

UNO: Reform or Perish

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Introduction

From time immemorial it has had been a challenge before the humanity that how should we organize ourselves, as a human community. At the later stages of development, this question again reverted to us how to organise at the highest level of governance—that is, on the level of nations, on the global level? How can we move towards a better world, a world that can provide greater peace and justice post 2nd world-war and now the same challenge is before us in the twenty-first century and beyond? These are the issues attempted to address in this research paper. The United Nations was created almost seven decades ago to move the world towards peace and cooperation. As an organisation, the United Nations must also evolve, and adapt itself to a rapidly changing environment to serve the core needs of the world in a better way. The UN is a grouping of sovereign states, based on the equality of representation. “The institution of United Nations reflect an uneasy hybrid between traditions of great power consensus and traditions of universalism that stress the equality of states”. (Paul Taylor and David Curtis: 313)

Ever since the Treaty of Westphalia, state juridical sovereignty has been the fundamental legal and ideological principle undergirding the world system. The United Nations is an organization comprising sovereign states; it is neither a world government nor an assembly of peoples. Elites understandably want to retain the sovereignty of the states they control, as do most of their citizens. No reform proposal that fails to preserve, and in some ways even strengthen state sovereignty can hope for a favourable reception from those who have the power to enact the proposal. The reform must be acceptable to the vast majority of states, as consistent with their sovereignty.

Although sovereign state system is the hallmark of contemporary global order, yet, at the same time, states’ practical sovereignty has in many areas been eroded in the modern world. With the growing roles of the Non- State Actors and active people’s participation in the globalised world, the sovereign state system can no longer claim its prime place.

Even some experiments have led to a renewed vigour for the emergence of region- states like the case of the European Union - and in other instances by a variety of treaty commitments binding states to common legal norms and procedures. Some others are intended but involuntary, such as when extreme repression or humanitarian distress become the basis for international intervention in what would normally be the domestic affairs of a state.

The aims of the United Nations Organization are (1) to maintain international peace and security, (2) to develop friendly relations among nations based on respect for equal rights and self-determination of peoples, (3) to promote co-operation economic, social, cultural, and humanitarian fields among nations and promote respect for human rights and fundamental freedom of all. (4) To act as a centre harmonizing the actions of nations in attaining these common ends. (UN Charter: retrieved from internet)

British Historian Paul Kennedy reminds us that the organization had its beginnings with two presidents of the United States, Franklin D. Roosevelt and Harry S. Truman. As World War II was winding down, these two men sought to invent a security body based not on “coalitions of the willing” but on the credo of “collective security” to guarantee peace around the planet. “Learning from the failures of the League of Nations, but equally concerned with national sovereignty, they admixed idealism and realism in drafting the United Nations Charter. But as the post war years unfolded, the United Nations’ central task, to stymie aggression, quickly withered as a consequence of the cold war stalemate between the United States and the Soviet Union on the Security Council”. (Paul Kennedy : New York Times, August 16, 2006)

Still, as Mr. Kennedy points out, “there are in practice many U.N.’s.” And in fact, during this period, many others did come to the fore. There was, for example, the United Nations of the secretary generals, who soon achieved fame for settling disputes as neutral mediators. There was the United Nations of peacekeeping, often a messy and expensive process, but one that has since proven indispensable to world security and has broadened to encompass nation building, election monitoring and constitution writing. There was the United Nations of poverty alleviation — still a responsibility. There was the United Nations of “soft power,” dealing with women, children, the environment, health, refugees, human rights, culture and law. There is no doubt that the United Nations plays an important role in world affairs. Since its establishment, its main aim is to be a beacon of international peace and security. However, the organizations suffers from a lot of

institutional, political and other problems, as well as problems within its significant organs like General Assembly, International Court of Justice and most importantly, the Security Council. The United Nations has shown a lot of failures and inactions in tackling and solving lots of contemporary political conflicts, civil wars, pandemics and humanitarian crises that have been escalated since its inception. The UN does not have the means and mechanism to execute the programmes, precisely at a time when these are ardently needed. It lacks the adequate, reliable and predictable financial resources also.

