

## BOOK REVIEW

Dilip Sinha, *Legitimacy of Power: The Permanence of Five in the Security Council*, (New Delhi, VIJ Books (India) Pty Ltd, 2018), Pages: (HB) 332, (PB) 321, Price: (HB) Rs. 1.250.00, (PB) Rs. 595.00\*

If one sentence could sum up the well researched work by Dilip Sinha on the “Legitimacy of Power: The Permanence of Five in the Security Council”, the sanctum of multilateral diplomacy, it is in his own words as “the story of the saga of the United States and its four allies from the Second World War, Russia, Britain, France and China - their cooperation and tribulations”. If one message that the reader draws from the author’s searching enquiry of the UN’s entire political record is that its reform, particularly of the Security Council, is no longer an option but essential for sustaining its own legitimacy in the global order, the book would have more than served its purpose

The pithy conclusion is based on an in-depth study of the evolution of the UN’s security system, the Security Council’s performance, the control of the Permanent Five over it, the military actions taken by them on its behalf, and the legitimacy that it has acquired as an essential tool over the last more than seven decades. Sinha brings out the irony that those entrusted with the special responsibility to maintain international peace and security through the Security Council have based their claim to this authority on their military power and not on their commitment to democracy, rule of law, human rights, and other values that the UN seeks to promote.

The author traces the genesis of the creation of the Security Council in the new international order back to the traditional thinking in Europe of international peace as being best preserved by a group of strong and responsible powers working together. The highest organ of the UN was, thus, conceived as a small body of members in which the wider membership reposed their faith for securing international peace. The dynamics of the San Francisco Conference and negotiations on the UN Charter recalled in the book are instructive for an insight into the blatant intent behind its provisions on the peaceful settlement of disputes, sanctions, military action, and the veto power.

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*\*This book review was earlier published in Volume 14, No. 1 of the journal, at Pages 74-78. It is re-published here, being a review of a book on the subject of this special issue - viz. India and the ‘UN@75’.*

Created by the victorious states, these were all aimed at a greater concentration of power in their own hands, and to underscore the primacy of the Security Council in the UN system.

The Security Council was and remains as the only international body where the use of force can be legitimately authorised. Having won the War and seamlessly transformed itself into a peacetime organisation, the UN embarked on its journey as the guardian of world peace and security in pursuit of the Charter's lofty affirmation of collective determination to save succeeding generations from the scourge of war.

According to the author, the effectiveness of the Security Council's authorisation of military action is a mixed one, and which continues to be debated. It evolved erratically, and varied widely in content, in different situations. The mandate was precisely defined in some instances, and left vague in others. All resolutions were based on the determination by UNSC that there existed a threat to peace and security, but its restoration was not the stated objective of all. He rightly reminds us about the equally relevant concerns about the Charter - that the compatibility and legality of these military actions have never been independently examined. In the absence of a judicial review, rightly emphasised by the author, questions remain whether the Security Council's actions meet the tenets of international law. It is also not without significance that all military actions were taken by Western countries led by the USA and NATO. Britain and France participated in most, while the Soviet Union and China stayed away from all.

Evaluating the Security Council's performance since 1945, Sinha identifies four distinct phases of two decades each. The first under Western control; the second under the Soviet Union working with the South; the third led by the West with the cooperation of Russia and China; and the fourth in which the East-West divide has come back.

The book examines a range of case studies of how the Security Council has acted in critical moments since its inception, both from the political and legal angles. The overview is based on debates in the Security Council and the General Assembly, UN documents, archival material, and authoritative commentaries. This academically sound methodology has the added advantage of a practitioner's perspective on the real world give and take in negotiations. The added significance of Dilip Sinha's study lies in his objectivity to draw hard conclusions on salient patterns, and his intellectual candour in throwing light on systemic flaws in the functioning of this apex body.

