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Need for UN Security Council Reform: Veto Power and India's Claim to Permanent Membership

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Abstract

Even though the membership of the United Nations has increased fourfold and the global balance of power has changed dramatically, the structure of the United Nations Security Council still retains the power structure of 1945. This paper reviews the arguments for the reform of the United Nations Security Council, focusing on the veto system and on the Indian claim for permanent membership. The paper is based on the doctrinal/criteria approach: the relevant provisions of the Charter and General Assembly resolutions are reviewed, the representation statistics of the different regions is compared, and the Indian case is evaluated based on the set of criteria. The results demonstrate the disproportional character of the United Nations Security Council membership as compared to the General Assembly, identify the veto system as the reason of paralysis in the crises situation, and prove that the Indian case for permanent membership is good in terms of population size, economic potential, and contribution to peacekeeping operations, while being challenged in terms of regional rivalry and unanimity for Charter amendments.

Keywords: *Security Council Reform, Veto, United Nations, India, Permanent Membership, G4.*

Introduction

The Security Council is the only UN body that makes decisions obligatory for all member states. The Security Council is responsible for maintaining international peace and security. Nevertheless, its composition was established in the final days of the Second World War. Five countries – the United States, the United Kingdom, France, the Soviet Union (Russia now), and China – have permanent seats and the right to veto any decision (United Nations, 1945). After eighty years, the credibility of the Council is often being questioned because it neither represents the real world nor acts effectively if the permanent members disagree (Hurd, 2007).

Being the world's most populous and largest economies, India has been one of the major promoters of reform and also a declared candidate for permanent membership. The core research question is: what are the reasons for the reforms in the Security Council and India's claim to permanent membership? The aims are to consider the legal and political foundation of the veto right, to analyze the representativeness of the Security Council, to analyze the existing reforms and to evaluate India's claim according to certain criteria. Section 2 provides the background, Section 3 outlines the methodology of the research, Section 4-7 contain the analysis and Section 8 and 9 – discussion and conclusions.

Background: Structure and the Veto

Article 23 of the Charter establishes a Council consisting of five permanent members, with other members appointed by the General Assembly for two years, taking into account the contribution of countries to maintaining international peace and security and equitable geographical representation. According to Article 27, nine votes in favor are necessary to make decisions, which also include the

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unanimous approval of the permanent members. In reality, the negative vote of any of the permanent members is enough to block adoption; this is the veto. As Fassbender (1998) points out, this setup ensured a quasi-constitutional status for the Council, unlike any other institution, although at the cost of perpetuating the privileges of the founding victors.

The veto is a product of wartime planning among the great powers. They believed that the institution cannot enforce peace despite the opposition of the great powers with military capabilities that could endanger peace. They wanted guarantees that their vital interests would not be overruled (Bosco, 2009). Thus, the veto was created as a compromise where the jurisdiction of the Council was restricted but the membership of great powers was assured. Malone (2004) says that this idea makes sense in 1945 but has been put to test through the years due to the Cold War, interventions after the Cold War, and the contemporary resurgence of great power politics.

The membership of the Security Council has increased just once, in 1965, when six non-permanent seats were increased to ten, taking the membership from eleven to fifteen. This increase did not change anything else in the Security Council, neither the membership nor the use of veto (Bourantonis, 2005). It is very difficult to amend the charter since it demands a two-third vote in the General Assembly and also two-thirds of members, including all the five permanent members (Article 108 and 109). Hence, each permanent member gets another veto against the amendment in the use of veto.

Research Methodology

For this research, a doctrinal-criteria based evaluation design that relies on secondary sources is adopted. In doctrinal analysis, interpretations of provisions of the Charter, resolutions by the General Assembly, and literature would be made to understand the legal context in which the reform needs to take place. This is an appropriate design when the research questions deal with the nature and workings of the law and not behaviour of people (Fassbender, 1998).

In descriptive analysis, representation across the five regional blocks of the United Nations (United Nations, n.d.) and the increase in membership in comparison with the size of the Security Council are examined. The data used in the evaluation are straightforward counts, rounded off to the nearest whole number. They are used to show the disproportion without the testing of hypotheses.

Then, in evaluative analysis, India's demand is evaluated on the basis of four criteria taken from Article 23 and the reform literature: capacity and demographic importance, contribution to international peace and security, regionally and politically acceptability, and legal feasibility.

