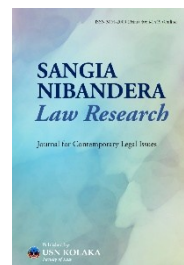


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# United States Veto Power and Its Legal Implications for Palestinian Statehood

*Hak Veto Amerika Serikat dan Implikasi Hukumnya terhadap Kedaulatan Negara Palestina*

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## Abstract

This study examines the use of the veto power by the United States within the United Nations Security Council and its impact on resolutions concerning the Israeli–Palestinian conflict. Since 1972, the United States has exercised its veto 86 times, including 49 instances in which resolutions critical of Israel or calling for ceasefires were blocked. Employing a normative legal research methodology, this paper analyzes both the regulatory framework governing veto use and its practical application in this context. The findings indicate that the United States’ use of the veto reflects its strategic political interests and has significant implications for the dynamics of the conflict. In particular, the repeated exercise of this power has contributed to diplomatic

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stagnation, heightened regional tensions, and diminished the effectiveness of the United Nations Security Council in addressing conflicts in the Middle East. Furthermore, the study highlights the long-term consequences of United States foreign policy for Palestinian self-determination and underscores the structural challenges faced by the international community in pursuing an equitable and sustainable resolution. This research contributes to ongoing debates on the role of great power influence within multilateral institutions and emphasizes the need for institutional reforms to promote greater fairness, accountability, and effectiveness in global governance.

### **Keywords**

*Veto Power, United States, Palestine, United Nation Security Council, International Law*

### **Abstrak**

Studi ini meneliti penggunaan hak veto oleh Amerika Serikat di dalam Dewan Keamanan Perserikatan Bangsa-Bangsa dan dampaknya terhadap resolusi yang berkaitan dengan konflik Israel-Palestina. Sejak tahun 1972, Amerika Serikat telah menggunakan hak vetonya sebanyak 86 kali, termasuk 49 kali di mana resolusi yang mengkritik Israel atau menyerukan gencatan senjata diblokir. Dengan menggunakan metodologi penelitian hukum normatif, tulisan ini menganalisis kerangka peraturan yang mengatur penggunaan hak veto dan penerapannya secara praktis dalam konteks ini. Temuan menunjukkan bahwa penggunaan hak veto oleh Amerika Serikat mencerminkan kepentingan politik strategisnya dan memiliki implikasi signifikan terhadap dinamika konflik. Secara khusus, penggunaan hak veto yang berulang telah berkontribusi pada stagnasi diplomatik, meningkatnya ketegangan regional, dan mengurangi efektivitas Dewan Keamanan Perserikatan Bangsa-Bangsa dalam menangani konflik di Timur Tengah. Lebih lanjut, studi ini menyoroti konsekuensi jangka panjang kebijakan luar negeri Amerika Serikat terhadap penentuan nasib sendiri Palestina dan menggarisbawahi tantangan struktural yang dihadapi oleh komunitas internasional dalam mengejar resolusi yang adil dan berkelanjutan. Penelitian ini berkontribusi pada

perdebatan yang sedang berlangsung mengenai peran pengaruh kekuatan besar dalam lembaga multilateral dan menekankan perlunya reformasi kelembagaan untuk mendorong keadilan, akuntabilitas, dan efektivitas yang lebih besar dalam tata kelola global.

## Kata Kunci

*Hak Veto, Amerika Serikat, Palestina, Dewan Keamanan PBB, Hukum Internasional*

### A. Introduction

The conflict between Palestine and Israel is an existential conflict between two countries that claim the same territory as their homeland.<sup>1</sup> This conflict is not only a matter of territorial power, but also related to national identity and existence. Conflicts that perceive the identity and existence of other groups as threats can make such conflicts sustainable.<sup>2</sup> Both countries want to obtain equal and recognized citizenship status both at the national level and internationally. Not only that, the cause of the Palestinian-Israeli conflict is the interference of various countries in handling the conflict with the interests of their respective countries, one of which is the United States.<sup>3</sup> Palestine and Israel have been involved in conflict for more than seven decades.

This conflict began in 1948 until now. The attacks carried out by Israel did not apply humanitarian principles that resulted in

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<sup>1</sup> Asad, Talal. "Reflections on the Israeli-Palestinian conflict." *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 15, no. 2 (2024): 139-158.

<sup>2</sup> Danfulani, Walnshak Alheri, Jesse James Leawat, and Luka Dajahar Dinshak. "Israeli/Palestinian conflict: a review of the past and the present." *Journal of Business and Social Science Review* 2, no. 9 (2021): 25-37; Millenio, Muhammad Fauzan. "How the Judgement Effective? The Role of United Nations in Conflict Resolution Between Palestine and Israel." *The Digest: Journal of Jurisprudence and Legisprudence* 2, no. 2 (2021): 197-230.

<sup>3</sup> Pratiwi, Fadhila Inas, M. Aryo Rasil Syarafi, and Demas Nauvarian. "Israeli-Palestinian conflict beyond resolution: A critical assessment." *Jurnal Ilmu Sosial dan Ilmu Politik* 26, no. 2 (2022): 168-182.

the large number of Palestinian civilians being victims in the war. To overcome conflicts and wars in the international sphere requires a set of rules that apply to countries to create order and justice in the international community or commonly known as international law.<sup>4</sup> International law as a means of resolving disputes in the event of a conflict of interest between countries. One of the subjects of international law is international organizations where this subject plays the role of an executor who complies with the provisions of international law itself.