The Covid scenario

The coronavirus pandemic is an inflection point in global politics. This unprecedented crisis has dented the credibility of the UN and its specialized agency WHO. The Chinese Wuhan lab has much to do with the origin and spread of the virus, which was rightly termed as the Wuhan Virus in the beginning. But suddenly everything changed, with the change of perception engendered by WHO in favour of China. The Chinese intransigence on the pandemic was simply frustrating.”The rise and domineering behaviour of China has created disequilibrium. China has a great sense of ‘History’ and is known for its timely moves in international politics. It has chosen the period of the pandemic to put forward its claims forcefully, when the whole world is engaged in self-preservation. Let us not forget that China chose the month of October 1962 to attack India, when both the superpowers were engaged in the deadly Cuba crisis. From Hong Kong to Taiwan and from the South China Sea to the Indian borders, the Chinese government, led by President Xi Jinping, is pursuing more aggressive policies. There is growing concern about Beijing’s behaviour, not just in Washington and Delhi but also in Jakarta, London, Tokyo and Canberra. China feels that the corona virus has given it a God -sent opportunity to act, while the world is looking away. The turmoil in deeply divided America has made its task look easier, while Europe has already become a confused continent. But the democratic world cannot afford to lose focus on what is happening in East-Asia and the South China Sea or at India’s border. A new global crisis could easily break out there, with even graver long-term consequences than the pandemic”. (Chandra Mohan Upadhyay: 2021, pp: 1215)

“The globally paralysing pandemic has reinforced Xi’s efforts to realize his “Chinese dream” by the 2049 centenary of communist rule. Xi said in a speech at Xi’an JiaoTong University in April 2020 that “great steps in history have always emerged from the crucible of major

disasters.” Ibid Many in the world now believe that the current crisis is crafted within the four walls of China. After 40 years of rapid economic growth, China is now by some measure—the world’s largest economy. Its navy has more warships and submarines than that of the USA.

This crises will accelerate and intensify major changes that are already evident, while also unleashing new forces, and shuffling power equations. It is rightly stated by some experts that the international liberal order is facing a moment of crises. The myth of liberal order is caught between the shifts of increasing nationalism on the one hand and the requirements of global balance of power on the other. In other words two forces are pulling the global politics in opposite directions. These may be termed as the forces of convergence and disruption.

“The fabled Washington consensus privileged the commercial interests of a few geographies, often to the detriment of emerging economies, and the blue-collar worker. In other words, pedigree, privilege and personal networks have defined who is at the high table- and more important who is not”. (Shashi Tharoor & Shamir Saran: 2020, p-xvii)

The most ironical aspect of this pandemic has been that in spite of its global devastating impacts, the response was largely local. Every government has to fend for itself and the WHO was apparently colluding and inherently contradictory. All of this is transforming the setting in which India strives to find its place in the emerging world order;

“Despite the pervasive uncertainty, this period of geopolitical change holds opportunities for an emerging and aspiring country like India to advance its interests and enlarge its strategic footprint. There will be heightened risks that must be managed; there will be expanded opportunities that must be leveraged”. (Path to power: Strategy in a World Adrift; Takshashila Institute, September 2021, p-17)

The UN is also facing the challenges of failing states and the cross-border terrorism. The recent example is the humanitarian crisis of Afghanistan, where the UN is nothing but a helpless spectator. As a result, the UN is in danger of being marginalised. My research paper suggests on the basis of various studies on UNO, that the solution lies not in the piecemeal reforms but through a complete overhaul by democratization of the UN. At the very least, in order to handle these

new crises, the UN intergovernmental organs have to be made more accommodative and democratic.