The review starts with some initial successes enjoyed by the Security Council in the early years, such as its ability to select its headquarters, elect Norway's Foreign Minister in exile, Trygve Lie, as the first Secretary General. It mediated ceasefires in Palestine and Kashmir even though it could not resolve the disputes, and tasted its first success in mediating Indonesia's independence when the Dutch tried to reoccupy it after Japan's defeat. But, as the unity of the principal allies started unravelling, the UN's goalposts started receding. The Rules of Procedure of the UNSC could not be finalised, and the P-5 could not reach an agreement in the Military Staff Committee on the UN military force. A serious lacuna continues to be the absence of any reference to a quorum, and any automaticity in convening a meeting of the Council when asked for by a member. Likewise, the idea of a standing UN military under the command of the Council, pushed vigorously by the Americans in the early years, was revived several times after the end of Cold War, but met no success. Yet, Kofi Annan's attempt to bring a closure in 2005 to abolish the military staff committee was blocked by the P-5 who were not ready to make an admission of failure.

Korea remained one of only two instances of the Security Council authorising military action by member states. But, the Korean operation was a hurried response to an emergency, made possible by the Soviet boycott, and could not become a paradigm for future action. The other was an issue related to Britain, which was authorised to enforce sanctions against Southern Rhodesia in 1966. However, within four years after the War, the Allies were split in two rival camps. The formation of NATO in 1949 marked the end of cooperation among the three main founders.

Peacekeeping as an 'innovative compromise' has emerged as the singular contribution of Security Council to maintain international peace and security. Interestingly, though now seen as a regular feature of the UN, it does not figure in the Charter. A reader of the book will discover the genesis of this idea: it was initiated by UNSG Dag Hammarskjöld. Faced with a deadlock in the Council, he devised this mechanism by using troops from neutral or non-aligned countries, and got it approved through the General Assembly. He deployed it successfully in the Middle East and the Congo. The Peacekeeping agenda was modified by Boutros Boutros-Ghali in his Agenda for Peace when he sought to reorient the United Nations towards human security. But, under Kofi Annan, robust peacekeeping was revived once again.

The Suez and Hungary crises in 1956 exposed the variable standards applied by the permanent members (France, Britain, and the Soviet Union) in two concurrent and parallel situations. These also defined the limitations of

the Security Council in dealing with military aggression by a permanent member. Such conflicts had not been envisaged in the Charter, and the Council was not designed to deal with them.

The collapse of the Soviet Union gave the Western countries full control of the Security Council. With no Soviet veto to restrain them, the USA revived the Korean model of authorised military action to enable its forces, and those of its allies, to invade Iraq and compel it to withdraw from Kuwait. Its success emboldened them to more such operations, though with mixed results. The authorisation for the invasion of Libya in 2011 was particularly controversial. Russia blocked further military actions, except for two in Africa. The USA failed to get authorisation for coercive action in Syria despite repeated efforts.

The UN also expanded the machinery for implementing its newly acquired powers - international criminal tribunals for trying individuals; peacekeeping operations with Chapter 7 powers; and international transitional administrations. The Charter injunction against interference in the internal affairs was gradually side stepped by the Security Council in cases of 'grave humanitarian threat'. Once it became politically convenient for the big powers, state sovereignty came to be viewed as an impediment to global governance and, in this new era of activism, humanitarian intervention was turned into the responsibility of the international community. The concept of R2P is intended to make the UN the protector of the people of countries ruled by repressive regimes, and can be invoked for committing any of the four identified international crimes agreed at the World Summit in 2005. But, the R2P enthusiasts are not averse to including Human Rights in this list.

The author makes a trenchant critique of the addition of these new mandates without an amendment to the Charter. He rightly argues that, "if the Security Council deserves the power to intervene in domestic matters of a state to perform such functions as enforcing human rights or delivering humanitarian assistance, the UN Charter should be suitably amended". Moreover, the link between human rights violations with international peace and security itself has remained ambivalent even in Resolution 688(1991) on Iraq, which is considered to have drawn such a link. Although projected as one of the pillars of the UN, the permanent five have vetoed human rights resolutions against their allies and friendly states.

Based on his study of the Security Council in different eras, a deliberate expansion of its mandates without amending the Charter, and the lack of public support for such interventions in the countries championing these powers, Sinha concludes how a divided Council can no longer exercise the

powers that were given to it by the Charter to fulfil its primary mandate. The fundamental assumption that the Council will be operated by the permanent members acting in unison made its functioning hostage to equations among the Permanent Five. Over time, this has led to inaction or the refusal to provide troops, compelling the Council to resort to outsourcing military action. Even more confounding is the revelation about the Security Council's deviation from the original intent of its founding fathers, when it started lending its brand equity to endorsing military action by member states due to "the Organisation's incapacity for decisive intervention in and control of international relations". Sinha does not hesitate to describe this new trend as the "franchising of military action by the Security Council to powerful member states".