The United Nations (UN) is one of the international organizations that has the main goal of maintaining international peace and security.<sup>5</sup> The United Nations consists of six main organs: the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice and the Secretariat. The organ that has the authority to maintain international peace and security is the Security Council. The UN Security Council functions as a primary responsibility, meaning that the UN Security Council is the holder of the main responsibility in the event of an international conflict.<sup>6</sup> The UN Security Council consists of fifteen members with five permanent members including the Republic of China, the Soviet Socialist Republic (Russia), the United Kingdom, France, and the United States.<sup>7</sup> The other ten members are non-permanent members elected for two-year terms through the UN General Assembly. The Security Council's authority under Article 39 of the UN Charter covers circumstances where there is a threat to the peace, a breach of the peace, and an act of aggression. Threats to international peace include threats due to

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<sup>4</sup> Müllerson, Rein. *Ordering anarchy: International law in international society*. Vol. 37. Brill, 2021.

<sup>5</sup> Nagiyeva, Leyla. "The role of the United Nations in ensuring modern global security." *Socrates Journal of Interdisciplinary Social Researches* 8, no. 21 (2022): 46-56.

<sup>6</sup> Welsh, Jennifer M. "The Security Council's Role in Fulfilling the Responsibility to Protect." *Ethics & International Affairs* 35, no. 2 (2021): 227-243.

<sup>7</sup> Levy, Ivan. "The United Nations (in) Security Council." *Journal of International Affairs* 75, no. 1 (2022): 169-176.

domestic conflicts, humanitarian crises, international terrorism and the spread of weapons of mass destruction.<sup>8</sup>

The five permanent countries of the UN Security Council not only occupy permanent terms, but also have the power to issue vetoes. The right of veto is the right to cancel decisions, decrees, or draft resolutions from the majority of votes of other members of the security council.<sup>9</sup> According to article 27 of the UN Charter, a decision to be determined must be approved by the five permanent members. So if one of these countries uses its veto power to thwart a decision in order to prioritize the interests of its country, then peace cannot be achieved through the UN Security Council.<sup>10</sup> The use of the veto since its inception has been used as a protection for the founders of the United Nations, which is only intended for countries that won World War II.<sup>11</sup> Despite having considerable authority in exercising veto, the UN Security Council cannot carry out its duties properly.<sup>12</sup>

This can be seen from the conflict between Palestine and Israel that has been going on for more than seven decades and has not been able to be resolved. The crimes and violations of war between Israel and Palestine have not received a significant response by the permanent member states of the UN Security Council.<sup>13</sup> Until 2024, the use of the veto has been used 281 times by the permanent state of the UN Security Council. The countries

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<sup>8</sup> Levy.

<sup>9</sup> Gifkins, Jess. "Beyond the veto: Roles in UN Security Council decision-making." *Global Governance: A Review of Multilateralism and International Organizations* 27, no. 1 (2021): 1-24.

<sup>10</sup> Fremuth, Michael Lysander, and Konstantina Stavrou. "The Future We Want?: Reflections on the Exercise of the United Nations Security Council Members' Veto Powers towards the International Criminal Court." *Max Planck Yearbook of United Nations Law Online* 25, no. 1 (2022): 167-215.

<sup>11</sup> Olayiwola, Sanni Mufutau. "Interrogating the Role of the United Nations Security Council and the Use of Veto Power in the Israeli-Palestinian Crisis." *Journal of Research in Education and Society* 15, no. 1 (2024): 39-52.

<sup>12</sup> Nanda, Ved P. "The Security Council Veto in the Context of Atrocity Crimes, Uniting for Peace, and the Responsibility to Protect." *Case Western Reserve Journal of International Law* 52, no. 1/2 (2020): 119-141.

<sup>13</sup> Olayiwola, Sanni Mufutau. "Interrogating the Role of the United Nations Security Council and the Use of Veto Power in the Israeli-Palestinian Crisis." *Journal of Research in Education and Society* 15, no. 1 (2024): 39-52.

that dominate or monopolize the use of the veto power are the United States and the Soviet Socialist Republic (Russia). The United States has used its veto power 86 times and Russia 129 times. Other permanent member countries, namely the United Kingdom, have used their veto power 29 times, China 19 times, and France 18 times. Since 1972 the United States has issued forty-four vetoes to protect Israel.<sup>14</sup>

The United States first used its veto power to protect Israel in 1972 when Washington vetoed a draft resolution on concerns about the deteriorating situation in the Middle East due to Israel's military aggression on the Lebanese border.<sup>15</sup> The escalation of the conflict between Palestine and Israel in the Gaza Strip on October 7, 2023 was caused by a counterattack carried out by Hamas by firing as many as five thousand rockets at Israel which was then retaliated by Israel. At the 76th UN session, the United States gave its support to the Two State Solution, meaning that the United States supports independence between Palestine and Israel. But after the conflict, the United States vetoed the draft resolution on Gaza three times. On October 18, 2023, Brazil submitted the first draft resolution to the UN Security Council observing the increase in violence in Israel and Palestine, the protection of civilians, humanitarian access and peaceful solutions.<sup>16</sup>

Furthermore, the United Arab Emirates provided a second draft resolution on December 8, 2023 demanding a ceasefire and the protection of civilians in accordance with international humanitarian law. On February 20, 2024, Algeria provided a third draft resolution emphasizing international law, human rights, an armistice, as well as an agreement between the two countries to recognize Gaza as part of Palestine (Mukhlas, 2024).

