

The UN @ 75: In Need of an Equitable Restructuring

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The advent of COVID-19 has completely transformed the context in which the UN @75 is being debated. “The evil that men do lives after them; the good is oft interred with their bones,” said Shakespeare. This may not be the time to count the good and evil that the UN has done. However, being on a life support system awaiting a new post-COVID-19 global order, this is the time to revisit its past, even though all the perfumes of Arabia will not wash away the guilt of its last act of betrayal: its tardiness in rescuing the world from the biggest threat to international peace and security in human history. With a single act of dealing with the pandemic on a war footing as thousands of lives were being lost by the hour, the UN could have atoned for all its omissions and commissions of the last 75 years. Instead, the UN Security Council haggled over definitions, modalities, and the possible dangers of intervention - the games it plays in normal times - and became guilty of a criminal and unforgivable dereliction of duty in the face of the fight with an invisible microbe.

The debate today should be whether there is any value in giving a new lease of life to the UN in its present form, or whether an alternative should be found without the infirmities of an organization designed by the victors of the Second World War. In the post-Corona world, there will be no victors, only losers. Victory may be claimed by those who lost the least number of lives; but that should not be the yardstick as every life lost in the pandemic has been a failure of the country concerned. It is the failure of governance, of medical science, of welfare measures, of environmental protection, and of the protection and promotion of human rights. So far, the UN has only been accused of not preventing war. Now, it stands accused of failure in every department of its activities. The atomic clock continues to tick, while Mother

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Earth has struck back earlier than expected. Only a global order which can deal with this dual danger can do justice to humanity.

Needless to say, it is unfair to condemn an organisation which has survived for 75 years with the support of the international community for one tragic flaw, however grave and irresponsible it has been. It had a rationale of its own: its membership grew from 50 to 193; it served as a forum for “jaw-jaw” rather than “war war”; it dealt with conflict situations through preventive diplomacy, peacekeeping, peacemaking, peace building and even peace enforcement whenever the interests of the permanent members coincided and generally gave some hope to humanity that a truly universal international organisation was keeping an eye on the world within the purposes and principles of the Charter. The UN has proved resilient enough to expand its agenda to meet emerging situations which were not anticipated in 1945, such as terrorism, environmental protection, HIV-AIDS and other epidemics, and issues relating to the Global Commons. The Millennium Goals and Sustainable Development Goals gave a sense of direction to the world.

The UN has had some notable achievements: like decolonisation, significant steps towards arms control and disarmament, standardisation of human rights, establishing some semblance of equity in economic development, attaining some fundamental agreements on the protection of the environment, etc. It established some parameters in the Arab-Israeli conflict, and began the end of apartheid and racial discrimination. With all its deficiencies and failures, the UN was an indispensable player in world affairs. The world would have been poorer without the UN.

What we consider as the fundamental flaws of the UN today are the very factors that enabled the founders of the UN to reach agreement on a complex document. Judged from the point of view of the situation obtaining at the time, the UN Charter is an astonishing composition. It resolved the contradictions in international relations which were in a state of flux when many countries were still in the flush of victory, and some others in a state of despair. It was fundamental for the winners of the war to affirm their victory and to perpetuate their dominance. The veto was, therefore, a necessary evil, which the others had to swallow. Equally indispensable was the “enemy clause”, which has now become anachronistic. “Sovereign equality” too was indispensable as the UN had to be a guarantor of the sovereignty and equality of member nations. Any indication of even the surrender of a fraction of sovereignty for the sake of the common good would have been anathema to the many newly independent countries which saw the UN as the protector of

their sovereignty and independence. The provision for non-interference in the internal affairs of states was of particular importance to them.

