

How Have Great Powers Used Their Influence to Violate the Prohibition of Use of Force for the United Nations Charter?

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Abstract. This article demonstrates the ability of nations with great power to ignore structural barriers implemented, using such to rectify action directed to be in positive correlation to their interests. While the original barriers were implemented by limiting factors such as the United Nations, the lack of effectiveness was exemplified by rooted historical interdictions alongside policies and rules commodified to benefit great powers. An important goal of great powers would be to develop these modern structures, a tool for neo-imperialist standings, eliminating justification and logic by developing structures embodying their own structure. While a direct approach to eliminate such a mindset developed by great powers includes a solution from the United Nations themselves, this paper offers a junction in which the development of decolonizing thought must be accepted and integrated within the United Nations. As such, later in the paper, I suggest that the implementation of a decolonial mindset would act as a prerequisite to an effective curtailment of modern great powers. Further, great powers must be scrutinized under the historical precedent of established systems permitting abuse of power and possible reform regarding solutions to be of progressive movement in the direction of decolonization. To decolonize the United Nations through the removal of the idealization of the state in conjunction with the individual would be vital reform. Scrutinizing such states to end the perpetuation of the settler state corroborates the decolonial mission.

Keywords: Use of Force, Great Power Nations, Decolonization, United Nations

1. Introduction

One important function of the United Nations is to keep further use of force limited to defined and clear self-defense, prioritizing the importance of the United Nations Security Council (UNSC). However, the ideals of great power nations pose a threat to modern society, in which the rules of the United Nations Charter seemingly don't apply to them. Thus, these states, with examples of the current war in Ukraine with Russia and one of the past in Iraq with the U.S. and allies, face an easier path to abridging the rights of other states by changing the definition of the use of force to benefit themselves. The abilities given to them due to their nature of being a large and influential nation abridges systems set in stone, seemingly optional towards them. History leans in favor of the colonizer, the one that holds power. Abuse of power seems to be rampant in the books but rather forgotten in the modern day. Reliance on the United Nations has led to complicity and fear. Yet, in

our modern society, the United Nations Charter lacks the ability to prevent violations as a whole, specifically for influential nations. Without any measure for reprimand, it is easy for great-power nations to simply refrain from feeling any impact.

2. Thesis and roadmap

Global structures and supposed fundamentals of societies, including international law, include justification for the systems that use powers in which great-power nations hold. In such, they avoid any punishment that the United Nations Charter would usually levy, regarding such structures. Demonstrating a regressive impact on concepts regarding the standing of current, modern rhetoric amplified by great-power nations is embedded within societal structures including international law. The roadmap of this study will introduce historical precedent defined through international law and further interpreted through a literature review, linking two case studies between the current Russian and American conflicts. Regarding such conflicts and international law, a solution to the abuses regarding both modern structures will be discussed.

3. Literature review

Enshrined within the standing of the United Nations itself, held within the Charter, Article 24 and Article 51 both stand as pillars to prevent use of force by states, setting definitions for every exception. These articles work in conjunction to keep use of force limited to defined and clear self-defense, both prioritizing the UNSC, putting it at the forefront for decision making relating to any use of force. Yet, standing on a recognized globally influential level, great powers use their influence to violate the rules they designed in 1945. Such countries at the top often design narratives, spanning the influence of their reach as a great power to create justifications of use of force. This thus points out the large violation relating to Russia's modern invasion of Ukraine, in which the perspective of self-defense, Russia doesn't hold [1]. The failing justification, as elaborated and furthered by Weiner, provides a lack of warranting for how the requisite of self-defense is met. Their narrative for self-innocence relies on protecting co-ethnics and preemptive self-defense. However, Weiner points out how the claim of protecting co-ethnics stands rather as a fictional narrative, once again pushed to benefit Russia's image. There was never intent to defend such people, nor was there ever actual evidence provided, or at all, of self-defense being justifiable. Having such influence comes from being a member of the Security Council, as further empirics corroborate the emphasis the Charter itself has placed upon member states, providing Russia with a power to dictate self-interest [2]. Furthermore, the soapbox that Russia is placed upon grants such ability to ignore and project such ideals of supposed "self-defense". The standing of being a permanent member of the Security Council itself grants Russia, along with the other four permanent members, an ability to avoid any accountability relating to the prevention of use of force. Hard power, granted to Russia, has been a Pandora's Box, letting Russia ignore the Charter. Abuse of the lack of definition within the Charter provides Russia an opportunity, where this attributes possible actions to the lack of a certain definition of self-defense [3]. The broad barriers are abused, especially by states in positions of influence.

