

Veto Power and Its Impact on the Human Rights Situation



Prepared by: Aly Mohammed

Edited by: Sherif Abdel Hamid

Introduction

Respecting and promoting human rights and fundamental freedoms of individuals is one of the purposes of the United Nations (UN) set out in its charter. These rights have been fully protected by the UN, which has worked to develop the forms of such protection from time to time, whether by legislating a number of relevant international conventions or by establishing specialized bodies to monitor and follow up on the obligations set out in these conventions. However, in many cases, the arbitrary use of the permanent members of the Security Council of the so-called “veto power” stands in the way of achieving such purpose. This results in a violation of some fundamental human rights, in addition to prompting some countries to commit more violations in light of absence of accountability and lack of impunity.¹

The use of such power has negative repercussions on a huge number of civilians in the countries of the Middle East and in other regions, particularly when this veto power is used to prevent the delivery of humanitarian assistance to countries experiencing emergency crises, and the resulting disasters and human rights violations, primarily the violation of the right to life. Moreover, this veto is used by the five major permanent members of the Security Council (the United States of America - China - Britain - Russia - France) to disrupt ceasefire or any humanitarian truce in some areas such as the occupied Palestinian territories and Syria, resulting in more victims of the innocent civilian population. Despite the calls for reforming such flawed system in the Security Council, which are represented in preventing the use of such power in serious crimes that amount to war crimes, and despite the resolution by United Nations General Assembly (UNGA) entitled “Uniting for Peace” which entailed giving the General Assembly the opportunity to issue resolutions in case of failure by the Security Council do so when one of the permanent members uses the veto, these calls for reforms are often met with rejection by the five permanent members. Moreover, in the cases where the United Nations General Assembly (UNGA) decided to take an alternative path, it did not receive any attention from the international community².

Accordingly, **Maat for Peace, development and Human Rights** focuses in this report on the use of “veto power” in the context of human rights violations of the

¹ حق النقض "الفيتو" هو حق مُنح للخمسة الدول دائمي العضوية في مجلس الأمن، ويحتاج صدور أي قرار من قبل مجلس الأمن إلى موافقة تسعة أعضاء بالمجلس المكون من 15 دولة دون استخدام أي من الدول الخمس الدائمة العضوية وهم: الولايات المتحدة وبريطانيا وفرنسا وروسيا والصين- لحق النقض (الفيتو).

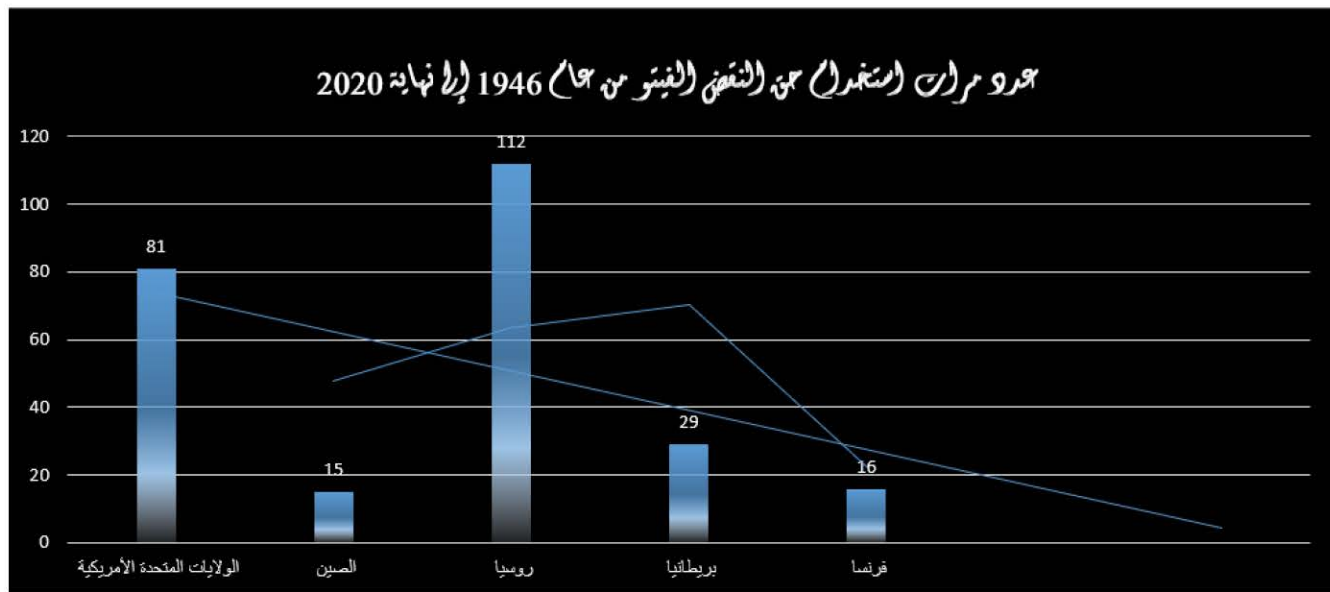
² أنظر القرار رقم 377، متحدثون من أجل السلام، الجمعية العامة للأمم المتحدة، على الرابط التالي: <https://bit.ly/3bGSRR4>