The general sentiment among the members of the UN is against the veto; but it has served a useful purpose. It maintained a balance between extreme positions during the Cold War. The world had many disputes and conflicts; but the lack of unanimity among the permanent members prevented UN action, and the parties concerned were encouraged to negotiate and settle matters with the assistance of ceasefire and peacekeeping in some cases. India has benefitted from the veto of the Soviet Union in crucial issues such as Jammu & Kashmir, Goa, and Bangladesh. However, the rare unanimity among the permanent members was not always entirely beneficial to the world. The Gulf war went beyond its original mandate to liberate Kuwait, and went on to destroy Iraq in the name of disarming and defanging Saddam Hussein. Many of the resolutions passed at that time by the Security Council went against some of the basic concepts of the UN - like introducing disarmament and humanitarian assistance into security issues.

The virtual ‘unamendability’ of the UN Charter was also a part of the anxiety of the winners of the war to protect their special place in the global hierarchy. So far, the amendments have been only to increase the membership of the Security Council and the Economic and Social Council. A two-thirds majority of the UN General Assembly and the positive vote of the permanent members are essential for any amendment. Consequently, no amendment has been attempted to remove even anachronistic provisions in the Charter. According to the Charter, a permanent member of the Security Council is still the Union of the Soviet Socialist Republics. The ‘enemy clause’ - which denies the protection of the Charter to the ‘enemy countries’ - is still in the Charter as a vestige of historical prejudices. The extinct provision for a Military Staff Committee is simply ignored, and the Trusteeship Council is still described as an important organ of the UN.

The UN has not saved succeeding generations from the scourge of war. There have been 800 minor and major wars since the UN was established. The UN does not take any credit for preventing a Third World War; but this cannot be proved either way. In reality, the UN has remained focused on peace and international security. It has acted as the conscience of mankind to bring hot spots to the attention of the world, and played a supporting role for the parties in conflict. UN Peacekeepers have lost lives in different theatres of conflict. Peacekeeping operations remain in former hotspots because such operations cannot be started or ended without the consent of the parties concerned.

The end of the Cold War provided an opportunity to review the functioning of the security aspects of the UN. The Security Council held a meeting in January 1992¹, at the Heads of Government level, and passed a resolution mainly on disarmament, on which India expressed general reservations as disarmament was not a part of the mandate of the Security Council till then. Even a more serious effort was made by the then UN Secretary General, Boutros Ghali, who presented an 'Agenda of Peace' to the General Assembly to refashion the UN for the emerging new world. The basic thesis of the proposal was that the time of absolute sovereignty was over, and that the UN should have greater powers to work for humanity. He even suggested that the Secretary General should have UN troops under his command for deployment in emergencies. The direct answer he received was that he should continue as Secretary General, and not turn into a General.

Apart from that controversial suggestion, most of his reform proposals were politely considered but diluted to such an extent that nothing changed in substance. Moreover, the Secretary General was asked to produce an 'Agenda for Development' to balance the UN perspective. After 9/11, increased focus was given to terrorism; but neither was terrorism defined nor was the Indian proposal for a Comprehensive Convention on International Terrorism adopted. The war on terrorism was taken over by the USA and its allies. However, today, the US is struggling to withdraw from Afghanistan by negotiating with the terrorists.

When Secretary General, Ban Ki Moon, was asked about the greatest achievements of the United Nations to date, he said the UN had saved millions of lives by immunizing the world's children against infectious diseases. Indeed, it is the work of the Specialized Agencies in various areas that has made the UN indispensable, and not its promise to save the succeeding generations from the scourge of war. The development activities of the UN are irrelevant to the powerful nations because they are constantly asked to spend without its projects being of any use to their own economic growth. The only way they benefit is by getting jobs with these Agencies and consuming the administrative expenses. But, even after incurring such losses in implementing development projects, the poor countries do benefit by the work of these Agencies. Agencies like the UNDP, UNICEF, UNESCO, WHO, ILO, WIPO, IAEA, etc., do remarkable work in the developing world. The USA and others monitor their work, and make sure that funds are made available to them only for the activities they approve of, and even hold up their contributions from erring Agencies. For instance, some of them left UNIDO, alleging that industrial development in the developing world would adversely affect their

own business interests, even though the whole budget of UNIDO may be less than that of a modest western industrial unit. The IAEA can get any amount of money for safeguards, but not for the technical cooperation for which the IAEA was established. The assistance for peaceful uses of nuclear energy keeps dwindling despite the promises held out by the NPT. For political reasons also, Agencies have been left starving occasionally, as in the recent case of WHO at the time of the pandemic. But all said and done, the development work of the UN deserves to continue even after it is restructured.