Some constraints exist. It is based on ratings and subjective assessments that might have different weightings for other analysts. The analysis uses open sources only and does not take into account personal viewpoints of diplomats, who might express themselves differently in private communications. The last constraint is the ongoing negotiations process.

The Representation Deficit

The strongest argument for reform concerns representation. Figure 1 compares each regional group's share of United Nations members with its share of permanent seats.

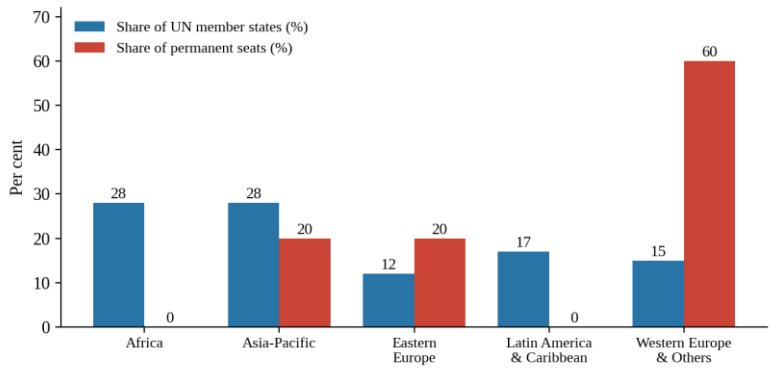


Figure 1: Regional Shares of UN Membership and of Permanent Council Seats (Approximate Percent)

Source: Author's calculation based on United Nations (n.d.) and United Nations (1945)

Together, Africa and Latin America comprise nearly half of UN member states yet have none of the five permanent seats, Western Europe and others have three. Asia-Pacific, comprising more than half of the global population, has one seat. This is a long-standing issue that forms the basis of the call by African Union, referred to as the Ezulwini Consensus of 2005, for two permanent seats with all privileges for Africa. Figure 2 illustrates how membership numbers have increased while the Council composition has hardly changed.

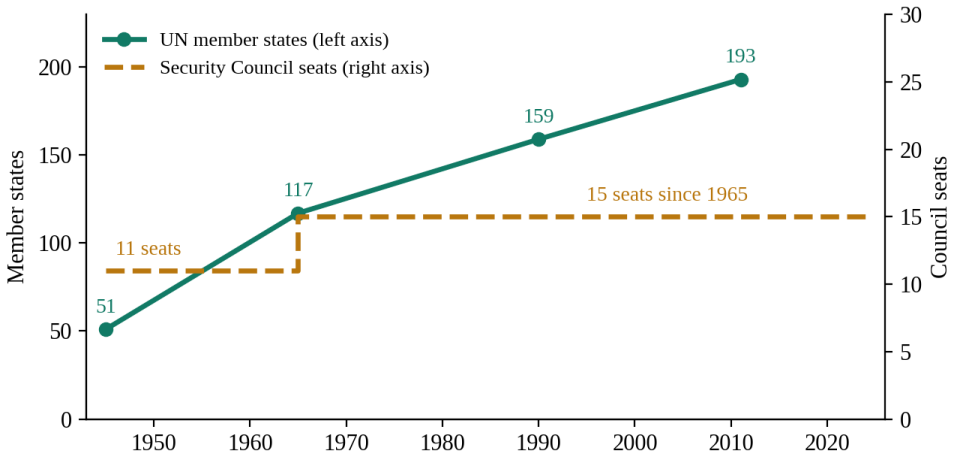


Figure 2: Growth in UN Membership Compared with size of the Security Council, 1945 to 2022

Source: Author's compilation from United Nations records.

While the General Assembly started off with only 51 members in 1945 but now comprises of 193 members – an increase of almost 280% over time, on the other hand, the Council has increased its membership by just about 40% and not at all since 1965. With the growth in the ratio of members to Council membership, the probability for any one state to be elected decreases and so does its claim to represent all the member states (Malone, 2004). For Hurd (2007), the authority of the Security Council also depends on the element of perceived legitimacy and therefore the obsolescence of its composition is an actual problem.

The other structural weakness in the Security Council relates to its elected membership, which is composed of ten members. In addition to serving for shorter periods of time, the elected members do not carry the advantage of institutional memory or being a pen holder, nor can they veto any decision. However, they have been helpful in giving diverse perspective on certain issues and in starting initiatives related to thematic issues.

