

A Critical Study of U.N. Security Council and India's Bid for Permanent Seat

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Abstract: It was a great effort of international society to establish the United Nations Organization keeping in view to maintain international peace and security. The Security Council is the pillar of this organization. But, the recent practice of Security Council seems enable to achieve its goal. Therefore, the question that arises is whether it should be reformed? Another question to be discussed is does India deserve to include as a permanent member of this Council.

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I. Introduction

UN Security Council consisted of United States, United Kingdom, France, China and Russia, which is also known as P5 states are the permanent members of security council. All these 5 countries have Veto power. This power enables P5 states to prevent the adoption of its any substantive resolution which has been exercised by them time to time since 1945.¹ How these countries are using this vote power is a question of debate. In this regard we find security council as inactive in preventing disputes arose among the member countries of United Nation, organization. As the recent dispute of Arabian Countries taking the activities of ISIS and also the incidents happened in the Syria and Libya. Its inability also shows not reducing the mass destruction in inter-state conflicts, such as crisis in Syria and Libya, that has become a question mark on P5 states. In depth study of UNSC's work which indicate that this council has been framed only for the interest of its member countries. The council is not fulfilling the purpose of U.N. Charter.

¹ Peter G. Danchin & Horst Fischer, 'UNITED NATIONS REFORM AND THE NEW COLLECTIVE SECURITY', *Cambridge University Press*: 2010, <http://dx.doi.org/10.1017/CBO9780511675966.006>, on 20 September 2014; See also, Nirmal B.C., 'THE RIGHT TO SELF-DETERMINATION IN INTERNATIONAL LAW', Deep and Deep Publication Pvt. Ltd., New Delhi: 1999; and, Lydia Swart & Estelle Perry Ed., '*Governing & Managing Change At The United Nations: Security Council Reform from 1945 to September 2013*', Center for UN Reform Education, New York: 2013., *UNSC*, 20 September 2014.

We have two important examples by conflicts where the Veto power was used by members of U.N. Security Council, one is conflict between Israel and Philistine, where this veto power was used against UNSC's resolutions 5/2011/24 by U.S.A. and the second is on crisis in Syria and Libya, where Russia and China have used this power against the UNSC's Resolution 5/2014/348. Since these Resolutions no Veto power by any member of UNSC exercised till now. Although India not being a permanent member of Security Council did a balancing act in Syria crisis on the basis of friendly relation. But, India faced an impossible balancing act on this Syrian Crisis which was given by its friendly relations with every rival namely U.S., Russia, Iran, Israel, and Syria. Efficiently maneuvering out of the tight spot of having to pick a side, however, India took a position in alliance with BRICS (Brazil, Russia, India, China, and South Africa) which eventually aided with Russia, an apt choice given priorities to India.²

II. Legal Regulations for Veto Power

Article 7 of the UN Charter provides following things:

1. Each member of the Security Council shall have one vote;
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members;
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members, provided that, in decisions under

² The Hindu, *India's Syria venture*, by Tanvi Ratna, on 28 January 2014.

Chapter VI, and under Paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

There is no any dispute in clause '1', '2' and '3' of Article 27. However, controversy raised over exceptions enumerated in the Clause '3' of Article 27. According to this no enforcement action could be taken without the concurrence of the five permanent members.³ On this issue, there was conflict raised between the USSR and the Western monopoly. In fact, the USSR, in particular, would not have been willing to accept the UNO as it was envisaged without the establishment of the veto to protect it from the Western bias of the Council and General Assembly at that time.⁴ Some weaker States also objected at the San Francisco Conference on the proposed voting procedure on the ground that it violated the principle of 'sovereign equality' of all members.⁵ Nevertheless, the right of P5 States accepted at this conference. Weaker States expressed their fear that the veto provisions would weaken the Security Council by creating the likelihood that it may not be able to discharge its duties due to a Council deadlock over the veto.⁶ Scholars on this subject observed that the leading industrial powers have almost a monopoly of the means of waging a modern global war. If their reasonable degree of co-operation exists on each other's a large-scale war would be unlikely to occur, however, if they disagree to the point of using armed force against each other the obvious result would be a third world war.⁷ Co-operation among the permanent members is therefore essential if the Security Council is to perform its function.⁸

III. Need to Reform the United Nation Security Council

Prime Minister Shri Narendra Modi, at the summit on Peacekeeping in New York on 28th September 2015 said "We must complete the long-

³Shaw Malcolm N., *International Law*, Fifth Edition, Cambridge University Press:2003,.

