fled or were weakened both in body and spirit. And so it happens, that afterwards, Stalin repopulated the desolate areas with Russian comrades, and the regions today comprising Ukraine became less and less homogenous regarding nationality, especially in the East.

The divide and the polarisation were not yet as pronounced in 1991 as during a later period when a referendum on independence was held in Ukraine - out of 84% voters, 92% were in favour of independence.<sup>7</sup> A testament to the fact that nationality was not yet an issue. However, in time, as Ukraine was strengthening ties with the West, the divide of the peoples grew, both on its own and as a result of propaganda.

The straw that broke the camel’s back, however, was Ukrainian President Viktor Yanukovich’s withdrawal from an EU association agreement which would have brought

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<sup>6</sup> United Nations, Meetings Coverage and Press Release, *Press Conference by Permanent Representative of Ukraine of Famine of 1932-1933*, 30 Oct 2008 [https://press.un.org/en/2008/081030\\_Ukraine.doc.htm](https://press.un.org/en/2008/081030_Ukraine.doc.htm), (Accessed July 27, 2022).

<sup>7</sup> Peter J. Potinchny, *The Referendum and Presidential Elections in Ukraine*, *Canadian Slavonic Papers* 33, no.2 (1991): 123-38.

Ukraine further away from economic dependence on the Russian Federation and towards a partnership with the EU. What followed was the revolt of the people which cascaded into the Revolution of Dignity (also Maidan Revolution) which began on the 14<sup>th</sup> of February 2014 and lasted for five days, overseeing the deposition of the pro-Russian elected President Yanukovich and the overthrowal of the Ukrainian government.<sup>8</sup>

The chaos that followed escalated as the largely Russian populated East and South of Ukraine, where the political support of Yanukovich was the strongest, were cast into flames with the anti-Kyiv, pro-Russian agenda. The situation took a turn for the worse when the deposed President asked Russia directly, to help him reclaim his righteous place on the presidential seat.<sup>9</sup>

Russia seized the opportunity and instead intervened militarily, annexing Crimea, thanks to the already operational Sevastopol Naval base, which they leased from Ukraine since the fall of the USSR. Alongside with allegedly sponsoring the creation of self-proclaimed states in Donetsk and Luhansk.<sup>10</sup>

The skirmishes in the Donbass continued for the next eight years, until on the 24<sup>th</sup> of February, Russia launched a full-scale invasion into the Ukrainian heartland.<sup>11</sup>

The situation today is dire, and ultimately, it does not matter what the pretext for war was. What matters, however, are the people of Ukraine. A nation wrapped in flames, engulfed in greed by those few who wish to wage war for their own profit, caring little or not at all for what desolation their actions doth bring.

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<sup>8</sup> Andrew Higgins and Adrew E. Kramer, Ukraine Leader Was Defeated Even Before He Was Ousted, *The New York Times*, January 3, 2015, <https://www.nytimes.com/2015/01/04/world/europe/ukraine-leader-was-defeated-even-before-he-was-ousted.html>, (accessed August 1, 2022).

<sup>9</sup> Ibid.

<sup>10</sup> Leonid Ragozin, Annexation of Crimea: A masterclass in political manipulation, *Aljazeera*, March 16, 2019, <https://www.aljazeera.com/opinions/2019/3/16/annexation-of-crimea-a-masterclass-in-political-manipulation>, (accessed August 3, 2022).

<sup>11</sup> Paul Lirby, Why has Russia invaded Ukraibe and what does Pitin want?, *BBC News*, May 9, 2022, <https://www.bbc.com/news/world-europe-56720589>, (accessed July 29, 2022).



### III. THE CURRENT SITUATION

Although the leading up to the war might had been complicated and divisive, the Russian response (invasion) and the ever-growing list of human rights and international law violations are utterly deplorable and should seize immediately.

The UN Security Council had been so far very active concerning the Russo-Ukrainian war, but as a 'no' vote from any one of the five permanent members of the Council (one of which obviously being the Russian Federation itself) stops action on any measure put before it, its hands are often tied.<sup>12</sup>

The day after the invasion began, Russia vetoed a UN Security Council resolution that would have demanded Moscow's immediate halt of the attack on Ukraine and withdrawal of all troops, which several Council members said was deplorable, but inevitable.<sup>13</sup> Out of the fifteen members, eleven voted in favour of the call for peace, while three abstained, proving that a geopolitical climate is at the moment both polarised and due to variables, hard to fully unravel.