The Veto: Problems and Proposals

Vetoing is the main barrier for the efficient functioning of the Council. In case of disagreement among permanent members, the Council may be paralyzed even in the situation of mass crimes committed. The veto by Russia of the draft resolution on the invasion of Ukraine in February 2022 and the US veto of the resolutions regarding Gaza in 2022 and 2022 show that the problem does not relate only to one country. The critics claim that the right to use veto enables the powerful countries to protect themselves and their allies from being examined, which undermines the idea of sovereign equality of all UN members (Blum, 2005). The supporters say that veto made the big countries stay within the system and the Council not adopt the resolutions that would have been ignored anyway (Bosco, 2009).

A number of suggestions have been made to try to curb the use of the veto rather than eliminate it. For instance, in 2015 France and Mexico suggested that the permanent members pledge not to employ their veto power where there is an occurrence of crimes against humanity. A similar code of conduct, initiated by a group of small states, has also been suggested. The most tangible development took place in April 2022 when the General Assembly adopted resolution 76/262 unanimously, providing for discussion in the General Assembly within ten working days of a veto being used (United Nations General Assembly, 2022). This follows on from the Uniting for Peace resolution that authorizes the General Assembly to take action in case of non-action by the Council (United Nations General Assembly, 1950).

However, there are more subtle ways to do so from the perspective of legal practice. Refraining to vote by a permanent member has traditionally been considered compatible with Article 27 and does not prevent a resolution being adopted, an interpretation accepted both in the practice of the Council and by the International Court of Justice in its 1971 advisory opinion regarding Namibia (Fassbender, 1998). In addition, the veto can be exercised exclusively concerning the substantive issues and not procedural ones. The distinction between these categories, however, is open to challenge as part of what has been called the double veto.

Reform Models and Negotiating Deadlock

The reform initiatives are grouped in conflicting categories. The G4 alliance of Brazil, Germany, India, and Japan demand permanent seats for themselves. In their 2005 draft resolution, they recommended adding six new permanent seats and four new non-permanent seats, in addition to deferring the veto right for new permanent members for fifteen years. Africa Union demands two permanent seats with veto rights. The Uniting for Consensus faction made up of Italy, Pakistan, and several other countries wants to abolish permanent membership and instead proposes longer-term elected membership (Nadin, 2016). Both factions have failed to obtain two-thirds majority and permanent members have been happy with the status quo.

Since 2009, the General Assembly conducts intergovernmental negotiations on the reform agenda, but it results in plenty of talks and no text. This stalemate is due to clashing interests not lack of proposals because states that are expected to gain from any particular proposal reject others and regional rivals prevent each other from realizing their ambitions (Weiss, 2003). Thakur (2006) notes that reform becomes more unlikely when it is most necessary because beneficiaries of the present situation need to give something up.

A moderate approach has been proposed by various states: seats of an intermediate type with longer term and the opportunity of immediate re-election. This approach would ensure that big states could stay in office for a long time without introducing new permanent entitlements, and it could be turned into permanent membership after the review. Developing countries from the L.69 coalition, which consists of India and Brazil, have backed the expansion in both groups and increased representation of the developing world. Proponents see a compromise as the only solution, while opponents claim that the intermediate approach will just perpetuate a partial reform that does not satisfy anybody (Nadin, 2016).

India's Claim to Permanent Membership

The arguments presented by India are diverse. The country has the largest population in the world and one of the largest economies. It has had eight stints as an elected member and was most recently elected in 2021 and 2022 and is a large contributor of troops in UN Peacekeeping efforts. According to Mohan (2003) and Ganguly (2010), it is through diplomatic efforts that India has progressed from criticizing the structure of the Council to campaigning for a seat. On his part, Hurrell (2006) identifies India as one of the emerging powers whose inclusion in the Council would enhance its representativeness. Table 1 shows the evaluation of the case using the four criteria outlined in the methodology.

- **Assessment of India's Claim for Permanent Membership in the United Nations Security Council (UNSC)**

The potential and demographics of India make it a good candidate for the permanent membership of the UN Security Council. India is the most populated country in the world and one of the most powerful countries economically and therefore has considerable influence politically and diplomatically in the global arena. The large demographics and increasing economic potential of India give it the ability to voice the concerns of developing nations and emergent economies. Hence, potential and demographics make a very strong case for India's permanent membership in the UNSC.

