

## ***Reforms: A Must to Make the UN Relevant Today***

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The UN was created to foster international cooperation in implementing the objectives of the UN Charter. The 75<sup>th</sup> anniversary of the founding of the UN this year is an appropriate moment to look back at the major successes and failures of this multilateral institution. It is also a time to discuss how the UN must function in the foreseeable future to remain relevant in the face of rapid changes in international affairs.

The biggest change since the UN Charter was signed in 1945 is the fact that the vast majority of the member-states of the UN today are “developing” countries of the “Global South”. Among the outstanding successes of multilateral diplomacy over the past seven and a half decades are issues spearheaded by the Global South, like decolonisation, sustainable development, initiatives to uphold human rights, and an ongoing process to bring about the democratisation of international relations. Yet, it is the Global South which today bears the brunt of the biggest failure of the UN, which is its inability to maintain a supportive framework of international peace and security that is essential for sustainable development.

### **Decolonisation**

When the UN Charter was signed by 51 member-states (including India) 75 years ago, its provisions could not have foreseen the momentous political changes that would accompany the end of the Second World War. More than 750 million people lived under colonial rule across the five continents in 1945. By 1960, when the UNGA unanimously adopted its historic Decolonization Resolution, that number had dwindled to 50 million. Today, there are 193 member-states in the UNGA, including many countries that achieved independence from colonial rule. The process of successfully

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integrating the populations of these newly independent former colonial countries into the UN must surely rank as a major achievement of the multilateral system since 1945.

### **Sustainable Development**

The UN process was launched by the Declaration by United Nations, adopted by 26 Allied nations (including India) after the January 1942 Washington Conference. As part of efforts to “sustain” the peace after the Second World War, a set of multilateral institutions was conceptualised. These included the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (World Bank), created by the UN Monetary and Financial Conference at Bretton Woods in July 1944. The UN Charter in 1945 made a commitment to “promote social progress and better standards of life in larger freedom”. Between 1945 and 1960, the bulk of the UN’s reconstruction and development activities, supported by the Bretton Woods Institutions, focused on the war-ravaged economies in Europe and Japan.

It was only after 1960 that the UN expanded its activities to developing countries in response to two major developments within the UNGA. The first was the creation, in September 1961, of the Nonaligned Movement (NAM) by a group of 24 UN member-states, including India. The NAM currently has 122 UN member-states, with its Coordinating Bureau located in New York. The second was the establishment of the Group of 77 (G-77) in 1964 by seventy-seven developing countries of the UNGA. India became the first Chair of the G-77.

The UNGA established the UN Development Program (UNDP) in 1965 as a global developmental network in response to the demands of the G-77. Today, the UNDP is active in over 170 UN member-states. The convergence of the twin goals of socio-economic development and environmental protection in the UN between 1972 and 2015 led to the universally applicable ground-based sustainable development framework under the UN’s Agenda 2030 for Sustainable Development. This ranks as a major success of the UN, as it impacts on every aspect of human endeavour today.

### **Human Rights**

The UN Charter reaffirms “faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of

nations large and small". After its creation, the UN proceeded to give substance to these objectives. In the popular narrative of this phase of the UN's history, the unique contribution of developing countries like India is often overlooked.

In June 1946, India initiated a UNGA process to outlaw racial discrimination in South Africa by inscribing it on the UNGA agenda. This became the global anti-apartheid movement and concluded in April 1994 with the election of Nelson Mandela as the first President of a multi-racial South Africa. India co-sponsored the UNGA resolution in 1946 (with fellow developing countries Panama and Cuba) that led to the negotiation and adoption of the first UN legal convention outlawing mass atrocity crimes, the 1948 Genocide Convention. India's delegate, Hansa Mehta, is credited by the UN for integrating gender equality into Article 1 of the Universal Declaration of Human Rights in 1948, which laid the foundation for the UN's subsequent activity on the empowerment of women world-wide.