The United States vetoed Algeria's draft resolution on March 22, 2024 and issued a new resolution condemning Hamas terrorism, protecting civilians in Gaza, providing rapid humanitarian aid as well as maintaining the status quo at the holy

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<sup>14</sup> Tal, David. *The making of an alliance: the origins and development of the US-Israel relationship*. Cambridge University Press, 2022.

<sup>15</sup> Gruen, George E. "The United States, Israel, and the Middle East." *The American Jewish Year Book* (1978): 90-120.

<sup>16</sup> Darnela, Lindra, et al. "War Crimes and Legal Accountability in the 2023 Israel-Gaza Conflict." *Lentera Hukum* 11, no. 3 (2024): 356-395.

site of Jerusalem, and supporting an agreement solution between the two countries to recognize Gaza as part of Palestine.<sup>17</sup> The consideration of granting the veto power is more towards political considerations, rather than legal considerations. This makes the five countries that hold the right of veto have higher sovereignty than other United Nations member states. The use of the right of veto that should be used as a right to annul resolutions differs from the goals and principles of the United Nations and international law, but is often used to reject proposed resolutions that should be resolved through such resolutions, such as peace and the handling of international conflicts.<sup>18</sup>

The background that has been presented above encourages the author to formulate the problem as listed below:

1. What are the regulations regarding the use of the veto power of permanent members of the United Nations Security Council and the application of the United States' veto power in the conflict between Palestine and Israel?
2. What is the impact of the use of the United States' veto power in the War between Palestine and Israel?
3. How is international law enforcement against the war between Palestine and Israel?

## **B. Method**

The research method used in this writing is a normative juridical law research method. The data collection method carried out in this study is a literature study. Data collection is carried out through primary legal materials and secondary legal materials. The primary legal material is International Law and the Charter of the United Nations. The secondary legal materials are journals, published scientific articles, research results, and relevant literature related to research problems.

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<sup>17</sup> Gouasmia, Siham. "The United States of America's doctrine of intervention in international conflicts prior/post the Gulf War." *Annales de l'université d'Alger* 38, no. 4 (2024): 30-51.

<sup>18</sup> Octaviansyah, Nanda Gusti. "The Impact of Veto Power on the Enforcement of International Law: A Case Study of the Israeli-Palestinian Conflict." *Consensus: Jurnal Ilmu Hukum* 3, no. 2 (2024): 63-72.

## C. Results and Discussion

### 1. Regulations related to the Veto of the Permanent Members of the United Nations Security Council and the Exercise of the United States Veto in the Palestinian-Israeli War

UN Security Council resolutions, such as Resolution 181, were issued as an effort to resolve the ongoing conflict between Palestine and Israel. The main objective of the UN in the conflict between Palestine and Israel is to protect humanity from the threat of war and to maintain international peace and security. The UN has a role as a mediator through diplomacy and negotiation efforts to ease tensions between the two countries.<sup>19</sup> However, the effectiveness of the UN resolution against Israel is still limited because the conflict is still ongoing. The UN remains hopeful that through a diplomatic approach, the Palestinians and Israelis can find a common ground and a common solution to end the conflict. The veto rights possessed by the five major countries were given as a form of reward for their primary responsibility in order to maintain national peace and security.<sup>20</sup> In the formulation of the UN Charter, the right of veto and permanent membership in the UN Security Council was given to countries deemed to have played a major role in resolving World War II.<sup>21</sup>

Article 4 of the Montevideo Convention states that by law, every state has equal sovereignty, has equal rights and has the ability to carry out its duties. This provision is in line with the principle *Equality of the States* which is enshrined in the *Declaration on The Four Nations on General Security*. The principle of "Equal Standing" plays a crucial role in diplomacy between countries, as reflected in the *Declaration of Independence* which affirms that all human beings are created

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<sup>19</sup> Pappé, Ilan. *A very short history of the Israel–Palestine conflict*. Simon and Schuster, 2024.

<sup>20</sup> McCulloch, Allison, and Aleksandra Zdeb. "Veto rights and vital interests: Formal and informal veto rules for minority representation in deeply divided societies." *Representation* 58, no. 3 (2022): 427-442.

<sup>21</sup> Fassbender, Bardo. *UN Security Council Reform and the Right of Veto: A Constitutional Perspective*. Vol. 32. BRILL, 2023.

equal.<sup>22</sup> Although in theory and based on Article 2 Paragraph (1) of the UN Charter, all countries have equal sovereignty and degrees, in reality, this principle is not fully applied. This imbalance is evident in the voting mechanism in the UN Security Council, especially with the veto power held only by certain countries (Adventure, 2021).

This veto can be defined as a vote that can block or prevent a decision-making (Nayla et al., 2024). Based on this understanding, a veto is a form of *negative vote* that have specific properties. In contrast to the usual rejection votes that are counted along with the vote to agree to determine the final result, a single veto vote is enough to stop the decision-making process without the need to continue. This veto is a special right held by the five Permanent Members of the UN Security Council, known as *The Big Five*. The five countries include the United States, the United Kingdom, France, China and Russia. The privileges that these five countries have give them the authority to reject or annul decisions that have been submitted in the UN Security Council. The consequence of this is that if one of the member states continues to use its veto power to reject a decision that has been supported by the other member, then the decision cannot be implemented (Nayla et al., 2024).