As suggested, this isn't an isolated incident [4]. The rulebook has been ripped apart by other members of the Security Council, as in 2003, the United States led a war alongside the United Kingdom within Iraq, beginning the "war on terror". Murphy believes the United States' action led to a war without support from the Security Council although no retributive action was taken [5]. A reprimand of the hegemon, as Murphy furthers, never was delivered. This narrative of self-

justification has shifted over time, developing a narrative, similar to Russia's, non-descriptive and self-beneficial. Recently, a Machiavellian continuation of the broad "war on terror" continued with the killing of Iran's General Qassem Soleimani in 2020 [6]. The United States' defense of the killing and use of force was through self-defense, once again defining the term, to benefit themselves. Such in that the Charter is broad, states with influence are able to bend such power of definition to benefit an agenda, specific to its motive. This power provides a backdrop to develop a hierarchy of states, such in which great powers sit at the top. These abilities are specific to states to be considered as great powers. In 1990, when Kuwait was invaded by Iraq, the Security Council acted quickly, writing Resolution 660 on the same day, demanding Iraq to remove troops. The Security Council further developed an active stance of military action, sending down military force in fast action. Neither of these nations were considered great powers, rather, the Security Council prioritized their actual role and job. Thus, as found, any conflicts relating to great powers, these provide a way for nations with great powers to abridge any responsibility to commit to enforcing the Charter or their rules [7]. Individual members of the permanent five (P5) are able to veto any motion relating to a topic regarding themselves. Thus, issues like the Iraqi invasion of Kuwait, doesn't have any direct relation to any members of the P5, spontaneously pushing their fast action. The power of broad definitions does not apply to such states, like Iraq or Kuwait, since they have no influence upon the council. States only with influence and actual ability to impact the Security Council's decisions will be able to use the power of definition relating to use of force. The future holds a darker hold for nations that don't have such definitional power. The United Nation's prioritization of states that are on the Security Council gives members of the P5 more ability to abridge the rights of other nations.

Although systems have been set up against avoiding punishment, nations of power are able to hide from overarching punishments by firstly, changing the definition under which they'd get punished, secondly, avoiding actual impacts that the United Nations uphold, and thirdly, taking any measures to prevent violations of the Charter from solidifying.

4. Case studies

4.1. Case study 1: Russian aggression in Ukraine

An overarching Russian picture of the Western front being developed in such a manner to threaten Russian borders has been painted by the Kremlin. The modern definition of aggression and thus reciprocal repercussions and later self-defense are permitted along with usage of force. To understand the current situation within Ukraine, both similarities and differences must be contrasted to elaborate on a broader global scale.

On one hand, Russia has defined self-defense as the ability to have the idea of preventive self-defense against possible action by the "enemy". Ukraine is a modern example of such Russian policy [8]. Yet, the past holds multiple examples, with the annexation of Crimea in 2014, countless cyberattacks in the Baltics, and the invasion of Georgia corroborating this primary action, in which action occurs before to prevent the supposed after. The fear, developed by the Kremlin and government as a whole, Russia provides such a way to permit themselves the ability to attack first, calling it self-defense. Russia's definition of self-defense incurs fearmongering relating to the westernization and ever-developing hegemonic cementing of the United States, thus justifying any action against supposed expansion. This action defines Russia's doctrine of individual self-defense, as during 2022, the clear linkage that Putin specifically linked between Ukraine and state security was drawn [9]. The development of fear, as such within Putin's rhetoric, thus is the first step

permitting Russia's supposed "self-defense". Fear, the catalyst which prepared Putin for this war, was developed in two ways.