This trend has continued. During the past two decades, India has used the UNGA to underscore the relevance of her civilisational values to give meaning to the UN Charter. In 2007, India sponsored the unanimous UNGA resolution with 140 co-sponsoring member-states to declare Mahatma Gandhi's birth anniversary on 2 October every year as the International Day of Non-violence. This initiative converged with the UN's recognition of the contributions of Martin Luther King Jr. in the USA and Nelson Mandela in South Africa in recent years, placing emphasis on UN Charter's commitment to settle disputes by "peaceful means."

On 11 December 2014, the UNGA unanimously adopted a resolution declaring 21 June every year as the International Yoga Day (IYD). With a record number of 177 co-sponsoring countries, the resolution was adopted just 75 days after the proposal had been made by India's Prime Minister, Shri Narendra Modi, in his maiden UNGA address. Since 2015, the IYD has become a major global event emphasising the universal relevance of global health, harmony, and peace.

### **Democratisation**

Currently, 134 developing country member-states of the UNGA are members of the G-77, adopting common positions on the socio-economic agenda of the UN. Its numbers provide it with a two-thirds majority in the UNGA and have been instrumental in ensuring that UNGA decisions reflect their shared interests. On the other hand, decision-making on political issues in the UN is

controlled by the five permanent members (P5) of the UN Security Council (UNSC). This reflects a mixed success of the UN, which needs to extend the provisions of Article 18 of the UN Charter giving each member-state one vote to the entire UN system, including the UNSC, to consolidate the “democratization” of international relations.

### **International Peace and Security**

The major failure of the UN during the past 75 years is in the malfunctioning of the UNSC, which has the “primary responsibility” under Article 24.1 of the UN Charter for maintaining international peace and security. The ineffectiveness of the UNSC is due to Article 27.3 of the UN Charter, which stipulates that UNSC decisions can only be taken with the “concurring votes of the permanent members”. This is popularly referred to as the “veto” power.

The UN’s negotiating history confirms that the “veto” provision was not proposed during the San Francisco Conference that created the UN. It emerged from secret negotiations between the USA, the UK and the Union of the Soviet Socialist Republics at Yalta in February 1945. The Republic of China and France became “free-riders” in the UN system when the “veto” privilege was extended to them in the draft of the UN Charter.

At the San Francisco Conference, despite the criticism led by Australia of this anomaly in decision-making in the draft UN Charter, the veto provision was retained in the treaty as a quid pro quo for ensuring the participation of the P5 in the newly formed UN. The consequence is the parallel existence of two processes of decision-making within the UN. The UNGA enshrines the core democratic principle of decision-making through majority vote. The UNSC’s decisions are taken by the self-selected P5, who arbitrarily approve or block decisions to maintain international peace and security. This glaring anomaly in the UN Charter is the single biggest challenge for the UN to address as it marks its 75<sup>th</sup> anniversary in September 2020.

Three ongoing global crises illustrate how the veto privilege makes the UN ineffective in international affairs today. These crises are the current Covid-19 pandemic, the use of UN peacekeeping for prioritising political solutions to crises, and countering terrorism.

### **Covid-19**

Since March 2020, when it was presided over by China, the UNSC has been unable to hold a substantive meeting on the Covid-19 pandemic, which has

disrupted normal life in most UN member-states and infected millions of people. The UNSC's inaction illustrates the way a permanent member can use its undemocratic veto power to obstruct a major UN body from providing significant political support to the work of the UN to confront and counter a pandemic. None of the other four permanent members have been able to overcome China's obduracy. The contrast between the response of the UNSC to previous challenges posed by viruses - such as HIV/AIDS in 2000, and Ebola in 2014, when it adopted unanimous resolutions to support the UN effort - and its lack of response to Covid-19, speaks volumes of why the veto power of the P5 needs to be reviewed.