However, in opposition of the Russian spokesperson, the US Ambassador expressed the predominant opinion on the matter with the following statement: *»You can veto this resolution, but you cannot veto our voices; You cannot veto the truth; You cannot veto our principles; You cannot veto the Ukrainian people; cannot veto the UN Charter...and you will not veto accountability.«* All work of the Council ever since to this day had been done in the same firm and unyielding spirit, upholding the code of the Charter of the United Nations. But sadly, to little avail.<sup>14</sup>

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<sup>12</sup> See Article 27 of UN Charter.

<sup>13</sup> United Nations, Global perspective Human stories, *Russia blocks Security Council action on Ukraine*, Feb 26, 2022, <https://news.un.org/en/story/2022/02/1112802>.

<sup>14</sup> Ibid.

By the members of the Council, the war initiated by the Russian Federation had been called voluntary, unprovoked, unjustified and unconscionable<sup>15</sup> and in disjunction with the Article 2, paragraph 4 of the UN Charter and the terms of General Assembly resolution 3314 (XXIX). There had been calls for putting the responsible on trial and for strict and immediate international sanctions to penalise and disinterest the Russian Federation's pursuit of conflict on foreign soil.

Among the addressed issues were, for example, an addressal of an alarming report, that the fires set by the Russian troops had rampaged dangerously close to a nuclear facility in Zaporizhzhya, and even more recent developments (5th of August) in which the nuclear plant was subjected to shelling, resulting in several explosions near the electrical switchboard, and causing a power shutdown. One reactor unit was disconnected from the electrical grid, triggering its emergency protection system and setting generators into operation to ensure power supply. There was also shelling in a nitrogen-oxygen station. While firefighters extinguished the blaze, repairs must be assessed and evaluated, said the Director General of the International Atomic Energy Agency (IAEA) Rafael Mariano Grossi.<sup>16</sup>

This whole situation could have, with little misfortune, caused a massive number of deaths and devastations beyond imagination, rivalling that of the Chernobyl disaster of 1986. At this point it is almost redundant to point out that attacks on nuclear power facilities are in stark opposition to international humanitarian law.<sup>17</sup>

More on the matter can be found in the article 56 of *the Protocol Additional to the Geneva Conventions of 12 August 1949*, and in *the Protection of Victims of International Armed*

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<sup>15</sup> U.N. SC, 77<sup>th</sup> Sess., 8979 mtg., U.N. Doc. S/PV.8979 (Feb. 25, 2022), available at <https://research.un.org/en/docs/sc/quick/meetings/2022>.

<sup>16</sup> "Russian nuclear terror": Ukraine atomic plant attacked again, Aljazeera, August 7, 2022, <https://www.aljazeera.com/news/2022/8/7/fears-of-disaster-after-ukrainian-nuclear-plant-struck-again>, (accessed August 7, 2022).

<sup>17</sup> UN political chief says attacks on nuclear power plants contrary to international law, *Reuters*, March 5, 2022, <https://www.reuters.com/world/un-political-chief-says-attacks-nuclear-power-plants-contrary-international-law-2022-03-04/>, (accessed, August 2, 2022).

*Conflicts*,<sup>18</sup> which states that: “Works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack, even where these objects are military objectives, if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population.”

Another grave repercussion of the war is the situation women and children amidst the conflict and beyond are facing during these dark days. Only as of the third of June, the Office of the United Nations High Commissioner for Human Rights (OHCHR) had received reports of 124 alleged conflict-related sexual acts across Ukraine — mostly against women and girls — and a national hotline had received reports of crimes ranging from gang rape to coercion to watch an act of sexual violence committed against a partner or a child.<sup>19</sup>

Furthermore, the Co-Founder and Director of Strategic Development for the Ukrainian Women’s Fund, Natalia Karbowska mentioned in the statement that the Russian Federation is using sexual violence and rape as instruments of terror to control civilians.<sup>20</sup> And as the war continues, the situation is bound to only get worse, so the international community should be called upon to provide a more permanent housing and work to mitigate the horrific consequences of the lack thereof.