⁴*Id.*,

⁵statement by Hon'ble External Affairs Minister Mrs. Sushma Swaraj, at the General Debate of the 70th Session of The United Nations General Assembly on October 01, 2015

⁶SaharOkhovat, 'THE UNITED NATIONS SECURITY COUNCIL: ITS VETO POWER AND ITS REFORM', *CPACS Working Paper*, No. 15/1, December 2011, Basu, Rumki, THE UNITED NATIONS: STRUCTURE & FUNCTIONS OF AN INTERNATIONAL ORGANISATION, Revised Ed., Sterling Publishers Pvt., New Delhi, 2004.

⁷*Ibid.*

⁸*Ibid.*

pending task of reforms within a fixed time frame of the UN Security Council to preserve the relevance and effectiveness of the UN."⁹History of UN highlights that UNSC has substantially failed in most of cases and not reach any agreement on how to adequately deals with threats to international peace and security. A principal reason behind it has been the refusal of one or another of the P5 States to protect their own interests.¹⁰ It has often used in order to protect countries with which P5 States have close cultural, economic or political ties.¹¹ There are a number of examples such as Iraq War in 2003, conflict in Georgia in 2008, massacre of Sri Lankan-Tamils in 2009, crisis in Libya in 2011, 2013-2014 conflict in Syria and the Philistine issues. In these catastrophic situations P5 States has played a political role of game on veto power.¹² In Syria there is no peaceful environment exists. The main problem is that these rebel forces now converted into the ISIS (Islamic State of Iraq and the Syria). In 29 July 2015 Security Council Adopted resolution against ISIS but there is no any strict action taken.¹³ The issue of Israel-Philistine conflict is on the agenda of the Security Council, however, it is not happening at the first in 2014, it began in the mid-20th century. This body has not been successful in condemning the violence and settlement activities through issuing resolutions till now.¹⁴

Consequently, in the issues of Syria and Philistine, a number of scholars raised their voice that UNSC has not done its work in accordance with the aims and purpose of the UNO, and they furnished his duty as only for his own interest. Now in 2015, problem of ISIS is on top level. This problem may be solved through international co-operation and

⁹ Statement by Hon'ble Prime Minister Shri Narendra Modi, at the summit on Peacekeeping in New York on September 28, 2015.

¹⁰Richard Butler AC, 'Reform of the United Nations Security Council', *Penn State Journal of Law and International Affairs*, , Vol. 1,2012, p. 32.

¹¹ See TVFA Posts, 'Critical Analysis: Can We Abolish the United Nations Security Council Veto? Thoughts in Honor of the +100,000 People Dead So Far In Syria', by Jaime Menegus.

¹² Student News Daly, *Syrian Rebel Chief Asks World to Stop Bloodshed*, Published on 18 January 2012 as accessed on 08/06/2014; See also News, David ICKE Forum, *Syria uprising/Thousands Slaughtered*, on 08 Jan. 2014.

¹³ S/RES/2233 (2015)

¹⁴SaharOkhovat, 'THE UNITED NATIONS SECURITY COUNCIL: ITS VETO POWER AND ITS REFORM', *CPACS Working Paper*, No. 15/1, December 2011as

collective action against them as expected in 29th July UNSC Resolution 2015.¹⁵ But, till now there is no agreement among the member states of UNSC on this issue.