peoples of some countries with the emphasis on the cases where the US, Russia and China used such power, approximately “61” times only with regards to the occupied Palestinian territories by the United states or with regards to Syria by Russia and China. This all come in light of the implication of the use of this veto power that there are no real guarantees for the protection of civilians from the successive violations against them, in addition to contributing to widening the gap of impunity and lack of accountability for such violations, some of which may amount to crimes against humanity.

The impact of using the veto power on the continuous human rights violations

Respecting and promoting human rights is one of the purposes of the UN. The fundamental human rights were guaranteed by international instruments and conventions under the patronage of the UN and its different bodies. However, the arbitrary use of the veto power by the above five permanent members of the Security Council has impeded the attainment of such purposes. Moreover, this arbitrary use has facilitated violations of civilians’ rights in more than one country that will be mentioned later on. The intervention by those states who have the “veto” power has often perpetuated war and violations of civilians’ rights, as in the case of the US using its veto power in the Israeli–Palestinian conflict.

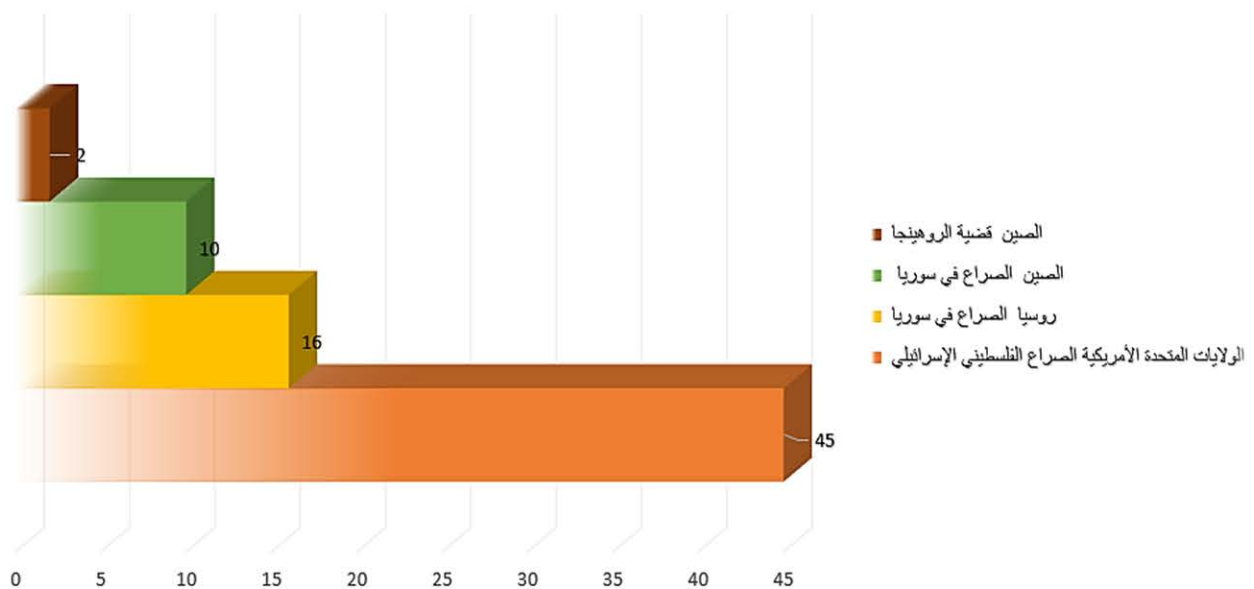
Figure (1) below shows the number of times the permanent members have used the veto since the first use of this power till the end of December 2020.