One of the political instruments in the hands of the UN in the battle against terror on the matter at hand would be the UNSC Resolution 1325 (2000), which was supported by all the SC members at the time and is therefore binding and applicable to the situation at hand. Yet the problem stands that the tools, instruments and practical solutions for the implementation and realisation of the vows made, had not as of yet come to fruition for the women in crisis. Therefore, steps for ensuring the protection and support should be made

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<sup>18</sup> International Committee of the Red Cross (ICRC), Protocol Additional to the Geneva Convention of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol II) 8 June 1997, available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-additional-geneva-conventions-12-august-1949-and-0>

<sup>19</sup> United Nations, Department of Public Information, *Sexual Violence ‘most hidden crime’ Being Committed against Ukrainians, Civil Society Representative Tells Security Council*, SC/14926, 6 Jun 2022 <https://press.un.org/en/2022/sc14926.doc.htm>.

<sup>20</sup> Ibid.

by the international community as well as concessions with the Russian Federation to establish civilian humanitarian corridors.

Moving on to another aspect of the crisis: the staggering number of civilian casualties as a result of the indiscriminate Russian terror tactics. Calling to mind just a few: the strike on a shopping mall in Kremenchuk on the 27th of June and the hits on a residential building in Kyiv, and a yard of a kindergarten, the previous day.<sup>21</sup>

The Ukrainian president Volodymyr Zelenskyy had pleaded in one of the Council's meetings that the United Nations should send a Special Representative of the Secretary-General, or an evidentiary commission to independently confirm the identify of those responsible and pointed out that although the Charter of the United Nations states that any member that violates its principles may be expelled, the Russian Federation is still not held to account. He further expressed disgust at the fact that a country responsible for such unprovoked atrocities does not have the right to discuss and vote on the war in Ukraine, urging Member States to strip it of its powers.<sup>22</sup>

On the other hand though, the Russian Federation is defending their political integrity with the allegations ranging from pointing out the inconsistencies in the media coverage, false reports and footage as well as Kievan regime's deliberate storing of weapons next to residential areas, thus posing a threat to their own civilians and using them as hostages.<sup>23</sup> But apart from the internal and subsequent displacement-related issues, the UN also recognises the snowball effect of the war in Ukraine on to the global scale. Particularly regarding the export of grains to the countries largely reliant on those very imports. Since the war began and the export lines dried up, numerous countries which considered Ukrainian grain as their lifeline, experienced soaring food prices and the general lack of

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<sup>21</sup> Ukraine: Dozens dead and injured as UN condemns »utterly deplorable« shopping centre attack, *UN News*, June 27, 2022, <https://news.un.org/en/story/2022/06/1121462>, (accessed July 28, 2022).

<sup>22</sup> United Nations, Department of Public information, *Amid Probable Atrocity Crimes, Ukraine Suffering Largest Human Displacement Crisis in World Today, Political Affairs Chief Tells Security Council*, SC/14951, Jun 28, 2022, <https://press.un.org/en/2022/sc14951.doc.htm>.

<sup>23</sup> David roger Marples, Vladimir Putin points to history to justify his Ukraine invasion, regardless of reality, *The Conversation*, March 7, 2022, <https://theconversation.com/vladimir-putin-points-to-history-to-justify-his-ukraine-invasion-regardless-of-reality-177882>, (accessed August 1, 2022).

supply. Situation made even worse by the fact that the world is experiencing droughts and the yields are already lower than expected.<sup>24</sup>

After months of negotiation UN succeeded in brokering the deal between the two warring states to open the Ukrainian ports for beforementioned exports only. Alongside that they managed to reach an understanding with the Russian Federation on the issue of reopening trade to allow Russian food products and fertilizers into the global market, which was running fast out of supplies.<sup>25</sup>

Sadly, the fact remains that the situation on the ground remains dire. Namely, shortly after the deal was brokered, the Ukrainian port of Odessa was struck by the Russian forces.<sup>26</sup> As deducible from the said, there is much more to be addressed, and even more to be solved or at least mitigated. How to resolve the most horrific situation in a least destructive manner, to end up with an outcome of concessions and lasting peace? If it is even possible.

#### IV. ISSUES TO ADDRESS

Among the topics to address should be in the first place ***how to end the conflict as soon as possible and in a way, that neither of the nations is obliterated and to do our best to prevent further conflict in perpetuity.*** If not, then at least to provide humanitarian support to those in need, taking care of the refugees, who are fleeing the areas afflicted by wars and to continue sanctioning the aggressor.