The right of veto in the United Nations Security Council is closely related to the role and authority of the UN Security Council. That authority includes: the authority to elect the President of the General Assembly, who has a significant role in the sustainability of the UN organization; The authority to recommend a country for admission as a new member of the United Nations; the authority to propose a country's withdrawal from UN membership; the authority to propose amendments to the UN Charter; and the authority to elect judges to serve on the International Court of Justice (Nayla et al., 2024).

In the UN Charter, there is actually no term for "Veto". However, this charter specifically regulates this veto power. In Article 27 Paragraph (1) of the UN Charter, it is explained that every member of the Security Council has the right to cast one

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<sup>22</sup> Dugard, John. "What Is a State in International Law? How Is This to Be Determined?." *Furthering the Frontiers of International Law: Sovereignty, Human Rights, Sustainable Development*. Brill Nijhoff, 2021. 93-112.

vote. Furthermore, Article 27 Paragraph (2) states that decisions related to procedural matters in the Security Council are determined based on the agreement of the nine members. In Article 27 Paragraph (3), decisions related to other matters are taken in accordance with the approval of nine members, in this case including permanent members (United Nation., 1945). The provision applies with the note that in a decision based on Chapter VI and Article 52 Paragraph (3), that is, the party involved in the dispute is not allowed to cast his vote. Based on the explanation of these articles, it will be clear that there is a difference in voting rights between permanent and non-permanent members of the UN Security Council. This difference lies in decision-making for procedural and non-procedural issues.<sup>23</sup> In procedural matters, this decision can be taken if there is the approval of at least nine members of the Security Council without the unanimous agreement of the five permanent members. On the other hand, in non-procedural issues, decisions must be approved by nine members, including all permanent members.

Thus, it can be concluded that members still have different voting rights when compared to other members. The interpretation of the content of Article 27 Paragraphs (1), (2), and (3) of the UN Charter becomes the legal basis that supports the existence of the veto power for permanent members of the Security Council. However, if we look at the above provisions, the granting of this veto power is based on political considerations rather than legal considerations. This creates the impression that the five countries that hold the veto have greater sovereignty than the other members of the United Nations. This imbalance of authority reflects the dynamics of military alliances formed since World War II. In the classical perspective, the right of veto is considered a denial of the principle of equality of state sovereignty which is essentially one of the main pillars in the UN Charter. The five countries that are permanent members of the UN Security Council often exercise their veto power by putting their own interests and political agendas first without regard to the norms and principles

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<sup>23</sup> Allen, Susan Hannah, and Amy Yuen. *Bargaining in the UN Security Council: Setting the Global Agenda*. Oxford University Press, 2022.

contained in international law. Concrete examples are the American rejection of Palestinian membership and independence, as well as decisions related to the recognition of Kosovo as a sovereign state.

As of April 24, 2024, the veto has been used 281 times by the five permanent members of the UN Security Council. The use of this veto power in order from the most to the least is as follows: 1) Russia 129 times; 2) the United States 86 times; 3) England 29 times; 4) China 19 times; and 5) France 18 times. From January 26, 1976 to March 22, 2024, the United States has issued 29 veto resolutions related to the Palestinian-Israeli conflict that the majority support of the Palestinians and call for an end to the Israeli occupation. The use of this veto by the United States worsens the situation in the region. For example, on February 18, 2011, the United States vetoed a resolution on disapproval of Jewish settlements being built in the West Bank.<sup>24</sup> Then, in December 2017, a similar veto was also issued with the aim of blocking a resolution related to the condemnation of Jerusalem's recognition as Israel's Capital. At its 9548th session on March 22, 2024, the UN Security Council discussed the Palestinian-Israeli conflict. However, this discussion again did not produce the expected results. Although Council members expressed deep concern over the violence and the situation of human rights violations in Palestine, the discussions only reaffirmed the pre-existing views, with calls for continued negotiations in compliance with International Law.<sup>25</sup>

Of the 86 uses of veto power by the United States against the UN Security Council draft, as of November 2024, the United States has used its veto power 49 times to thwart resolutions criticizing Israel's actions and the ceasefire in the conflict between the two countries. The following are some of the vetoes used by the United States:

- 1) Veto criticism of Israel's attacks on South Lebanon and Syria for which a draft resolution was issued on July 26, 1973;

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<sup>24</sup> Biskultanova, Albina M., et al. "The right of veto: International experience, problems and prospects of application." *Kasetsart Journal of Social Sciences* 42, no. 2 (2021): 391-396.

<sup>25</sup> Trahan, Jennifer. "Legal Issues Surrounding Veto Use and Aggression." *Case Western Reserve Journal of International Law* 55, no. 1 (2023): 93.