At the end of the Cold War, the leading nations, particularly the United States, missed many opportunities to build a stronger UN and to create a foundation for peace in the coming century. The West talked of preventive diplomacy but did nothing to strengthen the UN machinery for such creative initiatives. As the UN's sphere of responsibility increased, it didn't expand the structure of the United Nations or give its Secretary-General more resources. The "new world order" a phrase used by President Bush, was just the same old world order except that instead of two superpowers there was now only one. Granted, the end of the Cold War made many things possible, but it still left many things undone and new challenges unmet. It is not the objective of this research paper to suggest the burial of the United Nations, rather the paper focus on the means to reform and strengthen it. The UN system continues to the international norms by which every member state should abide. The most recent norms of Sustainable Development Goals are being followed so scrupulously. Therefore reform and restructuring of the system is the need of the hour.

Reforming the UN

The United Nations is not a perfect organisation, but it is equally true of all the human organisations. At the request of the then Secretary General Boutros Boutros-Ghali, an independent Working Group on the future of the United Nations was convened by the Ford Foundation in the late 1993. The Working Group Report, was presented in 1995. It has been stressed throughout this report, the need for Member-States to provide the leadership, common will and purpose. When one uses the vague phrases, it creates confusion. As the report talks of the leadership of Member-States, but it is absolutely clear that it is not talking of Bangladesh, Brazil or India but to the five permanent members. The principle of sovereign equality of states is nothing but an eyewash. Again the UN has not become dysfunctional because of lack of common will, but rather due to super power rivalry it is unable to live up to the expectations. A great gulf exists between what is ideal and what is politically possible, in the words of T.S. Eliot, it can be stated that "Between the idea /And the reality/Between the motion/And the act/Falls the shadow". (T.S. Eliot- The Hollow Men)

Any real or substantial reform begins at the door of Security Council. A large majority of the globe is unrepresented. The most eligible and responsible country like India, needs representation in the UN Security

Council. In a speech in March 1949, Pt. Jawaharlal Nehru stated that “it was inevitable for India to play an important global role, not because of any ambitions of hers, but because of the force of circumstances, because of geography, because of history.” (Aparna Pande: 2020, P-75)

India’s engagement with international institutions and its consistent advocacy of, and active participation in, multilateralism has been an enduring feature of its foreign policy. During Cold War, it was NAM led by India, which was instrumental in opposition of colonialism, racialism and their end from the globe. It was under the leadership of India that the famous UNCTAD became a reality. “The country has seen its interests best served through a rules and norms-based international order, even if these are often observed in the breach. Multilateral institutions serve as platforms for mobilising international opinion on issues of interest to India. In turn, India’s multilateral diplomacy has enabled it to punch above its weight on the international stage.” (PATH TO POWER: Strategy in a World Adrift; Takshashila Institute, September 2021, p-13)

Former foreign secretary Shyam Saran writes succinctly, “A stable world order needs a careful balance between power and legitimacy; and legitimacy is upheld when states, no matter how powerful, observe the various established norms of behaviour and codes of conduct and act through institutions.” (Shyam Saran:2017, p-270)

To take a leaf from his book it is obvious that the Westphalian system by its nature is multipolar in character. India has always supported the idea of multilateralism and wants to reform and restructure the global agencies particularly the United Nations. It is obvious that world agencies including UN, are under the influence of Super Powers. Moreover, the problems it suffers from, have become more severe, despite the Millennium declaration, adopted by a special Summit held in September 2000 and hailed as the landmark document for the new century, UNO has not been able to introduce any significant change in its structure or function. The chief defect is its undemocratic structure, particularly due to the imbalanced representation of chosen few and their wielding the veto power in Security Council, which is highly unjust and discriminatory. The Security Council has become a privileged club great powers of 20th Century, trying to monopolize the international politics in 21st Century by their privileged position in the Security Council. After the First World War, we made progress by creating the League of Nations. After the Second World War, we made a further step by establishing the United Nations. But after the end of the Cold

War, which consumed enormous resources in its futile zeal for arms superiority and nuclear warheads, we simply relied on the multilateral institutions we had, without strengthening them. “In short, there was a lack of forward-looking international leadership. Historians may well look back on this period as a time of missed opportunities”.(Walter Dorn: 1999 pp. 118-135).