***Secondly bringing to justice those who've committed war crimes and or other international crimes.*** Note that the Russian Federation firstly did not ratify the treaty of the Rome statute (in fact, neither was it ratified by Ukraine) and secondly, it formally

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<sup>24</sup> William Horobin, Russia – Ukraine war threatens prolonged effect on global economy, *Aljazeera*, June 8, 2022, <https://www.aljazeera.com/economy/2022/6/8/russia-ukraine-war-threatens-long-lasting-impact-on-global-eco>, (accessed August 3, 2022).

<sup>25</sup> United Nations, Department of Public Information, *New Deal to Resume Grain Exports through Ukrainian Ports 'Beacon of Hope' for Easing Global Food Crisis, United Nations Political Affairs Chief Tells Security Council, SC/14990*, 29 Jul 2022 (2022 Jul 29) <https://press.un.org/en/2022/sc14990.doc.htm>

<sup>26</sup> Ellen Francis, Kareem Fahim and Clarie Parker, Russia attacks Odessa port a day after signing grain deal, Ukraine Says, *The Washington Post*, July 23, 2022, <https://www.washingtonpost.com/world/2022/07/23/russian-strike-odessa-port-ukraine-grain/>, (accessed August 1, 2022).

withdrew its signature from the ICC statute entirely in the year 2016, however, that does not take away the possibility for the case to be referred to the ICC. However, the most horrific alleged acts of genocide, which according to various sources had been and are being perpetrated on both sides must be nonetheless rectified. Running the risk of feeding you ideas, we would like to inform you that at the precipice of the last century, special Tribunals such as the ICTY and ICTR were established for handling such set of circumstances individually.

Among the reports were also torture, rape, sterilisation, extrajudicial killings, usage of unsanctioned weapons such as aerial shrapnel shells which affect a large area and are thus likely to harm civilians (thus being banned by the international community even in war time), attacking crucial infrastructure, harming the civilian population (e.g., hospitals, power grids, the ability to provide food for its people...) and many more.

Finally, but not limited to, ***the Security Council must address the question of legitimacy of the self-proclaimed Donetsk and Luhansk People's Republic in the aftermath of the conflict***, as well as perhaps even the question of Crimea.

## **V. CONCLUSION**

As illustrated, there are many issues surrounding the Ukrainian question, and the delegates' task will be to familiarise themselves with the nature of the UN's treaties, conventions and resolutions, their applicability, and ways of finding democratic solutions to complex problems and questions that the topic consists of and those which it poses.

Your task will be to find best ways to both condemn (or not) the Russian aggression and to find solutions to the problems, which had arisen and perhaps will arise along the way, following the rules of the democratic process. Facing this task, you'll find great comfort in the documents and perspectives of the international law, past conflict resolutions and most importantly in familiarising yourself diligently with the topic on the agenda.

Examine your countries' positions on said issues and prepare to the extent that you're able to, to defend positions, with which you might personally disagree with.

Keep in mind also, that getting yourself familiarized with others' perspectives and standpoints will both empower your arguments, as well as create some reservations that were not as apparent before.

To what degree you will have to compromise within the decision process is up to many factors, remember that humans are not perfect and that even the democratic process could get corrupted with verbiage and *ad hominem* attacks, so we urge you to stay on the topic and work towards the well-being and benefit of all peoples, for that is the only way to justly uphold the Council's authority. Be prepared for anything.



TOPIC TWO

**REFORM OF THE UN SECURITY COUNCIL?**

*By Metka Vodušek*



## I. INTRODUCTION

United Nations Security Council (UNSC) was formed in 1946 alongside other bodies under United Nations following the end of World War II, with the intention of maintaining international peace and security. The Security Council is the only UN body that has the power to issue Resolutions which are legally binding for the Member States (MS). Its primary goals are maintaining international peace and security. It does so by taking the lead in determining the existence of a threat to the peace or an act of aggression, calling upon the parties to a dispute to settle it by peaceful means and recommends methods of adjustment or terms of settlement. In some cases, it can resort to imposing sanctions or even authorizing the use of force to maintain or restore international peace and security.<sup>27</sup>