- 2) Veto the Affirmation of the Palestinian people's right to self-determination, equal government and protection. The draft resolution was published on 26 July 1973;
- 3) Vetoes of condemnations related to Israeli airstrikes and attacks in South Lebanon and the killing of innocent civilians. A draft resolution was issued in December 1975;
- 4) Veto on self-determination for the Palestinian people (draft resolution of 26 January 1976);
- 5) Veto the draft resolution dated 25 March 1976 on the disagreement that Jerusalem be internationally recognized as the capital of Israel;
- 6) Veto the affirmation of the rights of the Palestinian people under the draft UN resolution issued on June 29, 1976;
- 7) veto support for self-determination for the Palestinian people by draft resolution dated 30 April 1980;
- 8) The veto power used for the resolution of 27 March 2001 on the exercise of UN surveillance powers in the West Bank and Gaza;
- 9) The use of the veto power for a resolution issued on 20 December 2002 expresses deep concern over Israel's actions that have led to the deaths of international employees and the destruction of a warehouse belonging to the UN World Food Programme in Beit Lahiya. In addition, it demands Israel to refrain from excessive and disproportionate use of force in the occupied territories;
- 10) Veto to criticism of the killing of Palestinian spiritual leader Sheikh Ahmed Yassin over a missile attack that took place in Gaza. The draft resolution was issued on 25 March 2004;
- 11) veto a resolution issued on 13 July 2006 criticizing the Israeli military offensive in Gaza and urging the Palestinian Authority to take immediate steps to stop rocket fire;
- 12) The use of veto power for the resolution of November 11, 2006 regarding condemnation of Israeli military operations in Gaza and rocket attacks launched by Palestinians on Israel, as well as calling for the immediate withdrawal of Israeli forces from the Gaza Strip.

The use of the veto power by the United States through the UN Security Council has a profound impact on Palestine's membership status in the United Nations. The U.S.-issued veto

has thwarted Palestinian efforts to become permanent members of the United Nations. On April 18, 2024, the United States through its veto rejected the Palestinian request. The consequences of this veto not only hinder the Palestinian state's struggle for independence, but also hinder efforts to achieve long-term peace in the Middle East.<sup>26</sup> The UN Security Council must be able to realize that it is important to uphold human values regardless of differences in race, religion, nationality, political affiliation, and social status. The enforcement of human rights should not be limited by the use of the right of veto, as this is not in accordance with the human rights listed in the *Universal Declaration of Human Rights*.<sup>27</sup>

## 2. The Impact of the Use of the United States' Veto in the Palestinian-Israeli War

As previously known, the veto is a privilege held by the five permanent members of the United Nations Security Council. The five countries include China, Russia, France, the United Kingdom, and the United States. The veto rights of the five countries are a reward for their primary *responsibilities*. The use of the veto is often only used in order to protect the interests of the countries that hold the right and the countries that are allied to the five. This is certainly a controversy because the use of the veto power by the member states concerned is considered a political interest only. Some argue that the right of veto provides a form of fundamental injustice in the global governance system, especially for other member states, because one or more votes from the right-holding country can defeat the unanimous vote of the majority of the other members. The veto power of these five member states allows them to block important decisions that are incompatible with or contrary to their national interests and policies. As seen in some recent cases, instead of being a privilege

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<sup>26</sup> Jabir, Nur Isma, Mohamad Dziqie Aulia Al Farauqi, and Devy Indah Paramitha. "Kegagalan Implementasi Responsibility to Protect (R2P) dalam Konflik Israel–Palestina." *Innovative: Journal of Social Science Research* 4, no. 5 (2024): 9545-9560.

<sup>27</sup> Şener, Mustafa Burak. "A review of the meaning and importance of the Universal Declaration of Human Rights." *Uluslararası Politik Araştırmalar Dergisi* 7, no. 3 (2021): 15-25.

that can be used as a tool for peace, the use of the veto actually shows its inability to resolve the conflict.

The United States is one of the permanent members that often uses the veto power. The use of the veto power is considered to be only one-sided and can hinder the peace efforts of the United Nations (UN) in maintaining international peace and security, as is the case in the Israeli-Palestinian conflict. From 1945 to 2014, the United States was recorded to have used its veto power 86 times for the benefit of its country and its alliances, one of which was Israel. Of the 86 veto rights that have been used, 49 have been used in the interest of protecting Israel from draft resolutions aimed at ending Israel's occupation of Palestine.<sup>28</sup>

In April 2024, it was recorded that the use of the veto power had been used 281 times. The United States has used its veto power 86 times against draft or draft United Nations Security Council resolutions, 49 of which were used in order to protect Israel's interests in the conflict between Israel and Palestine. Based on the latest data in 2024 quoted from CNN Indonesia, the United States has used the veto power over United Nations (UN) Security Council resolutions 49 times. The diplomatic protection carried out by the United States against Israel is considered not an odd thing, because although it reaps controversial issues at the international level, in fact the two countries are within the scope of bilateral relations. The statement is bad news, as all members of the United Nations Security Council voted in November to support a resolution that is expected to bring an immediate end to the conflict between Israel and the Palestinians.

The United States has used a lot of veto power over the Israeli-Palestinian conflict which is considered to be aimed at protecting Israel's interests unilaterally. Therefore, every draft resolution proposed by other member states of the United Nations (UN) Security Council related to efforts to resolve the Israeli-Palestinian conflict only ends up being an ordinary piece

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<sup>28</sup> Okada, Yohei. "Locating the veto power in the international legal order: When a permanent member of the UN Security Council becomes an aggressor." *Global Impact of the Ukraine Conflict: Perspectives from International Law*. Singapore: Springer Nature Singapore, 2023. 71-91.

of paper or a draft whose task content cannot be carried out and does not have binding legal force, thus causing the conflict between Israel and Palestine to drag on and never find a solution. Thus, the draft resolution that is almost approved under the rules of the United Nations Security Council, if there is a veto against it and it fails to be established as a binding decision, then the draft resolution is considered null and void and unenforceable. After the United States exercised its veto power over the Israeli-Palestinian conflict, the resolutions that have been drafted in such a way can no longer be said to be a "*resolution*", but are simply referred to as "*drafts*" or considered as a mere "*project*".<sup>29</sup>