Hegemony was the first. Putin has put the North Atlantic Treaty Organization (NATO) at the forefront for his invasion, crediting a developing mindset in which "'anti-Russian' [sentiment] is taking shape" [10]. In fear of expansion of NATO to more Russian borders, Putin framed the war in Ukraine as a way to defend from the scary expansion of NATO. The Russian government thus began accrediting the expansion fears to the Baltics and ever-increasing investment into weapon systems given to NATO states along Russian borders. Following the context previously defined, Putin and the Russian government as a whole are clearly developed as actors who act as preventive. They'd rather act before, not after. Thus, any increasing amount of supposed military infrastructure within any region of Ukraine has provided Putin such justification [11]. However, no amount of fear created should permit Russian aggression based on supposed action that would be incoming without evidence.

Second is genocide. Consistently, the people within the Donbas region have erred favorably more towards the Russians, across the border, rather than their own county of Ukraine. Putin uses the idea of these people being more Russian than Ukrainian to develop a hero-savior complex, in which the danger of genocide is directed towards such Russians within the Donbas, thus providing Russia a reason to protect these people, as permitted within the United Nations Charter. The genocide of a people often does permit the action of local nations, falling under aggressive action that is permitted, saving lives. Yet, genocide is a bar that Putin has not defined clearly or simply Ukraine is not doing. In fact, Putin has made all these claims in which empirics clarifies for there to simply be no backing [12]. Such ideas of targeting people and directly harming specific groups lack any backing. Without any Ukrainian governmental action against the people, Putin holds no actual claim. Yet, the fear mongering is still accomplished by such ideas of genocide, once again accomplishing his goal.

This fear has an infinite impact. By being able to describe such an image of fear, Putin develops, once again, a world in which every person lives in fear. The justification of something incredulous can become understandable if one is desperate enough. Putin's goal is to make himself seem desperate enough, whether it be for the good of the people in hopes of ending an incoming or occurring genocide while also preventing an attack of Ukraine/NATO upon Russian land. This directly links back to the abuse of power. Without the ability to instill fear of power, this allows for the abuse of regulations and law.

Yet, justification isn't a prerequisite to action. Russian influence is losing on the global stage, with a relatively clear global consensus coming to the decision that peace be mandated over all else. The General Assembly has voted clearly, in multiple clear majority votes, that Russia is in the wrong. Many nation heads have pushed for Putin to stop the war, with the International Criminal Court specifically setting out a warrant for Putin, on charges of war crimes in Ukraine. Furthermore, the breach of the Charter and self-defense clauses have been clear. The arguments in favor of supposed "self-defense" aren't even protecting self-defense, but rather preventive self-defense, an aggressive action. Self-defense in nature is defensive, rather than an aggressive or provocative action [13]. Putin's claims of self-defense stem from the ideas of defending one nation but claiming that offense is the best defense to be a defensive strategy makes no sense. The contrast is also overshadowed by Putin's claims being overall false, in which he has no evidence nor backing for any of his claims, thus reducing the justification. There has been no genocide. There has been no Ukrainian or NATO plan to invade Russia. Though without the justification, no action has been taken to prevent the war itself within Ukraine. To escape punishment, Russia has had two contingency plans.

The first relies on structural issues. The UNSC has acted rarely on moving United Nations troops and member nation troops into war. Many notable occasions were the Korean War and the Iranian invasion of Kuwait in 1990. Yet, action seems to be far off in the depths of history. This is for good reason. The veto power, an established power since the Charter enshrines such, provides Russia the power to deny any such action, relating to Ukraine. In order for the war to end, Russia would have to approve, which they haven't. They've vetoed any form of resolution regarding the Ukrainian situation, putting all at a halt. The most influential nations, the United States, China, etc, all hold such power. The development of the P5 on the UNSC took into account the influence of countries at the time, in which influential nations still hold pull to this day. Thus, any action that falls into their lap which relates to negative regard, as Russia has done, can be simply vetoed and thus ignored.

Allies are second. Russia is a strong ally with India and China, having provided economic benefits going both ways. The relationship between the aforementioned countries is a strong relationship that has helped avoid accountability for actions. Allies of Ukraine have been putting Russia under increased pressure through sanctions and tariffs, adopted by a large majority of the world [14]. The countermeasures the rest of the world have been taking on behalf of Ukraine, aimed to end the war outside of the action-killing pathologies that plague the United Nations. Putting economic pressure on Russia, would persuade them to end the war so that they get relief. Yet, the strong relationship between Russia, India, and China largely provides them relief. The ability to have allies is only stronger when one is an influential country, thus having stronger and more reliable trade partners [15]. Thus, the ability to hide away from responsibility economically also provides Russia a way to just refuse to take accountability.