India has also done well in the contributions towards the maintenance of peace and security. India has been an elected member of the UN Security Council eight times and has contributed immensely to the peacekeeping missions of the United Nations. Indian troops have been engaged in the maintenance of peace and security in conflict zones. India has also made contributions towards diplomacy, international cooperation, and peaceful resolution of conflicts. Thus, the contributions of India to peace and security make a strong case for its inclusion in global decision-making regarding peace and security.

But the acceptability of India within the region and politically is still in question. Despite the fact that there are many nations that have backed reforms in the UN Security Council, including the permanent membership of India, there are other nations that have opposed India's proposal and there are others that

have not supported it. China does not support India's application to become a permanent member, while Pakistan is totally against it. Then there is the Uniting for Consensus coalition that promotes the idea of expanding the number of elected members as compared to permanent seats.

The legal possibility of India being made a permanent member of the UNSC is moderate since the process involves making an amendment to the UN Charter. According to article 108 of the UN Charter, any amendment must be adopted by a two-thirds majority vote by the UN General Assembly and accepted by two-thirds of the UN member states that include the five permanent members of the Security Council (China, France, Russia, the UK, and the US). This condition makes the whole process of reforming the UNSC challenging both legally and politically. The most important thing is that opposition by even one of the permanent members can hinder the amendment from coming into effect. Thus, while India has valid grounds for being a permanent member of the UNSC, this objective cannot be attained without widespread international consent.

The report demonstrates that the credentials of India in terms of capacity and contribution are solid but the issue of political acceptability is debatable. Among the five permanent members, it is clear that USA, UK, France and Russia have given support, whereas China has not endorsed the claim of India. India's dispute with China with regards to its borders and the opposition by Pakistan within the Uniting for Consensus are issues of concern. It has also been argued whether India is out of place in being a member of NPT, despite maintaining its stance of no first use and having an impeccable record in terms of non-proliferation efforts.

India has increased its diplomatic efforts in the last few decades. India has forged coalitions using the G4, the L.69 group and bilateral diplomacy and it has exploited its presidencies of both the Council and G20 for advocating the need for a council that takes into consideration twenty-first century realities. It has also used the opportunities offered by its election to advocate themes such as counter terrorism, accountability of attacks on peacekeepers and voice of the troops contributing countries.

Counter-arguments must be considered. The counter-arguments are that India still has a relatively small per capita income, that it has problems within itself to develop and that at some points, its foreign policy has been rather cautious regarding issues of votes that are controversial, such as the issue of Ukraine. The supporters argue that all these aspects are exactly what makes India an ideal candidate for this type of Council because India would represent the developing countries and have actual experience in dealing with different partners.

Discussion

This evidence leads to three conclusions. Firstly, the argument for reforms holds ground in terms of legitimacy and efficiency, yet the pathway to reform lies through the law is hindered by the same privileges that the reform seeks to diminish. Secondly, due to the unanimous agreement required for expansion, gradual steps like veto reduction, transparency, and supervision from the Assembly are more promising than a complete restructuring process. The veto reduction campaign in 2022 provides an example of reform through practice rather than amendments. Thirdly, the proposal of India is likely to work only if it forms part of a bigger package and not seen as one benefiting certain countries at the cost of others.

Practical steps that could be taken by India would involve creating partnerships with countries from Africa and Latin America, continued contributions towards peacekeeping and development cooperation, and better relations with neighboring countries whose consent is critical to the result. A flexible approach to the veto like accepting limitations to its application or a period during which the new member is deprived of the right of vetoing the decisions of the Council, which was proposed by the G4, could facilitate addressing the objections of the current members of the Council.

Three alternative outcomes are conceivable. First, the current situation persists; legitimacy deteriorates gradually as the functions the Council cannot fulfill become the prerogative of other institutions, for instance, G20 and regional organizations. Second, the gradual improvement of veto practice and procedures takes place alongside with no change in the composition of the Council at all. Third, the solution of the problem through the package deal, which involves the expansion of both categories of membership, is the most favorable for India but also the least likely one. The current developments indicate that the second scenario is the most realistic.

Conclusion

The composition of the Security Council is outdated, set in 1945 and modified only once since then. The use of the veto has been counterproductive in many cases. India's bid for membership is valid due to its huge population, economic power, and contributions in the field of peacekeeping. However, there are other considerations that can make it difficult for India to attain membership; these include the regional dynamics and the difficulty of amending the Charter. Consequently, reform should be conducted incrementally to ensure that the price of using the veto increases and the need for restructuring is felt by all nations.

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