The use of veto power by the United States in the United Nations Security Council in supporting Israel over its conflict with the Palestinians has become a major global issue. The use of the veto power has complex and significant impacts on international political dynamics, peaceful resolution, and the protection of Palestinian rights in the conflict. Here are some of the implications of the United States' use of veto power in the Israeli-Palestinian conflict:

1) Thwarting Palestine's efforts to become a full member of the United Nations (UN)

The use of veto power by the United States made Palestine fail to become a full member state of the United Nations (UN), resulting in Palestine not being able to obtain an equal status with other countries in the realm of the international community. The United Nations Security Council resolution ultimately lacks binding legal force, leaving Palestinians facing difficulties in fighting for their rights in international forums. Without full membership status, this results in Palestine not having full access to the international resources and support needed to build a sovereign state.

2) Hindering the peace process in the Israeli-Palestinian conflict

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<sup>29</sup> Pravidjayanto, Rafi, and Fran'S. Hidayatullah. "Initiating The Extra Judicial Review Model as a Form of Balancing the Power of The Veto in Overcoming International Armed Conflicts." *Al-Jinayah: Jurnal Hukum Pidana Islam* 10, no. 1 (2024): 72-88.

The use of veto by the United States has resulted in the inhibition of peace initiatives that could facilitate the resolution of the conflict between the Palestinians and Israel. Several member states of the United Nations Security Council (UN) are working to create a framework that aims to support peace. However, the use of veto power by the United States makes these peace initiatives often fail. The United States tends to be more supportive of Israel's harsh policy toward Palestine, so that a fairer international effort toward Palestine cannot be realized at the United Nations.

3) Limiting international action against Israel

One of the main impacts of the use of veto power by the United States is the restriction on international efforts to suppress Israeli atrocities against the Palestinians. The United States used its veto power to block United Nations Security Council resolutions condemning Israel's violence against Palestinians, including military strikes, illegal settlement construction in Palestinian territories, or human rights violations against Palestinians. As was the case in 2011, the United States used veto power in response to a resolution calling for a halt to Israeli settlement construction in the territories occupied by the Palestinian population.

4) Ignoring the rights of Palestinians

By blocking United Nations (UN) resolutions containing support for Palestine, the use of veto power by the United States often ignores the basic rights that the Palestinian population should have. All of these rights include the right to live in peace, the right to land, and the right to justice or equality in international law. Resolutions urging Israel to stop illegal settlements, stop the blockade of Gaza, or stop excessive use of force/attacks against Palestinians are often blocked by the United States using veto, which can prolong the suffering of Palestinians. Of course, this is also included in human rights violations, where in the Universal Declaration of Human Rights, it is stated in article 1 that all human beings are born free and have the same dignity and rights. Furthermore, in article 3 it is stated that all human beings have the right to life, liberty, and safety. Then in articles 4 and 5 it is stated that all human beings shall not be

enslaved or enslaved and shall not be treated or punished in an inhuman or degrading manner, which in the whole treatment can degrade the dignity of human beings or groups of human beings.

5) Weakening of the basic principles of the United Nations (UN) and a decline in trust

The use of veto by the United States is certainly contrary to the basic principles of the United Nations (UN), as well as the principle of equality of sovereignty contained in Article 2 Paragraph 1 of the Charter of the United Nations (UN) which can then have an impact on weakening the legitimacy and effectiveness of the international organization. This also affects the decline in global trust in the United Nations (UN), which is considered to be able to play a role in maintaining international peace and security. When there is a failure by the UN to take action due to the blockade, many countries, especially Palestinian-supporting countries, feel that the UN is unreliable in resolving the Israeli-Palestinian conflict.

6) Increasing global polarization

The use of veto power by the United States also has an impact on the worsening global polarization in the Israeli-Palestinian conflict. Other major countries such as Russia and China have often opposed U.S. policy and supported peace efforts for the Palestinians under pressure from Israel. This creates a tension in international relations and exacerbates polarization in the effort to resolve the conflict.

7) Strengthening Israel's position and limiting Palestinian space for movement

The existence of a veto by the United States provides strong diplomatic protection for Israel at the international level, allowing Israel to continue its controversial policies by the world without facing significant consequences from the international community. This certainly has an impact on the restriction of space for Palestine which makes it difficult for Palestinians to get strong international support in an effort to achieve independence and justice. That way, the chances of Palestinians regaining their rights are getting smaller. A just and sustainable settlement in the Palestinian-Israeli conflict requires the involvement of all parties, including the

United Nations (UN), but the existence of obstacles such as the use of veto power by the United States can hinder progress towards a justice that should be achieved.

### 3. Enforcement of International Law in the Palestinian-Israeli War

Israel's war crimes against Palestinians have attracted the attention of the international community. Within the framework of international law, such war crimes can be analyzed and considered based on the principles contained in international humanitarian law.<sup>30</sup> International humanitarian law is one of the branches of public international law that governs situations involving armed conflict.<sup>31</sup> Humanitarian law aims to provide protection to civilians or individuals affected by war, both those who are actively involved in combat and those who do not participate in hostilities. This violation of humanitarian law not only causes suffering to civilians, but also destroys trust in international institutions that are supposed to protect human rights.