4.2. Case study 2: United States history in Iraq

Another example would be the United States' intervention within Iraq, which was held illegal by the majority of the legal world as the legality of such fell under fire due to the lack of approval by the UNSC. The inherent lack of proper and defined standing recognizes the illegitimate context the United States began the war in Iraq [16]. While the armed response to the September 11th attacks on United States territory was justified as self-defense, the United States had no warrant permitting them to interact with Iraq and eventually begin a war with such. There was no direct link that the United States was able to expose as the war wasn't justifiable. The pinning of blame onto Iraq rather than Al-Qaeda ignored the issues and simply didn't follow the tradition, custom, or writing of international law regarding self-defense [17]. The heinous acts which both the governments of the United Kingdom and the United States committed have gone unpunished. By blatantly violating international humanitarian law and the United Nations Charter [18], historical systems have led to this situation. A growing power with greater influence has directed the United States to be able to bend the rules. Due to the lack of explicit approval from the Security Council, the United States' actions were thus considered to be illegal under the eyes of international law. Though this worry had been brought up multiple times during the war itself, the United States didn't budge in its self-righteous goal in hopes of ending terror in Iraq. The violations never seemed to be punished.

The repercussions have been marginal. This is due to, once again, lack of enforcement. Even though Putin has condemned the war [19], there have been little reprimands. Due to allies and power, presented by former colonial structures, certain countries are above others. Though the United States faces a large bill to pay due to the war, there have been no actual implementations of the United Nations Charter. The Charter itself indicates that a nation that violates the standing along with the Charter itself, under Chapter II, Article 6, the nation should be removed from the Organization upon the regulation of both the General Assembly and Security Council. Without the

implementation nor even a slight motion towards such action, one must ask, why has the United States never faced consequences? Funding is an answer. The United Nations falls into the lap of the United States - a clear conflict of interest. Even at the founding itself, to finish the collection of the signatories for the new United Nations Charter in 1945, the United States was the final actor. Furthermore, having any intention of control, the United States has played their cards in such a way, since “the US as the single largest investor in the UN has ‘not only a right, but a responsibility to insist on specific reforms in exchange for [its] investment most see the United Nations ‘as just one part of America’s diplomatic arsenal’ [20]. Being on the payroll of the United States, this is a clear conflict of interest in which the United Nations fails to hold the people with power accountable. The wealth of the United States has prevented accountability for war crimes and violations of self-defense. The overstretch of large nations, as in the example of Iraq, permits the ability of hegemon to avoid accountability. This is seen in the International Criminal Court (ICC), which has never done anything to actually punish the leaders of the United States at the time of war crimes [21]. Although leaders of African nations have been consistently charged, while the West escapes [22]. The Rome Statute and Security Council, once again run by powerful nations, prevent further investigation and power from the ICC. Thus, no punishment is carried out for war crimes. No enforcement of statute has come from the United Nations - the lack of attempt, response, caring, prevalence, and activeness, all show how the United Nations doesn’t just fail, but rather sit complicit while war rages on, burning the Charter established nearly a century ago.