Clearly much needs to be done to bridge the gap between what the Security Council is expected to achieve, and what it has accomplished on the ground. It remains as a reflection of an outmoded Cold War order in which many important players justifiably complain about being left out. The argument is clear for reform and the restructuring of the Security Council which has been talked about since its inception. On the reform debate, the author comes to the conclusion that it is a struggle over political turf, where there is little incentive for the permanent membership to open the door for new members, and for the other members of the UN to vote them in. But, by bringing a spotlight on its mixed record during critical moments in its history of more than seventy years, the book serves to underline the urgency of the much needed change of the Security Council for it to better serve its mandate.

The book is highly readable, and a valuable addition for an insight into complex issues in multilateral diplomacy for scholars, practitioners, and students of international relations. A multilateralist himself, and with long standing experience of working in the UN in senior positions at headquarters and as India's Permanent Representative in Geneva, Dilip Sinha's informed assessment and experienced voice brings the force of conviction to the widely held view on the urgency of the reform of the Security Council. The book makes a compelling case for the international community to think back on how the UN was set up, how its apex body was constituted, and why it must be adapted to meet the challenges of today if it does not want to end up undermining the primary purpose for which it was created.

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Hardeep Singh Puri, *Perilous Interventions: The Security Council and the Politics of Chaos*, (Noida, India, 2016, Harper Collins), Pages: 264, Price: Rs 599.00\*

Article 108 of United Nations (UN) Charter states that the Charter can be amended if it is adopted by two-third members of the General Assembly and ratified by two-thirds of the members of UN, including the five Permanent Members, also known as the P-5. Changing international dynamics and the need for including hitherto unrepresented quarters further call for the restructuring of the United Nations Security Council (UNSC). The role of UNSC has changed over the years and Hardeep Singh Puri's book discusses the role of UNSC in resolving the crisis spanning Asia and Europe. As a former Indian Foreign Service officer who chaired the Security Council in 2011-12 during his tenure as the Permanent Representative of India to the UN, he had access to the first-hand account of the deliberations taking place on the ongoing crises in Libya, Syria, and Yemen. He has collated these experiences in *Perilous Interventions: The Security Council and the Politics of Chaos*, giving readers a glimpse of the workings of the UNSC from within. Puri's interviews and conversations with the Ambassadors, High Commissioners, and other political representatives in the UNSC enrich the discussions in various chapters, and provide an insight into the formation of the Council's policies and decisions. He has used conflicts in Libya, Syria, Yemen, Ukraine and Sri Lanka to showcase the inefficacy of UNSC and emphasise on the need for reform.

Puri defines 'perilous intervention' as whimsical and reflexive decision making, which has a far-reaching impact without being mindful of the consequences. Sincere and trained diplomats are co-opted by the system and make such decisions succumbing to short-term pressures. States use collective responsibility and noble intent to cloak decisions that lead to loss of human lives and wastage of billions of dollars. The actual intent behind these decisions range from geopolitical domination to curtailing an opponent's hegemony. Sometimes, unseating an undesirable regime and establishing a more favourable one is the main motive; often cloaked in virtuous motives of global economic stabilisation, stopping genocide, and destroying weapons of mass destruction

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*This book review was earlier published in Institute for Defence Studies and Analyses, Journal of Defence Studies, Vol. 13, No. 1, January–March 2019, pp. 71–75. Being a review of a book on the subject of this special issue - viz. India and the 'UN@75' it is re-published here in full, with our gratitude to them and with their permission.*

(WMD). The role of the UN is important in allowing such interventions, though states have not always toed the line prescribed by the UNSC endorsing Vattel's Law of Nations (1758)<sup>1</sup> and the Brezhnev Doctrine (1968).<sup>2</sup> The P-5 get away with actions that suit their interests while vetoing otherwise; this is even as non-permanent members are demanding a restructuring of UNSC and representation for Africa and South America in the Council. Puri argues that if the UNSC is allowed to function as it is currently, it will bring further discredit to the cause of peace and security (p. 3).