During the conflict between Palestine and Israel, the Israeli military has violated several principles of international humanitarian law. The first is the principle of military necessity which stipulates that only military objects and combatants are allowed to be attacked, but instead they attack civilian objects such as schools, hospitals, and other vital infrastructure. Second, humanitarian principles are violated by blocking international aid sent to alleviate the suffering of Palestinians due to the conflict. Third, the principle of proportionality that governs the balance between the losses received and those awarded in the conflict is also not applied properly. Israel carried out a very disproportionate counterattack on Gaza, bombarding civilian areas used as hiding places by Hamas, resulting in far more

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<sup>30</sup> Ifara, Aliya Nadita, et al. "Tinjauan Yuridis Kejahatan Israel terhadap Palestina dalam Perspektif Hukum Internasional." *Indonesian Journal of Law and Justice* 1, no. 3 (2024): 1-13.

<sup>31</sup> Indriani, Susi, and Yati Sharfina Desiandri. "HAM Dan Hukum Humaniter Internasional: Analisis Konflik Israel Dan Palestina." *Politica: Jurnal Hukum Tata Negara Dan Politik Islam* 11, no. 1 (2024): 1-9.

casualties compared to Hamas' rocket attacks on Israel.<sup>32</sup> Israel's actions are not just about war, the seizure of Palestinian territory, or religious issues, but also include a wide range of gross human rights violations, such as genocide, war crimes, crimes against humanity, and aggression. These crimes have exceeded the boundaries of the rules of war, and countries in the world should pay attention to what is happening in Palestine.<sup>33</sup>

The long-running conflict between Israel and Palestine has caused many losses, especially for Palestinians who have lost their property and their lives. In this conflict resolution effort, *the International Criminal Court (ICC)* must play an important role according to the legal basis of its establishment, namely the Rome Statute of 1998. *The International Criminal Court* has a role in dealing with or prosecuting individuals suspected of involvement in crimes of genocide, war, aggression, and crimes against humanity. As an international court that has the authority to prosecute, of course, the ICC has a significant role in holding accountable for the crimes committed by Israel against Palestinians. Israel should be faced with charges of "*Crimes Against Humanity*" and the ICC should determine whether Israeli leaders and military commanders responsible for the blockade policy deserve to be brought to justice. In addition, the Israeli foreign minister and general must be held accountable for the tragedy in Gaza.<sup>34</sup>

Israeli war crimes fall under the jurisdiction of the ICC which came into force in 2002, but Israel has not ratified the Rome statute so this ICC authority does not apply to Israel. Although Israel did not ratify the Rome Statute and did not recognize the jurisdiction of the ICC, the Court has ruled that the ICC has jurisdiction over the situation in Palestine. This decision raises complex legal dynamics and confirms that, under Article 12 paragraph (2) of the Rome Statute, the Court has the right to investigate and investigate acts alleged to be crimes in the territory, even though Israel opposes this jurisdiction. However,

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<sup>32</sup> Indriani, and Desiandri.

<sup>33</sup> Indriani, and Desiandri.

<sup>34</sup> Ari, Yılmaz, and Mustafa Turan. "A Crime against Humanity and the Tragedy of Genocide: An Evaluation That Israel Should Be Sued for State Terrorism against Palestinians." *Uluslararası Dorlion Akademik Sosyal Araştırmalar Dergisi (DASAD)* 1, no. 2 (2023): 445-465.

to date, the process run by the ICC has faced a number of obstacles, mainly because Israel continues to refuse to recognize the ICC's jurisdiction and obstruct the ICC's investigation into alleged violations of the Rome Statute.

On January 26, 2024, the ICJ issued a summary of the lawsuit filed by South Africa against Israel. The ICJ has limitations in binding states, both incorporated and non-affiliated, so its role in the Israeli-Palestinian conflict is only as a mediator between the two sides. Therefore, the ICJ has not been able to fully compel Israel to comply with international law, which leaves the mediation process unresolved. The international legal process carried out by South Africa has also not been completed, as there have been changes in clauses in several sessions related to the implementation of interim measures. In fact, Colombia also submitted a Declaration of Intervention under Article 63 of the Statute, arguing that as a state party to the Genocide Convention, Colombia has a responsibility to prevent genocide and facilitate the ICJ in making decisions.<sup>35</sup>

In its military strikes, Israel has violated the principle of distinction in humanitarian law that requires distinguishing between combatants and civilians as objects of attack. This principle affirms that civilians should not be attacked. The international community has been urging that Israel be immediately tried at the ICC for alleged crimes against Palestinians, which was reinforced by the results of a UN investigation that found Israel had committed war crimes. In international humanitarian law, there are mechanisms for enforcing the law against war criminals, as follows: First, the 1949 Geneva Convention and the 1977 Additional Protocol which oblige states that have ratified the Convention to make national rules on the imposition of criminal sanctions for offenders (Article 49). Second, the Ad Hoc War Crimes Court, which includes the Tokyo Court, the Nuremberg Tribunal, the ICTY, and the Rwandan Court. Third, *the International Criminal*

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<sup>35</sup> Huremagić, Haris. "Article 63 of the ICJ Statute and the Legal Effects of Judgments on Intervening States—an Attempt for More Clarity." *The Law & Practice of International Courts and Tribunals* 23, no. 3 (2024): 413-437; Martini, Pauline. *Colombia and the International Criminal Court. A Case for Legal Diversity in International Criminal Justice*. Diss. Queen Mary University of London, 2024.