The main improvement in this concern happened in 2008, when the Intergovernmental Negotiations took the task of negotiating reform proposals. Since 2008 for the first time this is the first time in 2015 that a “negotiating text” is being accepted to begin talks, as opposed to just statements and speeches.¹⁶ The other development was happened in the late 1990s to 2000s in which Japan and India, along with Germany and Brazil, started supporting to each other for permanent seats in a grouping known as the ‘G4’. Their primary proposal was to increase membership of the UNSC. On the question of veto power, G4 States decided that all new permanent members will have the same responsibilities and obligations as the present permanent members.¹⁷

IV. India's Bid for Permanent Seat in United Nation Security Council

Today India has taken good steps on 10 April 2015 at the UNESCO building in Paris, Prime Minister Narendra Modi made a strong pitch for a permanent seat for India in the UN Security Council, saying “it should get it as a ‘right’ for its immense contribution to global peace. Those days are gone when India had to beg. Now we want our right. No other country has such moral authority.”¹⁸ If we are going to preserve the centrality and legitimacy of the UN as the custodian of global peace, security and development, of the nations and the reform of the Security Council itself is most urgent and pressing need. On 1st October 2015, External Affairs Minister Mrs. Sushma Swaraj said in the general debate of the 70th session of the United Nations General Assembly “If we are to preserve the centrality and legitimacy of the UN as the custodian of global peace, security and development, the reform of the Security Council is its most urgent and pressing need.”¹⁹ Indian ambassador

to the U.N., Asoke Mukerji, told that more than 120 of 193 U.N. member states support changes to the current structure.²⁰ However, if it comes to a vote, India will need the support of at least 129, or two-thirds, of the 193 member-states.²¹ Further he said, ‘I think the frustration is being felt now by the international community because they find that the Security Council is completely paralyzed. It does not response in time to various crises.’ An official source in August 2015 told *The Hindu* that the P5 countries cannot veto U.N. reform, which will be decided by the General Assembly, where each country has one equal vote.²² Now we are confident that if India’s candidature is presented there, we would win the seat easily.²³ Actually, India stresses the need for an outcome that ensures the democratization of decision-making within the Council further its willing is to engage with all concerned with an open mind on this key issue.²⁴ According to India, substantial reform of the Security Council implies expansion in both the permanent and non-permanent membership. Its views is to include an expansion in the permanent category from the present 5 to 11 member states, with the addition by name of two new permanent seats from Africa, two new permanent seats from Asia, one new permanent seat from the Latin American and Caribbean region and one new permanent seat from the WEOG countries (Western European and Others Group).²⁵ On the non-permanent category, it says that it must be expanded from the present 10 to 14/15 with the addition of one new non-permanent seat each for the Asian, East

Session of The United Nations General Assembly on October 01, 2015,.

²⁰, USA Today, *India upset over UN Security Council paralysis*, published on 23 September 2013,.

²¹ The Hindu, *As U.S. changes tack, India redraws UNSC bid*, published on 14 August 2015,.

²²*Id*

²³*Id*.

²⁴ Statement given by Mr. Bhubaneswar Kalita, Member of Parliament, on Agenda Item 29, ‘*Report of the Security Council; and 119 – Equitable Representation on And Increase in the Membership of the Security Council and other related matters at the 65th Session of the United Nations General Assembly*’ on 11 November 2010

²⁵ Intervention by Ambassador Hardeep Singh Puri, ‘*Permanent Representative, at the informal meeting (closed) of the plenary on the intergovernmental negotiations on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Council*’, on 2 March 2011,

https://www.globalpolicy.org/images/pdfs/India_State_Ment_March_2_2011.pdf.

¹⁵ *Id*

¹⁶ The Hindu, *U.N. motion raises India’s hope for permanent Security Council seat*, on 15 September 2015,.

¹⁷ Statement given by Ambassador Hardeep Singh Puri, ‘*Permanent Representative, at the Eighth Round of Intergovernmental Negotiations on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Council*’, on 13 March 2012,.