Since the creation of the Council, five countries have permanent seats: The United States of America, The United Kingdom, France, China and Russia. They were given such positions as the “winners” of the World War II. The other ten members are elected every two years on regional basis. Current non-permanent members are: Albania, Brazil, Gabon, Ghana, India, Ireland, Kenya, Mexico, Norway, United Arab Emirates.<sup>28</sup>

The most important competence that the permanent members have is the so-called veto power. Veto power can be applied to any substantive vote while it cannot be applied to procedural votes.<sup>29</sup> While being the most important privilege of permanent members it is also the most controversial one. While the supporters claim it is vital for international stability, a check against military intervention and a safeguard against US domination, the critics are saying it is the most undemocratic feature of the UN as well as the main cause of inaction on war crimes and crimes against humanity.<sup>30</sup>

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<sup>27</sup> See Chapter V of UN Charter.

<sup>28</sup> “UN elects five new members to serve on the Security Council”, Jun. 11 2021, <https://news.un.org/en/story/2021/06/1093882> (accessed July 26, 2022).

<sup>29</sup> See Article 27 of UN Charter

<sup>30</sup> Sara Davies, Alex Bellamy, « Don't be too quick to condemn the UN Security Council power of veto », *The Conversation*, Aug. 14 2014, <https://theconversation.com/dont-be-too-quick-to-condemn-the-un-security-council-power-of-veto-29980> (accessed July 26, 2022)

Ideas of reforming the UN Security Council have been present for quite some time now, however, there does not seem to be one clear way to go about it. There are a lot of different ideas on how reformed Council shall look like and who shall be given more power. The biggest criticism nearly all agree on, however, is that the current composition of quite possibly the most important organ in the world does not accurately represent the current balance of power.<sup>31</sup>

Recent developments regarding Russia's invasion of Ukraine opened the question about the effectiveness of the body as well as its legitimacy. In the aftermath of initial shock, landmark resolution was adopted, holding permanent members accountable for the use of their veto.<sup>32</sup>

## II. REASONS FOR REFORM

The biggest reason the reform is being proposed is the fact that the Security Council remained virtually unchanged since its beginning. The only reform happened in 1965 (see below). Since then, a lot has changed in terms of the world order and 142 new countries joined the United Nations, making the imbalance between the number of seats in the Security Council and in the General Assembly more and more noticeable.<sup>33</sup> The strongest critique is rising from the fact Africa, Asia, Latin America and the Caribbean do not have accurate representation. Africa, Latin America and Caribbean have no permanent seats.<sup>34</sup>

According to the article 23 of The UN Charter, when assigning permanent seats, the contribution of Members to the maintenance of international peace and security shall be taken into consideration.<sup>35</sup> As shown above, today's world is much different from the one in 1945 and in order for the Council to be in line with the Article today, reform is probably

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<sup>31</sup> Nancy Soderberg, "Time to Bring the United Nations Security Council into the 21<sup>st</sup> Century", *Georgetown Journal of International Affairs* Vol. 16, No. 2, (2015): 39-46.

<sup>32</sup> See the UN General Assembly Resolution A/77/L.52.

<sup>33</sup> Yehuda Z. Blum, "Proposals for UN Security Council Reform", *The American Journal of International Law*, Vol. 99, no. 3 (2005): 632-649.

<sup>34</sup> Blum, "Proposals for UN Security Council Reform", 632-649.

<sup>35</sup> See the 1<sup>st</sup> paragraph of the UN Charter.

necessary. As highlighted by 75<sup>th</sup> President of UN General Assembly, Volkan Bozkir, it is crucial for the Security Council to “*reflect the realities of the 21<sup>st</sup> century*”.<sup>36</sup> Firstly, the UN membership grew tremendously, especially from 1990 onwards with new countries joining after the breakup of former Yugoslavia and the Soviet Union. Secondly, it is important to note the qualitative changes. Japan and Germany, for example, have been contributing a notable part to the UN budget and are also no longer seen as a threat to international peace as was the case after the second world war. Similarly, India and Brazil have been not only big contributors but now also have quite large populations. On the other hand, France and the United Kingdom are no longer seen as superpowers like they were in 1945.<sup>37</sup> Nevertheless, a clear explanation of how the powers have actually changed and who is therefore deserved of a seat, seems to elude the authors.