One may be tempted to term it as the parliament of the humanity and ideally it should have evolved to that extent now but the reality has its own ways. But the United Nations is neither a legislature nor a world government nor even a democratic organization. It is a collection of states, some democratic, while others authoritarian, who appoint representatives to decide what the United Nations can or cannot do. It is simply a congregation of its members. The voting in the General Assembly is currently by majority (two-thirds majority on questions of substance). In the current system, San Marino, the United States, Bhutan and China, all have equal votes. In order to strike a balance the world body can introduce a weighted voting system (perhaps incorporating the important factors of size, population and financial contribution to the UN), on important issues of sanctions and war. For all the other issues the current system should be followed. This will provide a more balanced approach. A vote on a given strategic resolution concerning sanctions and war, could be considered in two fashions: by the regular majority approach and by the weighted majority approach. If both criteria were satisfied, then the resolution could be given more importance, even the force of law. To adopt this new approach to General Assembly voting would likely, but not necessarily, require Charter amendment. In any case, it may be many years before it is seriously considered.

Security Council reform and the rightful claims of India

The Security Council is arguably the most powerful body in the world today. Under the UN Charter, it has “primary responsibility for the maintenance of international peace and security” and it has the power to impose its decisions by force through sanctions or military measures (i.e., under Chapter VII of the Charter). The most important victors of World War II, who were also the principal authors of the UN Charter, gave themselves permanent seats on the Council. These five permanent members (the P5-China, France, Russia, United Kingdom and United States of America) also gained a “veto” right, which allows each of them to prevent a resolution from being adopted even when it is approved by all the rest. The ten non-permanent members are elected

by the General Assembly on a rotating/regional basis for two years. Since the permanent seats were created to reflect “the reality of power in the international community,” many have asked why have there been no changes in the permanent members as power has shifted over the decades.(Walter Dorn: 1999), pp. 118-135.)

Despite being increasingly out of line with the current distribution of power, the existing permanent members of the U.N. Security Council, for example Russia, UK and France which are highly diminished in status, are unlikely to accept the inclusion of new members in the same category. While India must maintain its claim to permanent membership, it must do so without expecting this to be conceded in the coming decade. The Countries like Germany and Japan, who now contribute in a major way to the world’s economy and security, would like permanent seats. Their claims can’t be denied on fair and impartial basis. Impartiality, legitimacy and accountability are the hall marks of any universal system and UN is no exception to it. These. It is especially important to hold the Security Council, the UN’s most powerful body, to these principles. One often has the feeling that its responses are driven by favouritism of the major powers rather than impartiality. The application of mandatory sanctions on Libya or Iraq or now on Iran for their refusal to honour the demands of the sole Superpower USA, like Libya’s refusal to hand over alleged terrorists (in the Lockerbie bombing), or Iraq’s handing over of the fictitious weapons of mass destruction are cases in point. It can be questioned whether the application of sanctions were impartial and proportionate, since many nations have refused to yield suspected criminals or access to accusing nations (Canada, for instance, has often refused to deport such persons to the United States or Pakistan’s refusal to even acknowledge the presence of Osama Bin Laden, or Daud Ibrahim, in its territory) and no such sanctions regime were applied on either Canada or Pakistan. Although, the Security Council reports once a year to the General Assembly and is mandated to act on behalf of all member states, its reports are not substantive and do not provide justifications of its actions. The body must be reminded of its accountability to the international community. In the future, it would be wise to codify these basic principles in a major document.

For several years, there has been a push to reform the Security Council. For decades, India is demanding its rightful place in the comity of member nations of Security Council, because it is reflective of contemporary global realities. Much has been changed since the times of San Francisco conference and the world body needs a complete

remaking, otherwise it is bound to run the risk of being irrelevant. The director of Hudson institute Washington D.C. Aparna Pande writes that “India’s case for Security Council reform is backed by the logic of contemporary international relations. Russia no longer wields power like that of the Soviet Union, while Britain and France have also considerably diminished in stature. The power vanquished during the Second World War- Germany and Japan- have re-emerged as global economic power houses. Currently India, is the part of the group of four nations (G-4) that see themselves as worthy of permanent membership in an expanded Security Council. (Aparna Pande:, 2020, P-84)