The author gives a detailed account of the 2011 military intervention in Libya and mentions that Gaddafi's lack of regional allies led to it. Permanent representatives from the United Kingdom (UK) and France were compelled to take a stand against Gaddafi due to the systematic demonisation of the Libyan President in the mainstream Western media (p. 66). The UK tabled Draft Resolution 1970 allowing use of all necessary means to contain Gaddafi. The United States (US) substantially changed the draft, emphasising on the authorised use of force. The resolution was passed by the UNSC after the US agreed to remove the amended paragraph that shifted the focus of the draft from Article 41 to Article 42. This was because Article 42 had the potential of being read as 'authorized use of force' (p. 69), whereas Article 41 authorised the UNSC to decide on measures that did not involve use of armed forces.

Brazil, Russia, India, China, and Germany abstained, while Arab Gulf countries like Saudi Arabia, Qatar and Yemen supported the intervention. India chose to be circumspect but was concerned about its citizens working in the region. Indeed, India's primary concern during the Libyan crisis was to put an end to the killings. The role of Bernard Henry Levy, a noted intellectual, in influencing France's position on Libya cannot be ignored. He organised a meeting between former French President Nicolas Sarkozy and Mustafa Abdul Jalil, the head of Libya's National Transition Council, on the precondition that France would support the rebels. In the meeting, Sarkozy promised that he would either gather international support and work towards obtaining a UNSC resolution on Libya or go ahead with the mandate of the UK, the Arab League, the European Union, and the African Union.<sup>3</sup> Following this, Sarkozy recognised the opposition as the legitimate government of Libya without consulting with the French Foreign Ministry or taking Alain Juppe, then Minister of Foreign Affairs, into confidence (p. 75).

As far as Syria is concerned, it appeared in the beginning that the Libyan model would be followed, and that Assad would meet Gaddafi's fate as well. However, the Syrian case was distinct and, according to Puri, the reduced bonhomie between the US and Russia was one of the major factors that

prevented sanctions (p. 109). He mentions that a lack of appetite in the US for military intervention, the reluctance of China and Russia to sanction use of force in Syria, and historical factors, including the Hama massacre (1982) and sowing seeds of discontent through Sykes-Picot (1916) and San Remo (1920) agreements, prevented intervention in this case (p. 111–13). However, Russia's Aleppo offensive of December 2016 changed Assad's fate and the course of the Syrian crisis. India presided over the UNSC in 2011 and managed to obtain a unanimous presidential statement for ceasefire and an all-inclusive peace process. The arming of rebels by external actors caused extensive damage to Syria. An IBSA (India, Brazil and South Africa) delegation found that Assad was ready to engage with rebels and reconsider the uncalled reaction. However, the opposition was not willing to meet Assad halfway as it was emboldened by the support of external actors (p. 125).

The UNSC has also been disregarded, abused, and violated a number of times. For example, when Saudi Arabia intervened militarily in Yemen, with American support, in the beginning of 2015 on the pretext that Yemeni President Abdrabbuh Mansur Hadi had requested help, it was not an anomaly. Saudi Arabia invoked Article 51 of the UN Charter to justify its intervention in the neighbouring state of Yemen. According to Puri, first, the justification was erroneous as Article 51 deals with threat from outside and Hadi had lost his legitimacy by that time, as he had already resigned and fled Yemen. Second, Hadi's request for help contradicted Articles 37 and 38 which necessitate parliamentary approval and a decision by National Defense Council presided by the elected President of Yemen. Third, the use of illegal weapons by Saudi Arabia violated the 'laws of war' and demonstrated complete disregard for the UNSC (p. 143). Moreover, as a consequence of the internationalisation of the conflict by Saudi Arabia, al-Qaeda's hold in the region strengthened. The passive and inert role of the UN in this context is worth analysing. The UN appeared helpless and incapable of adopting a stricter stand against unlawful intervention and ended up siding with the aggressors by adopting UNSC Resolution 2216, reiterating its support for efforts of the Gulf Cooperation Council (GCC) in assisting political transition in Yemen (p. 151). Instead of penalising Saudi ruler Mohammed bin Salman, who had tied his political future with Operation Decisive Storm, the UN established a partnership with the King Salman Humanitarian Aid and Relief Centre. The UN relegated itself to irrelevance to an extent that Saudi Arabia did not even seek authorisation for the 'use of force' in Yemen.