*Court* (ICC), a permanent and independent court that adjudicates serious crimes such as genocide, war crimes, and crimes against humanity.<sup>36</sup>

The conflict between Israel and Palestine is not only wanted to be resolved by *the International Criminal Court*, but also by the United Nations International Court of Justice (ICJ), which begins with the filing of a lawsuit by an African country. The report submitted by South Africa on the issue of genocide in Palestine will certainly receive great attention from the International Court of Justice. The International Court of Justice has an obligation to investigate serious allegations such as genocide, as genocide is one of the most serious crimes under international law. The first trial begins on January 11, 2024, at which the International Court of Justice begins the trial of a lawsuit filed by South Africa against Israel, accused of genocide in the Gaza Strip. The hearing was attended by fifteen judges, led by MI President Joan Donoghue and his deputy, Kirill Gevorgian. After the first hearing, on January 27, 2024, the International Court of Justice issued a provisional decree asking Israel to immediately stop the genocide and take preventive measures.<sup>37</sup> In addition, Israel is also obliged to allow humanitarian aid to enter Gaza and submit a report to the International Court of Justice.

Although international humanitarian law is designed to protect victims of war and respect human dignity, violations of these laws are still common. The protection of the civilian population in armed conflict is of paramount importance and must be addressed by all parties involved. Therefore, to address this conflict and protect the basic rights of civilians, it is necessary to implement stricter international humanitarian law, increased dialogue and negotiation between the two sides, and more effective international surveillance of violations of the law. In addition, education and counseling on humanitarian law is

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<sup>36</sup> Ifara, et al. "Tinjauan Yuridis Kejahatan Israel terhadap Palestina dalam Perspektif Hukum Internasional."

<sup>37</sup> Ahmad, S. Thoriq Musthofa, Muhammad Reyhan, and Sepana Virqiyan. "Peran Mahkamah Internasional (ICJ) Dalam Mengatasi Pelanggaran Hukum Humaniter Di Palestina 2023-2024." *Acta Law Journal* 2, no. 2 (2024): 108-118.

also crucial so that all parties understand and respect these principles.

In the context of international law enforcement related to the Palestinian-Israeli conflict, the active role of the international community is essential to promote a peaceful settlement. UN member states, along with regional organizations such as the Arab League and the OIC, are responsible for pressuring Israel to comply with international humanitarian law and stop acts that harm civilians. Diplomatic efforts, such as calls for a permanent ceasefire and recognition of Palestinian rights, should be the focus of global discussions. In addition, support for institutions such as UNRWA is critical to ensure access to humanitarian assistance for those affected by conflict.

On the other hand, the two-state solution remains the main approach to achieving sustainable peace. The establishment of an independent Palestinian state alongside Israel is expected to create stability in the region. However, this requires agreement and commitment from all relevant parties, including Palestinian factions. Interfaith dialogue and cross-border cooperation are also important to reduce tensions and enhance intercultural understanding. Therefore, conflict resolution efforts must involve various elements of international and local society to create conditions conducive to a just and sustainable peace.

## **D. Conclusion**

UN Security Council Resolutions, such as Resolution 181, were issued as an attempt to resolve the conflict between Palestine and Israel. The United Nations has the main goal in the Palestinian-Israeli conflict, which is to protect humanity from the threat of war and maintain international peace and security, the role of the United Nations itself is as a mediator through diplomatic efforts and negotiations to ease the tensions that occur between the two countries. However, the effectiveness of the UN resolution against Israel is still limited because the conflict continues to this day. The PPB still hopes that through a diplomatic approach, Palestine and Israel can find common ground and a common solution to end the conflict.

The veto rights of the five major countries are given as a reward for their primary responsibility in maintaining world

peace and security. In the formulation of the UN Charter, veto rights and permanent membership in the Security Council were granted to countries deemed to have played an important role in ending World War II. Veto power can be defined as a vote that can block or prevent a decision. Based on this definition, a veto is a form of negative vote with special characteristics. This right is a special privilege held by the five Permanent Members of the UN Security Council, which include the United States, the United Kingdom, France, China, and Russia. This privilege gives them the authority to reject or overturn decisions submitted to the UN Security Council. As a result, if one of the members continues to use his veto power to reject a decision that is then supported by the other member, then the decision cannot be implemented.

Since 1972, the United States has used its veto power 86 times against draft UN Security Council resolutions, with 79 of them being used to protect Israel from resolutions aimed at ending Israel's occupation of Palestine. The veto used by the United States is considered one-sided and can hinder the UN's efforts to maintain peace in resolving international conflicts. The diplomatic protection that the United States provides to Israel is not surprising, because despite the controversial international issues, the two countries have good bilateral relations. This statement is bad news because although members of the Security Council supported a resolution in November to immediately end the conflict between Israel and the Palestinians, the United States has vetoed the resolution.

The United States often uses its veto power in conflicts between Israel and Palestine, which is considered to be aimed at protecting Israel's interests unilaterally. As a result, the draft resolution submitted by UN Security Council member states regarding efforts to resolve the Israeli-Palestinian conflict only ended up as an unenforceable draft and did not have binding legal force, thus causing the conflict to continue to drag on without resolution. After the United States exercised its veto power in the Israeli-Palestinian conflict, the carefully drafted resolution was no longer considered a "resolution" but merely a "draft" or considered a mere "project". The impact of the United States' veto power in the Israeli-Palestinian War has created complex and significant effects on global political dynamics,

peace resolutions, and the protection of Palestinian rights in the conflict.

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The authors state that there is no conflict of interest in the publication of this article.

## G. Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.

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