¹⁸ *The Hindu*, *Modi makes strong pitch for U.N. seat for India*, published on 12 April 2015,

¹⁹ statement by Hon’ble External Affairs Minister Mrs. Sushma Swaraj, at the General Debate of the 70th

European, GRULAC states (Latin American and Caribbean Group) and one/two non-permanent seats for the African states taking into account the need to ensure representation from developing countries, including small island developing states, wherein participation shall be on the basis of the concept of rotating seats.²⁶

P5 States response on the issue of Indian participation as a permanent membership of UNSC is positive. Russian President Mr. Vladimir Putin has said that India is number one in Russian list to enter the Security Council in the permanent category, because it is the largest democracy in the world and Russia's 'strategic, privileged partner'.²⁷ Once again on August 2015 Russian Foreign Minister Sergey Lavrov repeated same in an interview to the news agency TASS.²⁸

In addition, Barack Obama has said, that 'United States would support adding India as a permanent member of an expanded U.N. Security Council.'²⁹ They are not only welcomes India as a rising global power, but also attempt to support it and said they had worked to help make it a reality.³⁰ In Asia and around the world, Mr. Obama said, 'India is not simply emerging; India has already emerged.'³¹ Recently on August 2015 U.S. Ambassador Richard Verma reiterated that there has been no change in his country's position on the expansion of the United Nations Security Council since 2009 that the U.S. continues to support India's candidature for a permanent seat.³²

In April 2015, it is asked to the Chinese Foreign Ministry Spokesman Hong Lei to comment on Prime Minister Narendra Modi's assertion that India deserved a rightful place in the UN Security Council.

²⁶ Intervention by Ambassador Hardeep Singh Puri, 'Permanent Representative, at the informal meeting (closed) of the plenary on the intergovernmental negotiations on the question of equitable representation on and increase in the membership of the Security Council and other matters related to the Council', on 2 March 2011,.

²⁷ The Hindu, *Putin not for diluting veto powers of U.N. Security Council*, By Amit Baruah, published on 4 December 2004

²⁸ The Hindu, *Russia backs India's bid for a permanent UNSC seat*, published on 18 August 2015

²⁹ washingtonpost.com, *Obama Supports adding India as a permanent member of UN Security Council*, by Emily Wax and Rama Lakshmi, Published on 08 November 2010

³⁰ *Id*

³¹ *Id*.

³² The Hindu, *U.S. backs India's UNSC claim, says Ambassador*, published on 15 August 2015,

He replied that "India is an important developing country in international affairs". "We understand and support India's desire of playing a big role in international institutions including the United Nations".³³ It is important to mention here that if the US wants to set up India as a rival of China in Asia, the Chinese veto may block the expansion plan and India's entry.³⁴

Another veto wielding State France, United Kingdom said, we need now to have India as a permanent member of the UN Security Council.³⁵ In 2007, Gordon Brown (former Britain's Prime Minister and Chancellor of the Exchequer) has expressed the country's support to India's bid for a permanent seat in the United Nations Security Council.³⁶

V. Need for New Veto for New States

On the question of veto power there is no clearance made by P5 States except Mr. Putin. Mr. Putin has said that permanent members of the UNSC top body should either all have a veto, or none of them should have it. Recently, Russia submitted its document in 14 April 2015 at Inter Governmental Negotiations on Security Council Reform. According to this "the prerogatives of the current Permanent Members of the Security Council, including the use of veto, should remain intact under any variant of the Council reform."³⁷ However there is no any authentic statement by China on the question of veto.

United States of America expressed at the same Inter Governmental Negotiations on Security Council Reform on 10 April 2015 that "supported a 'moderate expansion' of the UNSC without a veto power to new members."³⁸ United Kingdom said that there should be no expansion of the veto to new permanent members.³⁹

³³ The Hindu, *China falls short of backing India for a permanent U.N. seat*, published on 13 April 2015.

³⁴ The Express Tribune, *A permanent UN SC seat for India?*, Published on 9 November 2010.