Similarly, when Russia intervened in Ukraine, it did not deem it fit to get authorisation from the UNSC. Legally, Moscow breached Ukraine's

sovereignty; however politically, it merely preserved Russia's strategic interests. Putin's disregard pointed to the erosion of the sanctity of Westphalian sovereignty and the passiveness of the UN (p. 163). The UNSC delayed its response and abstained from issuing a press statement at least for a month. Ultimately, it issued a press statement only after the declaration of Crimean independence on 11 March 2014. Seven weeks after Russia vetoed UN draft resolution S/2014/189 aiming to reaffirm Ukraine's territorial integrity, the UNSC adopted Resolution 68/262 derecognising Crimea's new status. Russia exercised its veto power, while Brazil, Russia, India, China and South Africa (BRICS) abstained. Following this, a bloody conflict erupted, but the UNSC remained dormant.

The author concludes that the 'Responsibility to Protect' (R2P), which has been used as a cover for intervening in internal and external matters of sovereign states, does not hold ground as it is mere re-ordering of societies from outside using military force. Bernard Kouchner, former French Foreign Minister, has characterised it as the 'doctrine of humanitarian intervention'. There is also little agreement on how R2P is to be implemented due to the closely related concept of 'Protection of Civilians' that falls under UN's peacekeeping operations. Puri emphasises that if R2P is to form the basis of UNSC, it must be anchored in the concept of 'Responsibility while Protecting' (p. 208). In the end, he calls for an urgent reform of the UNSC and improvisation in composition of permanent and non-permanent categories as per the changed international political and economic dynamics.

In the book, Puri's experienced voice dares to question the motives of intervening powers, be it the US, the UK, France, Russia or regional powers like Saudi Arabia as well as multilateral fora like BRICS. An Indian perspective on the ongoing crises lets the reader gain an insight into our foreign policy and interests in the region. However, the book would have been well-rounded if the author had delved deeper into the solution along with stating and explaining the problem.

Anecdotes in the text enrich the narrative as well raise questions. For instance, when Puri quotes the statement of then Sri Lankan Prime Minister Sirimavo Bandaranaike (p. 170), 'I will call my sister in New Delhi and ask her to look the other way whilst I sort out this Tamil problem', it exhibits how states and head of states behave in international relations and how an individual loses his/her importance as an entity. Interests of the state become paramount and human rights violations are seen through the lens of self-interest.

*Perilious Interventions* addresses the complicated issue of UN reforms in a lucid manner. The book would appeal to academic scholars as well as

general readers interested in knowing the inner functioning of the UN. The book raises serious questions about loss of lives and human rights violations that follow interventions in the name of noble causes like spreading democracy or finding WMDs. It underscores the need to improve the functioning of the UN and enhance its credibility. It is recommended for those interested in UN reforms and also those who want to understand the politics behind interventions.

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**Notes :**

- <sup>1</sup> Steven Erlanger, 'By His Own Reckoning, One Man Made Libya a French Cause', New York Times, 1 April 2011, available at <https://www.nytimes.com/2011/04/02/world/africa/02levy.html>, accessed on 2 January 2019.
- <sup>2</sup> Monsieur de Vattel, Law of Nations, Philadelphia, available at [http://www.loc.gov/rr/frd/Military\\_Law/Lieber\\_Collection/pdf/DeVattel\\_LawOfNations.pdf](http://www.loc.gov/rr/frd/Military_Law/Lieber_Collection/pdf/DeVattel_LawOfNations.pdf), accessed on 3 August 2018.
- <sup>3</sup> Steven Erlanger, 'By His Own Reckoning, One Man Made Libya a French Cause', New York Times, 1 April 2011, available at <https://www.nytimes.com/2011/04/02/world/africa/02levy.html>, accessed on 2 January 2019.

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