India is a responsible nuclear weapon country, widely respected for its fool-proof nuclear doctrine. It is one of the major contributor of troops for UN Peacekeeping Missions. India also remains very active in the UN’s functional organisations like WHO, FAO, UNICEF, UNDP, and UNESCO. According to Dr. Aparna Pande,

‘A similar activism characterizes India’s role in global financial institutions. Since 2006, India has also contributed financing for the projects in other parts of the world. Mirroring its stand in the United Nations, India has also sought reform of the IMF quota system, so that the developing countries like India have a greater voice when voting. India is vary of the potential political and strategic factors in these groups to influence their autonomous decision making.’ (Aparna Pande: 2020, P-85)

India and many other countries from almost all the continents oppose the elitist structure of the Security Council. The veto is an inherently undemocratic instrument. It absolutely prevents action from being taken against the most powerful states or their allies. While it is unlikely that even in a quarter century it could be abolished, one could hope that its use will be constitutionally restricted. For instance, on the question of electing a Secretary-General, one could fairly ask that the veto be prohibited. If veto rights are not constitutionally curbed, one could hope that the Security Council itself would give itself guidelines for the use of the veto. The abuse of the veto was painfully apparent during the Cold War: over a hundred Soviet vetoes were cast before the first American one. It is in peaceful times such as these that we must prepare for difficult times and take measures to prevent future abuses of this power. To prevent the misuse and the monopoly of its possession, ten more non-permanent members could be added and in this way the

strength of the Security Council could go up to 25. Five more permanent members (G-4 + Any African country) with veto power must be added. The addition of the new permanent members without veto power is nothing but futile exercise. Again it is suggested here that in order to offset the negative effect of the veto power, there should be a provision for the majority vote amongst the veto wielders. In this way the deadlocks will become a thing of the past. At present the Security Council is a law unto itself. It can interpret the UN Charter in its own way, even if its interpretation is at odds with other organs of the UN, the majority of member states and a reasonable interpretation of the Charter. There should be a means for judicial review of its decisions. If the Council acts in a clearly unconstitutional manner, one or more nations should be able to bring the issue before the International Court of Justice. The executive branches of most democratic nations permit judicial review of their actions and there is no reason why this should not be the same for international bodies (such as the Security Council), which draw their moral authority from the rule of law.

India has a record of international activism and leadership in multilateral institutions despite its deficits in economic and military power. “Will it be able to overcome the nationalist urgings that currently afflict it (as much as other major powers) and aspire to such a leadership role on the international stage? Can it create a coalition of other powers that may collectively provide such leadership? This will require a different narrative about India’s international role from what is currently in vogue. However, India could fill a major gap in the emerging geopolitical landscape if decides to embark on this road – while simultaneously enlarging its own space for manoeuvre.” (PATH TO POWER: Strategy in a World Adrift; Takshashila Institute, September 2021, p-27)

Conclusion

India has recently become a non-permanent member of the Security Council for two years. This is a good opportunity to set both the tone and direction of its engagement with the U.N. India also chairs the WHO Executive Council and has the opportunity to demonstrate leadership in managing the pandemic and its aftermath as well as in the setting of norms that will enable the international community to be better prepared for future health emergencies. In a polarized international environment, India could contribute to practical solutions if it projects a non-partisan and a positive approach and is able to mobilise a large constituency in support of its initiatives. In the past, Indian diplomacy was held in high regard for its ability to mobilize

impressive constituencies and for its drafting skills. These need to be revived. India's world view is also harmonious, not hierarchical like that of China.

“Studying the Jambudwipamandal from our ancient texts, one is struck by the fact it does not ascribe centrality and superiority to Bharatvarsha, which is only one among the lotus petals that make up our universe. Each of the concentric circles in the mandal that radiates outwards is superior to the preceding one. This is the reverse of the Chinese world view, which sees the Han core as the most advanced, with the increasingly larger circles symbolising the more barbaric and less civilized. India will never have a ‘middle kingdom complex’.” (Shyam Saran; 2017, p-16)

The UN has been in existence for over 50 years. Of course, progress is never linear. Things may have to get worse before they get better and for every two steps forward we may have to take one step backwards. The UNO is not a story of failure altogether. It has played a crucial role in the economic and social advancement of the people. The United Nations soon adapted to the challenges of Global interdependence and integration. The staggering economic inequalities and lopsided development threatened the very idea of UNO. The ‘North-South’ divide demanded action and the UN rose to the challenge but it couldn't replicate this in the field collective security.