Apart from the fact that it does not accurately represent the current power balance in the world, the second biggest reason for the reform is the question of the veto power. As mentioned above, critics see this privilege of permanent members as the reason UN as a whole is often ineffective when tackling crises, especially the use of armed force in conflicts. The most noticeable examples are the US constantly vetoing resolutions regarding Israel<sup>38</sup> and Russia vetoing the resolution regarding the annexation of Crimea.<sup>39</sup> The permanent members oftentimes use their power to protect their allies. Not only the actual usage of veto power, the sole threat of using it, the so called “pocket” veto had also prevented many interventions, for example in the case of the Rwandan genocide, the Kosovo ethnic cleansing and the Darfur genocide.<sup>40</sup>

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<sup>36</sup> “Security Council reforms must reflect 21<sup>st</sup> century realities, says UN Assembly President”, *UN News*, Jan 26 2021, <https://news.un.org/en/story/2021/01/1082962> (accessed August 1, 2022).

<sup>37</sup> Blum, “Proposals for UN Security Council Reform”, 632-649. [https://www.jstor.org/stable/1602295?seq=10#metadata\\_info\\_tab\\_contents](https://www.jstor.org/stable/1602295?seq=10#metadata_info_tab_contents) (accessed August 1, 2022).

<sup>38</sup> “United States vetoes Security Council resolution on Israeli settlements”, *UN News*, Feb 18 2011, <https://news.un.org/en/story/2011/02/367082-united-states-vetoes-security-council-resolution-israeli-settlements> (accessed August 1, 2022)

<sup>39</sup> “UN Security Council action on Crimea referendum blocked”, *UN News*, Mar 15 2014, <https://news.un.org/en/story/2014/03/464002-un-security-council-action-crimea-referendum-blocked> (accessed August 1, 2022).

<sup>40</sup> Emma McClean, “Hard Evidence: who uses veto in the UN Security Council most often – and for what?”, *The Conversation*, Jul 31, 2014, <https://theconversation.com/hard-evidence-who-uses-veto-in-the-un-security-council-most-often-and-for-what-29907>, (accessed August 1, 2022).

On the other hand, supporters of the institute are claiming it is vital for maintaining peace and security since the two are only possible when all the greatest powers are in the agreement. At the San Francisco conference in 1945 veto power was defended with the following arguments: it is a reflection of political reality, the UN would break down if it attempted to carry out enforcement actions against a permanent member, that it is preventing decisions that could harm the relations between permanent members.<sup>41</sup>

### **III. PREVIOUS DEVELOPMENTS**

#### 1965 Reform

The only reform that happened up to date was the reform in 1965. The number of non-permanent members increased from six to ten. The reform happened after a huge increase in UN membership and the process of decolonisation. Even that reform did not happen smoothly, as one permanent member voted against it while two sustained.<sup>42</sup>

#### 48/26 1993 Resolution

The UN Resolution created the Open-Ended Working Group (OEWG) on Security Council reform, emphasizing the need to review membership of the SC.<sup>43</sup> The group was established to consider all aspects of the question of increased membership of the Council as well as other, Council-related questions.

The final report was issued in 2009 at the 63rd session. Even though the deliberations were rather long, no firm conclusions were made. Nevertheless, the general principles for further negotiations were established, for example: respecting the sovereign equality, ensuring equitable geographical representation, taking into account historical underrepresentation of some regions etc.<sup>44</sup>

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<sup>41</sup> Peter Nadin, "United Nations Security Council Reform", *Our World*, May 1, 2014, <https://ourworld.unu.edu/en/united-nations-security-council-reform>, (accessed August 1, 2022).

<sup>42</sup> See the UN General Assembly Resolution A 1991.

<sup>43</sup> See the UN General Assembly Resolution 48/26 1993.

<sup>44</sup> See the Report of the OEWG A/63/47.

### The 2005 Annan Plan

In 2005 Kofi Annan, who at the time served as UN Secretary-General, presented his plan for the United Nations reform in his report called “In Larger Freedom: towards development, security and human rights for all.” Part of the report also included ideas to reform the Security Council. He proposed two different plans, Plan A and Plan B.

Plan A called for six new permanent members and three new non-permanent members, for a total of twenty-four seats.