³⁵ See News, The Hindu, *Russia backs India's bid for a permanent UNSC seat*, published on 18 August 2015, as assessed on 03/10/2015; The Hindu, *India should be a permanent member of the UNSC*, by G. Srinivasan, published on 23 September 2011

³⁶ The Hindu, *Britain backs India's bid for permanent seat in Security Council*, published on 18 January 2007

³⁷ The Inter-Governmental Negotiations on Security Council Reform, held on April to May 2015

³⁸ The Hindu, *Russia backs India's bid for a permanent UNSC seat* published on 18 August 2015.

³⁹ The Inter-Governmental Negotiations on Security Council Reform, held on April to May 2015

The French proposal of a code of conduct limits the use of the veto right in situations involving mass atrocity crimes. More generally, all Member States should commit to support timely action by the Security Council aimed at preventing or ending the commission of genocide, crimes against humanity or war crimes.

On the question of veto power Ambassador Hardeep Singh Puri said:⁴⁰ “If the a priori starting point is that new permanent members cannot have the same rights and obligations as the existing ones, then I am afraid, such a proposition is not saleable. However, if some of the new permanent members decide not to enforce their veto and here I use my words carefully again because the Charter as far as I know talks only about ‘responsibilities and duties’ and not about ‘rights’- till such a time as a comprehensive review is undertaken, they should be allowed to do so.”

In 2012, the former Indian President Mr. A.P.J Abdul Kalam has said India will eventually get permanent membership of the United Nations Security Council as it is ‘undemocratic’ to keep out a country of over a billion people from the decision-making process.⁴¹ Therefore, in the light of above mentioned statements, one may submit that India would not accept permanent membership of the United Nations Security Council without veto power.⁴²

In addition to above mentioned information, there may be a number of grounds that confirm the Indian permanent membership under UNSC with power to impose a veto. Some of them were rightly highlighted by the Prime Minister Narendra Modi on four-day tour of France in April 2015. It has the World’s largest liberal democracy, second most populated, high demographic dividend nation (60% in the age group of 15-59). According to 2011 census it represents 17.31 % of the world populations. It is also a major financial contributor, and a major contributor of UN Peacekeeping troops.⁴³ It has taken part in 43 Peacekeeping missions with a total contribution exceeding 160,000 troops and a significant number of police personnel having been deployed. Recently, in 2015 India became the third largest troop contributor with 7,860 personnel deployed with ten UN Peacekeeping Missions of which 995 are police

⁴⁰ *Id*

⁴¹ The Hindu, ‘Billion-plus India can’t be kept out of veto-wielding Security Council’, published on 5 November 2012

⁴² *Id*.

⁴³ India has contributed troops to United Nations peacekeeping efforts in Korea, Egypt and the Congo in its earlier years and in Somalia, Angola, Haiti, Liberia, Lebanon and Rwanda in recent years, and more recently in the South Sudan conflict.

personnel, including the first Female Formed Police Unit under the UN.⁴⁴ Generally, it has the backing not only the major players like France, Russia, United Kingdom, United States, but also a number of European, Asian, and Latin American nations, and the African Union within the purpose and aims of the UNO.

VI. Conclusion

India being a founder member of UNO consented it on 1st January 1942 and participated in the historic UN Conference of International Organization at San Francisco from 25 April to 26 June 1945. After independence, India has become active participant of the world stage to maintain peace and security. Now it a need to become India as permanent member of UNSC.

Since its establishment UNSC failed on various occasion to take any actions and in preventing the grave violations of human rights. Recently, UNSC on Syria and Philistine disputes seems to be very inactive. On one hand, western veto wielding States are silent and not want to take any action against Israel on the question of Philistine crisis and on the other hand, UNSC also failed to prevent tyranny of ISIS and other restricted organisations. However, Russia and China both of them have used their veto power against the western countries. Now it is very clear that P5 States protect only for those countries with them they have close cultural, economic or political relations. Now the time has come when there is a vast need to reform UN Security Council's structure. As United States, Britain, France reaffirmed their support to India’s permanent membership of the UNSC as tax base negotiation to expand most powerful wing of the world body in November 2015.

Acknowledgement:

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⁴⁴ *Id*