### **UN Peacekeeping Operations**

UN peacekeeping operations (PKOs) were conceptualised since 1948 as a mechanism to provide space for the political resolution of conflicts. Four priorities were agreed to by the UNGA in 2015 when it adopted the Ramos Horta High-Level Independent Panel on Peace Operations (HIPPO) report to achieve this objective. These were to prioritise the primacy of a political approach to resolve conflicts through negotiation and dialogue; to integrate peacekeeping with peace building activities as a holistic approach to "peace operations"; to work with regional and international bodies in a multi-stakeholder partnership to maximise the impact on the ground of UN PKOs; and to make multilateral responses to violent conflicts people-centric.

Here again, veto-wielding permanent members of the UNSC who draft PKO mandates as "pen-holders" have continued with a "business-as-usual" approach. The ineffectiveness of the UNSC to deploy PKOs effectively encourages the violation of the fundamental human rights of civilian populations in these conflict zones, including women and children caught up in the violence. Despite the UN's four largest PKOs being deployed in Africa (consuming US\$ 4.54 billion of the US\$ 6.5 billion PKO budget, and accounting for 54,295 of the UN's 95,536 peacekeeping troops), there continues to be no equitable African participation (as advocated in UNGA negotiations on UNSC reforms) in drafting these decisions.

### **Countering Terrorism**

Over the past twenty-five years, the impact of terrorism as a major threat to international peace and security has grown exponentially. Terrorism is a direct threat to global peace and development. Since 1999, the UNSC has adopted

more than 50 resolutions to counter terrorism. However, by prioritising their political interests while implementing these resolutions, the P5 have made the UNSC ineffective in countering terrorism.

Countering terrorism in Afghanistan/Pakistan provides a good example of this. The UNSC initially listed the Taliban using a rigorous legal process to draw up the sanctions list of Resolution 1267 of October 1999. The intention was to fetter terrorist entities and individuals. However, in June 2011, the P5 unanimously agreed to adopt Resolution 1988 to allow them to calibrate lifting these legal measures for the political objective of “integrating the Taliban” into a political endgame in Afghanistan. Despite this, the UNSC continues to be unable to prevent continuing terrorist activities by the Taliban. At the UNSC’s Sanctions Committee level, China has publicly acknowledged using its arbitrary veto power between 2016 and 2019 to prevent UNSC sanctions against self-proclaimed terrorist entities and individuals, like Masood Azhar of the Jaish-e-Mohammed based in Pakistan.

### **Reforming the UNSC**

Making the UN relevant today requires prioritising necessary reforms of the UNSC. A unanimous 1988 UNGA resolution set the threshold for taking any decision on UNSC reform at two-thirds majority vote in the 193-member UNGA, that is, requiring the approval of a minimum of 129 member-states.

World leaders agreed unanimously in September 2005, during the 60<sup>th</sup> anniversary Summit of the UN, for the “early reform” of the UNSC. Their objective was to make the UNSC “more broadly representative, efficient and transparent and thus to further enhance its effectiveness and the legitimacy and implementation of its decisions.”

In September 2015, world leaders unanimously highlighted in the Preamble to Agenda 2030 for Sustainable Development that there “can be no sustainable development without peace and no peace without sustainable development”. This implicitly linked the UNSC’s decisions with the broader UN global activity.

In 2007, the UNGA unanimously decided to create an Inter-Governmental Negotiations (IGN) platform, open to all member-states, for reforming the UNSC. In 2008, the UNGA unanimously agreed on five areas for reforms, viz. categories of membership; the question of the veto; regional representation; the size of an enlarged UNSC, and the working methods of the Council; and the relationship between the Council and the General Assembly. In 2015, the

UNGA unanimously decided to move to text-based negotiations, using written proposals on these five areas submitted by 120 UNGA member-states.

The P5 (including China) have been party to all these unanimous UNGA decisions. Yet, China has led a determined effort to derail the progress made in the IGN since 2016, without any opposition from the other four permanent members of the UNSC. By insisting on “political consensus”, China has sought to undermine the UNGA’s right to take decisions by majority vote on UNSC reform. At the heart of the opposition of the P5 to UNSC reform is the potential loss of their veto privilege. On the other hand, the overwhelming majority of UNGA member-states would support the replacement of the veto with majority voting on decisions which do not enjoy consensus in the UNSC.

