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## **Criticism of the UN Security Council Veto Mechanism:**

### **Ramifications for Israel**

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The UN Security Council (UNSC) is commissioned to address issues that pose a threat to international peace and security. The UN Charter stipulates that all members of the United Nations are obligated to implement decisions of the UNSC, which in practice awards this body with crucial power. Such power has been demonstrated in decisions relating to the use of military force and the imposition of economic sanctions on states, and points to the importance of the UNSC's composition, mechanisms, and decision making processes.

While the UNSC's structure and operational mechanisms have been internationally criticized for many years, they have recently come under heightened attack following its inability to intervene effectively in the conflict in Syria. Particular attention has been given to the veto mechanism, which can be enacted only by the UNSC's permanent member states. This mechanism was a condition put forth for the founding of the UN in the mid-1940s in order to guarantee the participation of the most powerful states in the newly-established body, and as such is protected in the UN Charter. The Council's veto is constituted by a negative vote of one or more of the permanent members (China, France, Russia, UK, and US) on a draft resolution supported by nine or more other Council members. Since 1946, 230 draft resolutions or parts thereof have been vetoed. Insofar as permanent members have used the veto to defend their perceived national interests or to uphold a tenet of their foreign policy, the UNSC's ability to act is often paralyzed.

The current wave of criticism is accompanied by three proposals to reform the UNSC veto mechanism, assessed and extensively detailed in a report published in late October 2015 by the independent non-profit Security Council Report. While the probability of reforming the UNSC remains low, the newly energized debate, along with the centrality of the UNSC in the international arena, warrants a fresh reflection on the veto mechanism, and in particular, how it plays out with respect to Israel and the Israeli-Palestinian conflict.

Among its findings, the report highlights the UNSC's inability to mount an effective response to the Israeli-Palestinian conflict in general and to the recurring crises in Gaza in particular. Just as Russia's interests in Ukraine have hindered effective engagement on that issue, UNSC action on the Israeli-Palestinian conflict is considered constrained by the US, which traditionally protects Israel's interests, thus making the adoption of decisions critical of Israeli conduct hard to achieve.

In July (S/2006/508) and November (S/2006/878) 2006, for example, the US cast vetoes on draft resolutions calling on Israel to halt military operations in Gaza endangering civilians. In February 2011 (S/2011/24) the US cast a veto on a resolution demanding that Israel cease settlement activity in the occupied Palestinian territories. Without these vetoes, subsequent steps could have included the creation of a sanctioning mechanism against Israel, overseen by the UN, until Israel was seen to comply with the resolutions passed by the Council. In July 2014, during Operation Protective Edge, Jordan, a non-permanent member of the Council, attempted to mobilize action through a draft resolution calling for a ceasefire; a withdrawal of Israeli forces from the Gaza Strip; the lifting of Israeli restrictions on Gaza; and renewed efforts to achieve peace based on the two-state solution. Though the draft was discussed several times in consultations, no consensus was reached, which validates additional criticism of the UNSC is subject regarding the disparities in power, knowledge, and experience between permanent and elected members of the UNSC. Thus with respect to Operation Protective Edge, while the US did not cast the veto as in previous years, the report notes that the US position constricted the UNSC's flexibility.

Between 1945 and (September) 2015, the United States has vetoed a total of 30 UNSC resolutions related to Israel and the Palestinians. This by far amounts to the largest number of resolutions vetoed by a UNSC permanent member on one specific issue. Next in line is the United States veto of UNSC resolutions on the situation between Israel and Lebanon (10 vetoes, a tie with 10 vetoes enacted by the US on the situation in South Africa). Examples of the highest number of UNSC resolutions enacted by other permanent members on any one issue are the UK, with nine vetoes on the situation in South Africa and the situation in Rhodesia (each); and China, with four vetoes on the situation in Syria.

One factor that is not reflected by statistics on the veto is the "pocket" veto, referring to cases in which draft resolutions are not formally presented because of the looming threat of the veto by one or more permanent members. Pocket vetoes thus block resolutions that potentially could have made a difference, because of the initial assessment that the draft would clash with the interests of one or more of the permanent members and thus have no chance of adoption. Pocket vetoes are impossible to quantify, as records only exist if a

draft resolution is circulated as a UNSC document, and in most cases, this happens only if there is reasonable expectation of adoption.

With the aim of rectifying the situation, 2015 has thus far produced three initiatives pertaining to enactment of the veto mechanism open to the five permanent members. One is the French initiative, which is still being finalized, currently calling for a political declaration on suspension of veto powers in cases of mass atrocity and calling on permanent members to explain their vote when casting a veto. Another is the Accountability, Coherence and Transparency Group's (ACT) code of conduct committing UNSC members not to vote against "credible" draft resolutions that seek to end or prevent genocide, crimes against humanity, or war crimes. A third is the Elders' Proposal (an independent group of global leaders currently chaired by former Secretary-General Kofi Annan) calling for the five permanent members not to use, or threaten to use, their veto in situations of mass atrocities without publicly clarifying an alternative course of action in order to protect the populations in question.

Common to all three initiatives is that their support would not be legally binding. In other words, signing them would not constitute an obligation under international law –which places a big question mark on the likelihood of any of these mechanisms successfully addressing broad concerns about the UNSC's performance in recent years. This, along with the very slim chance that the proposed changes will be adopted, suggests that Israel should not be particularly alarmed about prospective reforms in the UNSC. Nevertheless, given the criticism regarding the UNSC's performance and the proposed reforms, the report should serve as an important reminder to Israeli decision makers regarding yet another area where the strong US-Israel alliance is of supreme importance to Israel.