الشكل رقم 1: مراتب استخدام الفيتو من قبل الدول دائمي العضوية في مجلس الأمن

As shown in the figure above, Russia is the state with the most uses of the veto with 112 times since the five member states of the UN Security Council obtained the eligibility to use such power until the end of December 2020, followed by US with up to 81 times. A broad spectrum of the United States' use of this power was to disrupt resolutions to condemn the Israeli violations in the occupied Palestinian territories, transfer the Israeli crimes to the International Criminal Court (ICC) or to prevent unlawful settlements in Jerusalem and the West Bank. Britain comes third with 29 times, followed by France with 16 times. China comes last with 15 times, including 10 times since the beginning of conflicts in the Syrian territories until the end of 2020, together with Russia with regards to the conflicts in the Syrian territories and two times during the period from 2007 to February 2021 as to the human rights conditions in Myanmar, as will be shown in the figure below.

استخدام الفيتو من قبل الدول دائمي العضوية في قضايا تتعلق بحقوق الإنسان وحماية المدنيين



الشكل رقم 2: استخدام الفيتو في قضايا حقوق الإنسان وحماية المدنيين

As shown in the previous figure, the US is the state with the most uses of the veto in cases related to civilians' rights. The US veto power has disrupted the condemnation of Israel 45 times in different cases such as civilians' rights violations in Gaza Strip and the West Bank. It has also disrupted the prevention of settlements in Jerusalem and other areas of Palestine. Meanwhile, Russia has used such power 16 times regarding the Syrian crisis to obstruct Syrian civilians' access to humanitarian assistance and the transfer of war crimes against Syria to the International Criminal Court (ICC). During the

period from October 4, 2011 to October 2021, China has used this power 10 times together with Russia with respect to the same previous cases and it has used it two times for the situation in Myanmar, particularly the ethnocide of the Rohingya minority. China has also used the veto 4 more times in other issues, such as the situation in the Middle East in general and the situation in Venezuela.

After reviewing how many times the permanent members of the Security Council have used the veto power, we focus on the countries that have arbitrarily used such power, particularly in the last decade, which are the United States, Russia and China, leading to a broad spectrum of violations against civilians in contravention to the guaranteed protection for those civilians by the International Human Rights Law (IHRL) and the International Humanitarian Law (IHL).

The Veto power in the context of civilians' rights violations in the Palestinian territories

The US has used the veto power around 45 times with regard to the Israeli-Palestinian conflict and in each of these times, the US used such power to either prevent ceasefire by the Israeli forces or to prevent the issuance of resolution that condemns the Israeli occupation and human rights violations such as settlement expansion or forced deportation of residents in Gaza Strip or the West Bank. The most recent use of the veto power by the US was to legitimize the violations by the Israeli forces in the occupied Palestinian territories through airstrikes carried out by the Israeli Air forces. These airstrikes mostly affect civilian targets, which is prohibited under the International Humanitarian Law (IHL). On May 16, 2021, The US implied that it will use the "Veto" power for the sake of preventing the passing of a draft resolution by the Security Council that calls for ceasefire between the Israeli forces and the Palestinian factions. In addition, the US threats hindered the issuance of a statement that also demands ceasefire in order to protect civilians' lives and the victims among women and children in particular³.

Since the beginning of the Israeli aerial bombing on Gaza on May 10, 2021, the Security Council held four emergency meetings to discuss a proposal for ceasefire from both sides and to condemn violations against civilian targets. In those four meetings, the US objected to draft resolutions presented by China, Tunisia and Norway, in addition, the US clarified that it does not believe that issuing a joint statement by the Security

³ إدارة بيدين في مجلس الأمن الدولي: لا جديد تحت الشمس، القدس العربي، 17 مايو 2021، على الرابط التالي: <https://bit.ly/3hEqa10>

Council would reduce the escalation. This gave more legitimacy for the Israeli Government to expand its airstrikes on Gaza Strip.