“The UN Charter has proven to be a reasonably flexible instrument. It has been possible to stretch the Charter, for purposes of maintaining “international peace and security, to modify in de facto fashion the Article 2, paragraph 7 prohibition of intervention “in matters which are essentially within the domestic jurisdiction of any state”. (Bruce Russett: Ten Balances for Weighing the UN Reform Proposals Envisioning the United States in Twenty First Century, Japan, 21-22 November 1995 (retrieved from internet)

It has also been possible to invent the institution of peacekeeping despite the absence of any explicit Charter authorization for it. Nevertheless, it is extremely difficult to amend the Charter formally, since amendments require ratification by two-thirds of the Member States, including approval by all five of the permanent members of the Security Council.

Over its 50-year history, the only amendments have been for one enlargement of the non-permanent membership of the Security Council, and two stages of enlargement of ECOSOC. "The problem remains how to write - or now, when and how to modify - a foundational document which will preserve the foundation while underpinning a structure that can expand, contract and change its form and function in response to new and unforeseen power realities and challenges". Bruce Russette: Ten Balances for Weighing the UN Reform Proposals Envisioning the United States in Twenty First Century, Japan, 21-22 November 1995 (retrieved from internet)

The pandemic is likely to effect a significant change in the contemporary global political order and other area. The current rules of the game in trade and investment, intellectual property, procurement policies, and global financial markets are certainly going to change given the huge impact of pandemic on global economy. The renewed focus on Climate Change requires a greater effort towards achieving a global regime which enhances rather than limits India's developmental prospects. "India must also participate actively in norm setting in newer domains such as Cyber security and the security of Space based assets. It is only through its active participation that India will be in a position to readjust existing and influence the emerging global regimes and contribute to an international environment that enables it to face the more difficult challenges of the next decade." (Path to Power: Strategy in a World Adrift; Takshashila Institute, September 2021

The US President Harry Truman, who presided at the birth of the UN truly said in the assembly of the Charter signatories that 'you have created a great instrument for the peace and the security and human progress in the world'. Considering the history and the future of the UN, the next part of his speech was equally true and in fact even prophetic "no matter how great our strength, that we must deny ourselves the licence to do always as we please. No one nation can or should expect any special privileges which harms any other nation unless we all are willing to pay that price, no organisation for world peace can accomplish its purpose. And what a reasonable price that is". (Shashi Tharoor & Shamir Saran: 2020, p-03)

The history of the UN post 1945, is replete with instances, when the Super Powers of the day, repeatedly acted with the 'licence to do always as pleased them. From the outset they created privileges for them which clearly harmed the interests of other nations and unfortunately we all are paying the price willing or unwillingly. For a stable world order this disbalance in the favour of P-5, should be corrected to achieve the

legitimacy. The UN itself is modelled on plurality and equality of status. When the world community is confronting the existential crises like global warming, pandemics like SARS and COVID-19, cybercrime, drug trafficking, cross-border terrorism and proliferation of weapons of mass destruction, we cannot remain captives to our myopia and no nation how so ever powerful can take on them individually. The most effective way is the collective and collaborative response and the UN system is the most appropriate forum to actualize it. Therefore we need to reform and strengthen the UNO, instead of reinventing the wheel. There are many lessons that we can learn from the successes and failures, the gains and the follies of the present century as we step forward. The twentieth century has witnessed two world wars and unprecedented destruction; it is our moral, even sacred duty to make sure that no such global horrors happen again in Twenty first century. The gradual evolution of world order and international institutions must serve as the basis of our hope and our vision provided the international institutions reflect the structural plurality of global order and functional impartiality in order to gain the requisite legitimacy.

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