5. Recommendations

A proposed solution that has been constantly advocated for by both those within the international relations community and other external factors in the decolonial strategy. The helm of the United Nations along with the abuse of power is all a drive for the future of colonial standing, provoking the indigenous resistance of such expansion of power. Bequest expansion is such an ideal of the colonizer, perpetuated in these everlasting systems of power, the United Security Council perpetuating such. Even as the suggested propositions to eliminate colonialism by the United Nations may seem like a solver for the seemingly forgotten history of colonialism, neo-colonialism is prevalent, arguably more than ever. The United Nations has ignored, even facilitated, the imperial takeover (through war and military expansions), turning a blind eye to any possible sort of decolonial action. Great powers use such opportunities to be able to justify war, even when they may go against the United Nations. Inherently, the lack of power and correct ontology point the United Nations in the wrong direction. As such, the perpetuation of this modern colonialism acts as a step backward rather than a step forward in the world of decolonizing. The ideals of war and conflict are often due to resources, inequities, historical empires, or land. All were formerly held by the indigenous of the world, yet colonial war and colonization have erased all their current standing. Both examples, the United States and Russia act in synchronicity such that they are able to colonize land for their own gain. Even in smaller wars, the systems that provide these “great nations” such power are their colonial rhetoric. To embark on decolonization, as a society and an individual, is to eliminate the acceptance of such rhetoric. Thus, suggested action includes the taking on of a fully decolonial mindset from United Nations leaders, great powers, and individuals. To move on from a broken system of colonialism, genocide, and erasure of the sovereign indigenous, would be to act in sync with a movement to limit power. To steer power away from these great states that deposit such power with abuse and propaganda-ridden rhetoric, decolonization is a mindset that mustn't be a metaphor, but rather a motion of elimination of all doubts of decolonization. A broad overview of

proposed action regarding two of the lead perpetrators, the United Nations and great powers will be regarded in the rest of this paper.

In the United Nations, systems of historical ignorance towards colonialism are prevalent. The influence that large nations have, whether it be financial or political, runs deep. Relations between great nations and the United Nations are often intertwined, such that the power of one is often able to greatly influence the other, as shown in this paper. This influence extends beyond war powers to policy and idealism, leading to controlled ideologies. Thus, from a legal standpoint, the erasure of connection between the United Nations and great powers is a good solution. This would eliminate the possibility of influence from great nations upon the United Nations, providing decolonial thought as an independent ability. The United Nations, obviously, is unable to avoid influences from the great powers, since funding from these nations is deeply ingrained within the system. However, to establish a system that allows those colonized to have power, not just a voice, independent from those with colonial powers, policies regarding indigenous must be established. Through committees currently run by those in power, ignorance is held as the prioritization of nations over the people supposedly represented by the United Nations. Thus, to center away from the nations with great powers but more around those muted permits a new ideological thought against the expansion of the colonizers. Further, to increase the power of the local aboriginal, power must be taken from great powers. I suggest the elimination of the UNSC and shifting the focus of the United Nations more on preventing war rather than ending current ones. This includes ending inequalities and looking more in-depth at international law's ability to impact conflict. A portion or panel of local communities, representing the individual groups, rather than the political leaders in power for each nation, would be better representatives for the General Assembly or rather the Security Council. The laws, implemented by the great powers that designed the United Nations as a whole, must be rewritten in the context of people, rather than nations. The people must have the voice, as the indigenous communities must be heard, no less than the muting sound of the colonizer. I hope to see indigenous rewriting of laws permitting land to nations, language of nations, and change of implementation of peacekeeping missions. Further, the inherent issue within these laws is that the laws regards the nations, rather than the people who are governed and oppressed by such nations. Rather, I call for removal of the power of states within the United Nations, shifting away from the centralization of nations and from acceptance and emphasis of a system of colonialism. The United Nations inherently would shift away from original goals, and further become the actual definition of will of people – the nations regarding the people would be redefined as the people. Currently, government holds are represented within the present United Nations, not the actual people of the nations. Within the neo-colonialist stage, the political and retributive state controls, not those who truly deserve power. Such a shift thus allows a larger regard for indigenous standing. As a husk of history, change must face proper orientation towards a progressive end and decolonization of all past, present, and future.

6. Conclusion

A nation's ability to hide from punishment is powerful. To avoid reprimand and to define the rules of a game both provide large nations with power over both themselves and the system. Unfortunately, the system was designed and meant to be perpetuated by these large, influential nations. The Charter's inherent prioritization of the Security Council only perpetuates the historic systems developed based on pre-colonial thought. The influence one holds easily is permitted to be abused by influential nations. Self-interest drives action, in which rules defined by the Charter, regarding limitations of such desire and means to acquire, are abridged. Through redefinitions of the Charter's

reach within itself, the systemic failures of the United Nations are exemplified by the failure of the Security Council to keep peace. Providing a system permitting such, the influential nations are able to perpetuate a memoir of the past. Thus, a balancing act of repurposing the United Nations and neo-colonial systems is the modern solvency.

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