Moreover, and since the indication by the United States Ambassador to the United Nations, “Linda Thomas” that the US will stand against any draft condemning Israeli in the Security Council, the Israeli forces embarked on intensifying airstrikes on civilians in Gaza Strip⁴. As of May, 18, 2021, about 220 Palestinian civilians were killed due to these aerial bombings, including 65 children and 40 women, in addition to the injury of over 1600 people, mostly civilians. Moreover, there is a possibility the number of the dead and injured is much higher than that, owing to inability of the rescue and medical teams to recover those killed under the ruins of the buildings destroyed by the ongoing war and aerial bombings by the Israeli forces.

In a related context, 2500 civilians’ houses were destroyed. As a result of such bombing, 51,000 people required emergency assistance, while 38,000 internally displaced people were forced to flee from the bombing on civilian objects⁵.

Evidently, the US is defending a country that does not avoid bombing civilians and civilian objects, foremost among them are women, children and hospitals. The most significant example of such is that the Israeli airstrikes deliberately targeted areas that do not include any military objects of the Palestinian factions in Gaza. The Israel Defense Forces (IDF) warned the media and international and regional news agencies with offices based in al-Jalaa Building in Gaza before they destroyed the whole building on May, 15, 2021. Al-jalaa Building is a high-rise building consisting of 11 floors that contains several international and local media offices as well as apartments owned by civilians and lawyers’ offices.

On May, 15, 2021, Israel also called for the evacuation of the Cairo Tower in Tal al-Hawa neighborhood of Gaza in preparation for an Israeli attack on it before Israel actually did so. Such attack resulted in the displacement of civilian residents of the tower. Furthermore, the Israeli Government also claims that it is targeting armed factions of Hamas. However, reality and aerial bombings on civilian towers contradict such claims by the Israeli Government⁶. According to the World Health Organization (WHO), the

⁴ مندوبة أمريكا بالأمم المتحدة: إصدار إعلاناً من مجلس الأمن لن يساهم في خفض العنف، مصراوي، 18 مايو 2021، على الرابط التالي:
⁵ الأمم المتحدة: نزوح أكثر من 38 ألف فلسطيني من منازلهم بسبب الغارات الإسرائيلية على غزة، روسيا اليوم، 17 مايو 2021، على الرابط التالي:

<https://bit.ly/3ovQsxD>

⁶ إسرائيل تطلب إخلاء «برج القاهرة» تمهيدا لضربه في غزة، المصري اليوم، 15 مايو 2021، على الرابط التالي: <https://bit.ly/3u2Aaxr>

Israeli attacks on Gaza Strip that started on May, 10, 2021 have destroyed about 18 hospitals and clinics, resulting in the depletion of half of essential medicines needed for the Strip that is inhabited by more than two million Palestinians⁷.

Moreover, almost any draft resolution by the Security Council to condemn the Israeli practices in the occupied Palestinian territories is met with the “US veto power” obstructing such resolution, even if this draft resolution is related to the UN staff working in the Palestinian territory. When Syria previously presented a draft condemning the Israeli targeting of the UN relief personnel in Jenin refugee camp, the US considered that such incident is not enough to condemn Israel. This draft resolution included Israel’s “deliberate destruction” of a food warehouse of the World Food Programme (WFP) in the city of Beit Lahia in the occupied Palestinian territories, resulting in the wasting of 537 tons of food supplies provided by some donor countries in order to distribute such applies to the Palestinians in need of a humanitarian assistance. The draft also called for full implementation of the obligations imposed on Israel in accordance with the fourth Geneva Convention of 1949 concerning the protection of civilians in time of war, in addition to demanding Israel to prevent the excessive use of force that is disproportionate with the threat in the occupied Palestinian territories. The US used its veto power against this draft, claiming that those who adopt this draft resolution do not care about the safety of the UN staff as much as they seek to condemn the Israeli Government. This is a very strange logic from the US, but it has always been its argument to justify its position on the Israeli violations when using the “veto” power against any resolutions in the Security Council that condemn Israel⁸.