Plan B called for the creation of eight new seats but introducing new kind of membership, the so called “semi-permanent” membership. Each mandate would last four years and be subjected to renewal.<sup>45</sup>

### Intergovernmental negotiations

In 2007, the idea of intergovernmental negotiations was successfully introduced. The Decision 62/557 opened intergovernmental negotiations and laid out five key issues: categories of membership, question of veto, regional representation, size of an enlarged Council and working methods, relationship between the Council and the General Assembly.<sup>46</sup>

In 2012, Draft Resolution A/66/L.42 was proposed in which sponsors are standing for, amongst others, enlargement of accountability, improving transparency, refraining from using veto power when actions are aimed at preventing or ending genocide, war crimes or crimes against humanity.<sup>47</sup>

Numerous meetings were held after that, however a concrete solution is still nowhere to be seen. For the reform to be passed, at least 2/3 of the members of the General Assembly must vote in favour of the reform as well as it needs to be ratified by at least 2/3 of the members of the Security Council, including all five permanent members.<sup>48</sup>

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<sup>45</sup> Kofi Annan, “In Larger Freedom: Decision time at the UN”, *UN News*, Apr 25 2005, ["In Larger Freedom": Decision Time at the UN | United Nations Secretary-General](#) (accessed July 25, 2022).

<sup>46</sup> See the UN General Assembly Decision 62/557.

<sup>47</sup> See Draft Resolution A/66/L.42.

<sup>48</sup> See Article 106 of UN Charter.

#### **IV. WHO WANTS THE REFORM AND WHAT ARE THEY DEMANDING?**

Over the years, different groups have formed demanding the changes in the Security Council. The most prevalent being: G4, the African Union, CARICOM, L69, the Arab League and UFC.

##### Group of Four (G4)

The Group consists of Brazil, Germany, India and Japan and was established in 2004. The group is in favour of adding 6 permanent seats, two to Africa, two to Asia-Pacific, one to Latin America and Caribbean and one to Western Europe. They wish to add four or five non-permanent seats, one or two to Africa, one to Asia-Pacific, one to Eastern Europe and one to the Caribbean. They do not wish to make any changes to the exercising of the veto power in the near future.

They wish to reform the Council so it could be more legitimate, effective and representative by reflecting the reality of contemporary world as stated in their joint press statement. They support each other's candidatures for a new permanent seat.<sup>49</sup>

##### The African Union (AU)

The African Union is regional organization and it consist out of 54 African countries. They also wish to add six permanent seats, same as G4. They also share the idea about non-permanent seats: they wish to add 5 seats, two to Africa, one to Asia-Pacific, one to Eastern Europe and one to Latin America and the Caribbean. When it comes to veto power, AU is in favour of abolishing it. If not, it shall be extended to all the permanent members, including the new ones.

African countries wish to have stringer representation in the Council and they see current allocation as unfair. With the reform, aggression against Africa would be prevented, they stated. Countries united in AU have reached an agreement in 2005 known as “*Ezulwini*

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<sup>49</sup> Stefan Talmon, “UN Security Council reform: a story of growing German frustration”, *German Practice in International Law*, Sept. 30 2021.

*Consensus*,” where they also agreed the African Union would decide which countries would get the seats.<sup>50</sup>

#### The Caribbean Community (CARICOM)

CARICOM consists of 14 countries in the Caribbean area. Demands regarding the permanent seats are the same as with the previous two groups. When it comes to non-permanent members, they wish to add 6 seats: two to Africa, one to Asia-Pacific, one to Eastern Europe, one to Latin America and the Caribbean and one to Small Island Developing States. The group is, like the African Union, in favour of abolishing the veto power and furthermore trying to limit its use.<sup>51</sup>

#### L.69 (Group of Developing Countries)

L.69 is a group of developing countries from Africa, Latin America, the Caribbean, Asia and the Pacific. They wish to add 6 permanent seats to the Security Council in the same manner as previously mentioned groups. Same as CARICOM, they wish to add six non-permanent seats as well with the same arrangement as described above. The group is also in favour of abolishing the veto power and bring the usage of it to the minimum.<sup>52</sup>

#### Uniting for Consensus

The group consists primarily of regional rivals of G4 members such as Italy, the Republic of Korea, Mexico, ... They wish to keep status quo regarding permanent seats and rather add 11 non-permanent members to the Council. They also wish to create a new category of semi-permanent seats with longer terms (closest to Annan’s Plan B). In regards to the veto power they are open to considerations on how to best limit its use.<sup>53</sup>

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<sup>50</sup> Rodney Muhumuza, “Africa renews to push for favourable UN Security Council reforms”, *AP News*, Jan. 20 2022, [Africa renews push for favorable UN Security Council reforms | AP News](#) (accessed August 1, 2022).