### **UNSC Reform and India**

Why is UNSC reform important for India? As the world’s largest functioning democracy, which applies the principle of one-citizen one-vote, India has led the campaign to extend this principle to the UNSC. In November 1979, India’s envoy Brajesh Mishra, along with 9 other envoys of the Global South, inscribed this issue on the agenda of the UNGA. Beyond principle, India has today significant economic and political interests on the ground in which the UNSC’s decisions play a major role.

#### **Agenda 2030**

The transformation of India is linked to the successful implementation of Agenda 2030, especially its economic SDGs. The ability of the UNSC to effectively maintain international peace and security is critical for the success of India’s national governance mission to implement Agenda 2030. This process is being monitored by NITI Aayog under the leadership of Prime Minister Narendra Modi.

#### **The India-Pakistan Question**

Since August 2019, China has unilaterally attempted to resurrect “The India-Pakistan Question” that questions India’s territorial integrity in the erstwhile Indian Princely State of Jammu and Kashmir. This needs to be countered directly by India within the UNSC. The India-Pakistan bilateral treaty (Simla Agreement) of July 1972, which is registered under Article 102 of the UN Charter, makes the presence of this item on the UNSC agenda redundant. None of the P5 have shown interest in removing this item from the UNSC agenda. Only India’s participation in UNSC decision-making as an equal member can ensure the issue is removed from its agenda.

**The Indo-Pacific**

India today has specific maritime strategic and economic interests in the Indo-Pacific region. These interests include upholding the freedom of navigation along the sea lanes of communication (SLOC) in the Indo-Pacific region. These SLOCs play a vital role for India's national strategic and economic interests, including trade, energy, and digital data flows. The UNSC had undertaken an enforcement action through UNSC resolution 1851 adopted in 2008 to counter piracy in the Indian Ocean. Currently, the polarisation of relations between the permanent members of the UNSC makes it unlikely for the UNSC to play such a role voluntarily. India's presence in a reformed UNSC with equal decision-making rights will be necessary for using this body in the Indo-Pacific framework to meet her security and economic interests.

**Counterterrorism**

India has been consistently seeking to enforce international legal provisions to counter terrorism through the UNSC's enforcement powers under Chapter VII of the UN Charter. However, within the UNSC, the political interests of its permanent members have prevented the Council from playing such a robust role, which would include imposing sanctions on states for sponsoring terrorism. Becoming a member with equal power in UNSC decision-making on counterterrorism is manifestly in India's national interest.

**The Way Forward**

In the face of open and hidden opposition from the major powers of the UNSC to such reform, how can the UN be made 'fit for purpose' to respond to the myriad challenges from member-states and non-state players in the 21<sup>st</sup> century? So far, the expectation within the UNGA membership was that an outcome from the IGN on UNSC reforms would catalyse a review of the UN Charter. This appears no longer possible due to the P5's convergence in protecting their veto privilege in the UNSC. Therefore, the logical way forward would lie convening a General Conference to review the UN Charter to revitalise the UN.

Article 109 of the UN Charter provided for such a General Conference to be held before the tenth annual session of the UNGA to review and amend the Charter. The Article also stipulates that if this Conference has not been held before the 10<sup>th</sup> UNGA Session, then the proposal to call for such a Conference should be placed on the agenda of the UNGA, and the Conference "shall be



held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council”. The first window to raise this issue will present itself between 15 and 18 September 2020 at the meeting of the UNGA’s General Committee when the agenda of the 75<sup>th</sup> UNGA Session will be finalised.

How can India, as a founder-member of the UN, contribute to the outcome of such a Conference? In 2021, India will become a non-permanent member of UNSC for a two-year term. In 2022, India will assume the Chairmanship of the G-20. It would be appropriate for India to set in motion a process to revitalise the UN and review the UN Charter by making “reformed multilateralism” the theme of her prestigious Raisina Dialogues from January 2021. The outcome of this process would provide Indian diplomacy with a blueprint for action by a UN General Conference convened under Article 109 of the UN Charter.

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