As for Israel, and by deliberately not distinguishing between combatants in Hamas and other Palestinian movements as well as civilians , the occupation forces have violated one of the most fundamental principles of laws of war, which is that airstrikes shall be directed only against military targets. This affirms that Israel’s use of excessive force, resulting in civilian casualties day after day, amounts to war crimes. As such, these violations must be transferred to the International Criminal Court (ICC) to be promptly investigated. Moreover, the protection provided to Israel by the US, with regard to the continuous violations in the occupied Palestinian territories, makes Israel believe that it

⁷ إضراب عام فلسطيني | مصر تخصص نصف مليار دولار لإعادة إعمار غزة | بيددين يوافق على بيع أسلحة عالية الدقة لإسرائيل، مدي مصر، 18 مايو 2021، على الرابط التالي: <https://bit.ly/3ypAY2C>

⁸ الولايات المتحدة تستخدم الفيتو ضد مشروع قرار يدين الممارسات الإسرائيلية، أخبار الأمم المتحدة، 23 ديسمبر 2002، على الرابط التالي: <https://bit.ly/3hJ6YJc>

cannot be held accountable, and therefore drives it to commit more serious crimes against human rights in full view of the international community.

The Russian veto obstructs the humanitarian aid from reaching civilians in Syria

In 2021, about 13.4 million persons in Syria need humanitarian assistance, an increase of 20% compared to 2020 according to the United Nations⁹. The suffering of these people, who are deprived of their basic rights, has exacerbated due to Russia and China's use of the veto power against a UN resolution to pass humanitarian aid in Syria. In the period from 4 October 2011 till 10 October 2020, Russia used veto power up to 16 times in relation to the development of the situation in Syria, 10 times of which China has used this power 10 times together with Russia. In this context, we will focus on Russia's use of veto power to prevent the passage of humanitarian assistance across shared borders between Syria and the neighboring States¹⁰. As the two States mentioned used veto three times to prevent the passage of humanitarian assistance that serves more than 4 million internally displaced persons in Syria, according to human rights reports¹¹.

On 7 July 2020, Russia along with China rejected a draft resolution submitted by Germany and Belgium asking the Member States to extend the procedures confirmed in the second and third paragraphs of the resolution 2165 of 2014 for another year until 10 July 2021¹². The second paragraph of the draft resolution provided for permitting the United Nations humanitarian agencies and their partners to use the roads across the dispute lines and the border crossings Bab Al Salam, Bab Al Hawa, and Al Yarubiyah, in addition to the other crossings used to guarantee the access of the humanitarian assistance, including the medications and the medical supplies, to the most vulnerable and needy persons throughout Syria through shorter roads and to the Syrian authorities thereof. For this end, it is important to use all the border crossings more efficiently for humanitarian operations¹³

The third paragraph of the draft resolution provided the establishment of a monitoring mechanism, operating under the authority of the United Nations Secretary-

⁹ مليون سوري يحتاجون إلى مساعدات إنسانية، الشبكة الدولية لحقوق الإنسان والبيئة، 7 أبريل 2021، على الرابط التالي: <https://bit.ly/3ovKVHt>

¹⁰ في ذكرى "الفيثو" الأول.. كيف دعم سلاح روسيا الأقوى الأسد؟، سوريا، 15 أكتوبر 2020، على الرابط التالي: <https://bit.ly/3hSNcv9>

¹¹ تقرير: 16 فيثو روسياً صينياً ساهم بقتل ربع مليون سوري، تلفزيون سوريا، 17 يوليو 2020، على الرابط التالي: <https://bit.ly/2RoNfnz>

¹² رسالة مؤرخة 7 تموز/ يوليو 2020 موجهة إلى الأمين العام للأمم المتحدة، والممثلين الدائمين لأعضاء مجلس الأمن من رئيس مجلس الأمن، 7 يوليو 2020، على الرابط التالي: <https://undocs.org/ar/S/2020/657>

¹³ القرار 2165 لعام 2014، مجلس الأمن، ص 4، على الرابط التالي: <https://undocs.org/ar/S/RES/2165> (2014)

General with the consent of the concerned countries neighboring Syria, to monitor the loading of the humanitarian relief shipments sent by the United Nations humanitarian agencies and their implementing partners in the relevant facilities of the United Nations, and to monitor the opening of these shipments by the customs authorities of the neighboring concerned countries to pass to Syria across the border crossings Bab Al Salam, Bab Al Hawa, Al Yarubiyah, and Al-Ramtha, and the Syrian authorities to be notified by the United Nations to confirm the humanitarian nature of the relief shipments¹⁴. However, the draft resolution, which was supported by 13 members of the Security Council members, was not accredited because of using veto power by Russia and China against the draft resolution¹⁵. Maat observes that the more the veto power was used to restrict the humanitarian assistance in Syria, the more the human condition of the civilians deteriorated, particularly in the the most needy areas, and the more the number of the persons who suffer from food insecurity increased, who reached more than 12 million in Syria according to the statistics of the United Nations¹⁶.