The Human Rights record of the UN has been controversial. However, the standardisation of human rights norms, the building up of awareness, and the formulation of various conventions which are implemented by a large number of countries, are creditable achievements. But the politicisation of human rights, first against the Communist countries and now against dictatorships, has destroyed the impartiality of human rights judgements of the Human Rights Commission, and now the Human Rights Council. Singling out nations for punishment on human rights violations did not lead to the promotion and protection of human rights. Over enthusiastic activists came into the Human Rights structures of the UN, and rode roughshod over the rights of independent countries. Human Rights led to UN wrongs, like when the present UN High Commissioner of Human Rights sought to be a part of a Supreme Court of India procedure on a purely internal constitutional matter. The US effort to make the Commission a Council to enforce Human Rights ended up with the US delegation voting against its own resolution!

UN reforms of a cyclical nature have been taking place right from the beginning, and many diplomats, leaders, and statesmen have brought in changes to improve its functioning and increase its effectiveness. But fundamental changes were not possible in keeping with the changes in the world. Some changes were engineered to stem the flow of new ideas which did not suit the permanent members. Even the impact of the collapse of the Soviet Union was neatly contained in a conspiratorial manner. Working methods for greater transparency made no difference to the pursuit of power by the major countries. National positions changed dramatically after the Cold War; but no major structural changes took place even after the adoption of the “Agenda for Peace” and the “Agenda for Development.”

Some stirrings about an expansion of the non-permanent membership of the Security Council began within the Non-aligned Movement in the late seventies, basically because the ratio between the GA members and the Security Council had changed as a result of the exponential growth of the membership of the UN. An item entitled “Equitable representation on and increase in the

membership of the Security Council” to consider the idea was inscribed on the agenda of the General Assembly in 1979 by India and some other non-aligned countries. It set the East River on fire because the permanent members reacted violently to the very idea of starting a debate on the subject, and they made strong demarches in New Delhi. Under pressure from them, the sponsors agreed to postpone the consideration of the issue after a brief discussion year after year.

In the 1990s, Brazil proposed the idea of expanding the permanent membership of the Security Council. Although there was stiff resistance from the permanent members and others, a process of formal and informal consultations was initiated, which have continued till now without any agreement. At one point, the USA proposed a “quick fix’ by adding Japan and Germany as permanent members. However, the non-aligned countries strongly opposed it. Since then, there have been many proposals, including two options that Secretary General Kofi Annan suggested on the basis of the report of a High Level Group. But, there is no formula that can meet the requirement of two thirds majority of the General Assembly as well as the unanimous approval of the permanent members.

The debate on the expansion of the Security Council for the last forty-one years has shown that it cannot take place through the procedure established for the amendment of the UN Charter. The story of India’s quest for a permanent seat on the Security Council has been marked alternately by joy and despair. The reason for joy is that the need for expansion has been recognised, and it has also been established that India is eminently qualified to be included, if ever an expansion takes place. But the despair is our awareness that nothing will happen any time soon. The Wikileaks revealed the US policy on expansion in a secret cable in 2007:

We believe [that the] expansion of the Council along the lines currently discussed will dilute the US influence in the body. On most important issues of the day – Sanctions, Human Rights, [the] Middle East, etc. – Brazil, India, and most African states are currently far less sympathetic to our views than our European allies.²

Moreover, it is clear that even if the permanent members agree on a formula, it will be difficult to obtain a 2/3 majority in the General Assembly. The permanent members would rather abolish the veto than give the power to more countries.