<sup>51</sup> Bibi van Ginkel, Rosa Dinnissen, “Setting a Progressive United Nations Peace and Security Agenda: Searching for New Narratives”, *Clingendael Institute* (2014): 9-13.

<sup>52</sup> George Chimdi Mbara, Nirmala Gopal, Stanley Ehiane, Hosea Olayiwola Patrick, “Re-evaluating the African Union’s Ezulwini Consensus in the Reform of the UN Security Council”, *Journal of African Studies*, Vol. 10, no. 1 (2021): 53-70.

<sup>53</sup> van Ginkel, Dinnissen, “Setting a Progressive United Nations Peace and Security Agenda: Searching for New Narratives”, 9-13.

## V. P5 MEMEBERS' THOUGHTS

### China

China had benefited greatly due to their permanent position in the Security Council to further its own interest or to veto unfavourable decisions, for example resolutions regarding Taiwan, Xinjiang and Hong Kong. It is for that reason China is does not look most favourably to the reform, consequently delaying intergovernmental negotiations processes. One of the main arguments coming from the Chinese side is that countries have not yet agreed on how big the expansion should be and whether new members should be given veto power.<sup>54</sup>

### Russia

Russia is generally speaking in favour of the reform. They see the need to reform the Council deriving especially from the fact that the United Nations as such expanded enormously since its beginnings. Russian authorities also believe that developing countries are in the right in regard to demanding more representation. Russia also supports India in their candidacy. However, giving away veto power is not an option for Russia.<sup>55</sup>

### The United Kingdom and France

Old European powers hold similar views regarding the reform. In 2008 the countries issued a joint Declaration in which they expressed their support for the candidacy of Germany, Brazil, India and Japan as well as permanent representation for Africa in the Council.<sup>56</sup> France is also in favour of limiting the veto power in cases of mass atrocities. In September 2015, France issued an Initiative in regard to limiting veto power. It has since gained the support of 105 additional countries.<sup>57</sup>

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<sup>54</sup> Manik Mehta, "Calls for UNSC reform and China's position", *Daily Sabah*, Dec 9 2020, [Calls for UNSC reform and China's position | Opinion \(dailysabah.com\)](https://dailysabah.com/opinion/calls-for-UNSC-reform-and-china-s-position) (accessed August 2, 2022).

<sup>55</sup> Elena Teslova, "Russia endorses idea of reforming UN Security Council", *Anadolu Agency*, Oct 19 2021, [Russia endorses idea of reforming UN Security Council \(aa.com.tr\)](https://www.aa.com.tr/en/russia-endorses-idea-of-reforming-un-security-council) (accessed August 2, 2022).

<sup>56</sup> See Joint UK-France Summit Declaration from 27 March 2008.

<sup>57</sup> See Political statement on the Suspension of the Veto in Case of Mass Atrocities.



## The United States of America

The US supports, in some capacity, the reform of the Security Council. Over the years and different administrations, Japan, India and Germany got the US' support for the permanent seat. However, the US is not most keen on a reform since the *status quo* is rather comfortable for them. The analytics believe the solution US should support is the one where semi-permanent seats are added to the table, since it would leave the veto power untouched.<sup>58</sup>

## **VI. ISSUES TO ADDRESS**

- What is your country's stance on the UN Security Council reform especially regarding following questions:
  - o The categories of membership,
  - o The question of the veto,
  - o The regional representation,
  - o The size of an enlarged Council and working methods,
  - o The relationship between the Council and the General Assembly.
- Should one country take the initiative in intergovernmental negotiations and if yes, which one?
- How (and if) will the Ukrainian crisis affect a long-anticipated reform?

## **VII. FURTHER READING**

### Relevant statements, resolutions and reports

- Draft Resolution A/66/L.42 on Enhancing the accountability, transparency and effectiveness of the Security Council. Available at:  
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<sup>58</sup> David Bosco, »The US Doesn't Want to Reform the UN Security Council«, *Foreign Policy*, Sep 29 2015, [The United States Doesn't Want to Reform the U.N. Security Council – Foreign Policy](#) (accessed August 3, 2022).

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