In December 2019, the major five States, that have the veto power, competed to refuse draft resolutions to pass the humanitarian assistance to Syria, neglecting all rights for the civilians who live in that State. On one hand, Russia and China refused a draft resolution submitted by Germany, Belgium, and Kuwait to pass assistance across Iraqi border points, the draft resolution was dropped by Russia and China after using the veto power. On the other hand, a draft resolution submitted by Russia did not obtain the majority of votes in the same meeting of the Security Council to pass assistance across Turkish border points, as the Russian draft resolution was approved by five members, six members oppsed it, while four States abstained from the voting process. ¹⁷ It is clear from dropping the two previous draft resolutions in the Security Council, that primacy of the political considerations has priority over the humanitarian considerations in the areas of the armed conflicts, so if there was an intention to take into consideration the persons affected by the cessation of the humanitarian assistance, those States should have agreed on a mechanism accepted by all the States and to be sponsored and

¹⁴المرجع السابق

¹⁵مرجع سبق ذكره، على الرابط التالي: <https://undocs.org/ar/S/2020/657>

¹⁶لأمم المتحدة: 12,4 مليون سوري يعانون انعدام الأمن الغذائي، روسيا اليوم، 13 فبراير 2021، على الرابط التالي: <https://bit.ly/2T6GTJX>

¹⁷مجلس الأمن: فيتو روسي-صيني ضد مشروع قرار لإرسال مساعدات لسوريا، فرنسا 24، 20 ديسمبر 2019، على الرابط التالي:

<https://bit.ly/3v90KGC>

supervised by the United Nations, which contributes in alleviating the suffering of the civilians in Syria even a little bit.

In September 2019, Russia and China also used the veto power against a draft resolution submitted to a ceasefire in Idlib governorate in northwest Syria, where about 3 million Syrians including one million children live. Despite that the resolution was including a statement “exclusion of the procedures against terrorism on condition of respect for the international law”, the two States refused this draft, resulting in the killing of more civilian victims and bombing of a wide range of hospitals, schools, and civilian objects because of the hostilities between the Syrian army and the opposing factions. **According to human rights estimations, the number of fatalities increased from 2700 to more than half-million Syrians between the first veto power used by Russia in Syria and the last one**, as half of the Syrians became refugees or internally displaced, Syria became among the fragile States in which the extremist militias and groups deploy¹⁸.

Obstructing the access of humanitarian assistance to the most-affected civilians is incompatible with the principles and provisions of the International Human Rights Law and the International Humanitarian Law, and may amount to war crimes. According to the observations of the International Court of Justice, the protection guaranteed to civilians in the International Covenant on Civil and Political Rights is also applicable in wartimes, and prohibits the individual’s arbitrary deprivation of his right to life during hostile acts. The relationship between humanitarian assistance and the right to life means that the duties, for which the parties to any dispute in this regard are responsible, grant all the victims of the disputes the right to receive the humanitarian assistance submitted by a third party. Accordingly, the right to access to humanitarian assistance is as fundamental as to the right to life, which is the basic human rights guaranteed by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. The obligations of the States and the other parties to the conflict are limited to permitting the access and passage of the humanitarian assistance and distributing it in fairly, which are the obligations restricted by Russia and China in Russia by using the veto power.

¹⁸سوريا: روسيا والصين تستخدمان حق الفيتو ضد مشروع قرار لوقف إطلاق النار في إدلب، فرنسا 24، 19 سبتمبر 2019، على الرابط التالي: <https://bit.ly/3oAlSmn>