If Covid-19 forces fundamental changes in the United Nations in 2021, it may be established that a reconstitution of the Council is necessary to make it

more reflective of the realities of the new power equations as well as become more credible and effective. India has made its case strongly, and its capabilities have been well established. India should focus on building its economy and military strength, extend support to multilateralism as well as international and regional cooperation, and wait for our turn. A permanent seat on the horseshoe table of the Council should not appear to be the Holy Grail that Indian diplomacy is searching for.

Ambassador Syed Akbaruddin, India's Permanent Representative to the UN, summarised the Indian position very well in an interview recently:

One of those aspirational goals was, is and will remain [the] permanent membership of the Security Council, because we feel by any present day calculus, we would qualify. Now, the issue of the expansion and reform of the Security Council is not an India-centric issue. It is an issue which entails a whole host of teams, because, as I told you, everybody acknowledges that India is *sui generis*. A billion-plus people not being permanently in an organisation which starts with, 'We the peoples of the United Nations'. You can't have that dichotomy between an organisation, which says, "I'm ready, I work on behalf of the peoples of the world," and keeps such a big country representing more than a billion people out."³ (*The Hindu* 29 April 2020).

"The India-Pakistan Question" is still on the agenda of the Security Council, and India taking the issue to the UN is considered a mistake. India took the UN at face value, and thought its case was constitutionally and legally sound. But, it turned out that it played into the hands of the big powers, who saw it as an opportunity to deal with the "unfinished agenda" of the Partition. India's positions and approaches on international issues at the UN were conditioned by this issue for a long time; but it has overcome that situation recently, and moved on. The attempts made by China and Pakistan to hold meetings of the Council on the issue have turned out to be futile.

India's abiding faith in multilateralism and the UN, its contribution to some of the international body's seminal resolutions, its active participation in peacekeeping operations, its ratification of most of the International Treaties, Conventions, and Protocols have made it a particularly loyal member of the UN. India's basic approach is to contribute to the common good of the world rather than to gain anything for itself.

In the 74th Session of the UN General Assembly, Prime Minister Narendra Modi stated,

All our endeavours, are centred on 1.3 billion Indians. But the dreams that these efforts are trying to fulfil, are the same dreams that the entire world has,

that every country has, and that every society has. The efforts are ours, but their fruits are for all, for the entire world. And this conviction of mine, gets stronger every day, when I think of those countries, who, just like India, are striving for development, each in their own way. The efforts are ours, but their fruits are for all, for the entire world. And this conviction of mine, gets stronger every day, when I think of those countries, who, just like India, are striving for development, each in their own way. When I hear about their joys and sorrows, when I get to know about their dreams, my resolve to develop my country at a faster pace gets even stronger, so that India's experience can be beneficial to these countries.⁴ (PM's Address to the General assembly 2019)

It remains to be seen whether the post-COVID global order will be more democratic and just. The key will be the restructuring of the UN on an equitable basis, and bring back international cooperation to the centre stage. The change required is fundamental and not merely window dressing. India has a window of opportunity to play a role in the process; but it is too early to say what configuration will emerge in the end.

Notes :

- ¹ https://www.un.org/en/sc/repertoire/89-92/Chapter%208/GENERAL%20ISSUES/Item%2028_SC%20respons%20in%20maint%20IPS.pdf, pp 813
- ² https://wikileaks.org/plusd/cables/07USUNNEWYORK1225_a.html
- ³ <https://www.thehindu.com/opinion/interview/by-any-calculus-india-qualifies-for-unsc-permanent-seat-syed-akbaruddin/article31465932.ece>
- ⁴ https://mea.gov.in/Speeches-Statements.htm?dtl/31878/Prime_Ministers_address_to_the_UNGA

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