Rohingya are victims of the Chinese veto power

As the United States used the veto power for the interest of Israel, and Russia used it in the Security Council against Syria; China used this veto to defend the violations of Myanmar against the Rohingya Muslims in Rakhine State. On 3 February 2021, China prevented the issuance of a statement by the Security Council that condemns the military coup in Myanmar, after it threatened to use the veto power if its ally Myanmar has been condemned in a joint statement issued by the Security Council¹⁹. It was not the first time for China to interfere in the Security Council affairs to prevent the issuance of a statement that condemns Myanmar practices and violations, particularly those committed against the human rights of the Rohingya, which may amount to the level of “genocide”. The Security Council failed to take a procedure that discourages the government in Burma from retraction. According to human rights reports, this protection, which is provided to Myanmar by China, contributed to impunity and the increase of the arbitral practices against the mentioned Muslim minority in Myanmar, so this protection prompted the Rohingya citizens in Rakhine State to flee as the frequency of the violations has alarmingly increased to include the extrajudicial killing and rape crimes, in addition to the increasing number of refugees in neighboring countries, particularly Bangladesh, numbering about 750 thousand²⁰.

Maat is not sure that the non-use of “Chinese veto power” against the resolutions that condemn the human rights violations in Myanmar will put an end to these violations. However, Maat believes that at least Myanmar will realize that it is not protected internationally, which may reduce these violations to a minimum level, particularly that it became clear beyond any doubt that the more the States included in the report feel that there is an international cover justifying their illegitimate actions, particularly against the human rights, the more the frequency of the grave violations of human rights and the violations of the humanitarian law increased, as impunity and ensuring non-accountability provide guarantee to those States that they will not be held accountable for these violations in all cases.

¹⁹ Myanmar coup: China blocks UN condemnation as protest grows, BBC, 3 February 2021, Available at the following link: <https://bbc.in/3wepXPQ>

²⁰ أقلية الروهينغا المسلمة بين مطرقة العسكر وسندان الحكم المدني، D.W، 13 فبراير 2021، على الرابط التالي: <https://bit.ly/2Qzweq9>

Conclusions & Recommendations

In light of the above, it is clear that the arbitrary use of the veto power by the five permanent members of the United Nations Security Council implies a wide range of violations that conflict with the basic human rights, which include the following:

The violation of the right to life: using the veto power by the permanent Member States in the Security Council in favor of the States allies, particularly in the States of the armed conflicts, results in expansion of targeting the civilians by the governments under the pretext of security maintenance and counter-terrorism. In another context, not permitting the passage of humanitarian assistance threatens the survival of the population, because of the lack of the necessities of life and the food insecurity on a wide range.

Impunity: It is noted that the more the veto power is used in favor of a State from the ones included in the report, the higher the frequency of violations and arbitrary practices by this country, especially in the cases of Israel in the occupied Palestinian territories and in the case of Myanmar against the Rohingya Muslims.

The widening frequency of violations: It is noted that whenever the Security Council is granted legitimacy by one of the permanent members of some states for their actions, this is accompanied by serious violations against human rights, especially sexual violence, internal displacement, enforced disappearance, torture in prisons and other violations that are inconsistent with international conventions and instruments.

Maat for Peace, Development and Human Rights recommends the following:

To the international community

- The development of a code of conduct by the United Nations Member States limits the use of the veto power in specific cases, such as the crimes that imply serious violations against the human rights and crimes of ethnic cleansing and genocide, and the draft resolutions related to the delivery of the humanitarian assistance in the affected areas.
- The importance of structuring the UN Security Council and discussing the issue of permanent membership, in which the main criterion must be the amount of humanitarian services provided by the country to promote international law and protect human rights.

To Russia, China, and the United States

- Immediately stop the arbitrary use of the veto power, especially against the passage of humanitarian aid across the border points, especially in the case of the Russian veto, and in giving legitimacy to human rights violations against civilians in the occupied Palestinian territories in the case of the “US veto.”

To General Assembly of the United Nations

- The necessity of reinstating Resolution No. 377 entitled “United for Peace”, which is used by the United Nations General Assembly in response to the use of the veto in the Security Council as the resolution that gives the General Assembly a way to deal with countries that threaten international peace and security when the Council fails security in doing so.
- Resolutions related to the introduction of humanitarian aid must be taken by a majority in the UN General Assembly and are not subject to the authority of the Security Council through which this aid is politicized because it is controlled by the permanent members who have veto power.

To the Security Council

- The need for an urgent amendment with regard to the use of the veto power, especially with regard to grave crimes against humanity, and the need to find a mechanism to prevent states from using the veto power in crimes that involve serious violations of human rights.