

ESSAY

Expanding the U.N. Security Council: A Potential Bulwark against the U.N.'s Legitimacy Crisis

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The United Nations has long served as the primary vehicle for the administration and enforcement of the international legal and political order, and situated at its very core is its underlying security apparatus: The United Nations Security Council (UNSC). The UNSC was designed with a structural rigidity, seeking to enshrine the superiority of its five permanent members—but now, seventy-five years later, the Council's failure to keep pace with the changing composition of the United Nations writ large has led the entire compact to the precipice of a grave crisis of legitimacy. Now more than ever, action must be taken to acknowledge the growing disillusionment of the United Nations' smaller member states. One potentially meaningful approach would be to amend the UN Charter to allow for the addition of one or more new permanent or nonpermanent members to the Security Council. In particular, the possibility of permanent Indian accession to the Council may present a practical and promising means by which to salvage the legitimacy of the UNSC in the eyes of its constituent nations.

* J.D. 2022, University of Virginia School of Law; B.A. 2018, University of Minnesota. First-place winner of the VJIL Spring 2021 Symposium Essay Contest. I owe thanks to my parents, Syed and Sabeen, to my grandmother, and to my brother Adnan for their endless support. I am also grateful to Tom Fones for years of encouragement, to my friends at UVA, and to Hayley Hahn and the staff of the Virginia Journal of International Law for their time and feedback.

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I. UN RECALCITRANCE AND THE NEED FOR REFORM

At the time of the drafting of the United Nations Charter, the world found itself reeling from the chaos of the Second World War. In a natural attempt to establish order, the global powers which emerged victorious in the post-war order undertook the project of the United Nations, aiming to establish a universal institutional framework with which to formalize mechanisms for conflict management and peace-seeking.¹ To this end, the United Nations Security Council (UNSC) was established as the UN's primary security organ, carrying an ostensibly straightforward onus: "the maintenance of international peace and security."² The formation of the UNSC also served to cement the primacy of the world's five major powers, the P-5, awarding them permanent UNSC membership and the power to issue absolute vetoes on all UNSC proposals.³

Now, nearly seventy-five years after the signing of the Charter, our distance from that moment is not merely temporal—the very nature of global power politics has mutated. Whereas the period between the mid-20th century and the Cold War featured a relatively discernible set of eminent global powers, the contemporary international order is a multipolar one; recent decades have borne witness to rising globalization, the diffusion of power across borders, and the relative rise of the global south in international markets and in matters of global governance.⁴ Gradual decolonization efforts have even given the states of the global south a majority in the membership of the UN.⁵

Yet, despite the surging influence of formerly-peripheral powers in international fora, the UNSC has steadfastly resisted inclusive reform. The P-5 are naturally reluctant to adopt measures ceding their hegemony on formal decision-making authority; however, this resolute obduracy is slowly delivering the UN to a much graver fate—a bona fide crisis of legitimacy. Indeed, the power of the Council is fundamentally predicated on the voluntary cooperation of UN member states, and this compliance necessarily depends on those states' perceptions of the Council's legitimacy.⁶

1. See DIMITRIS BOURANTONIS, *THE HISTORY AND POLITICS OF UN SECURITY COUNCIL REFORM 3-4* (2005).

2. U.N. Charter art. 24, ¶ 1.

3. Mohammed Ayoob, *The UN and North-South Relations in the Security Arena*, 26 *GLOBAL GOVERNANCE* 251, 251 (2020) (describing the development of the UNSC with respect to relations between the global North and South).

4. See generally Robert H. Wade, *Emerging World Order? From Multipolarity to Multilateralism in the G20, the World Bank, and the IMF*, 39 *POL. & SOC'Y* 347, 351-52 (2011); MEGAN DEE, *The Emergence of a Multipolar World, in THE EUROPEAN UNION IN A MULTIPOLAR WORLD: WORLD TRADE, GLOBAL GOVERNANCE AND THE CASE OF THE WTO* 1, 2 (2015).

5. Ayoob, *supra* note 3.

6. Ian Hurd, *Legitimacy, Power, and the Symbolic Life of the UN Security Council*, 8 *GLOBAL GOVERNANCE* 35, 35-36 (2002).

Troublingly, smaller states are increasingly viewing the UNSC's insistence on rigid exclusivity as an anachronistic memorialization of 20th century great power politics, leaving them divested from the UN's operations.⁷ If there is to be any hope of creating a unified global front to address the most pressing issues of our day, such as the fight against genocide and armed nonstate actors, or efforts against the proliferation of nuclear and biological weapons, the UN will need to restore faith in its primary security apparatus, the UNSC.

II. CONFRONTING THE UN'S LEGITIMACY CRISIS

An institution faces a crisis of legitimacy when social recognition of the validity of its identity, interests, practices, norms, or procedures comes under threat, at which point, it must either "adapt ... or face disempowerment."⁸ Perhaps the most fundamental threat to the UN's legitimacy is its failure to establish representative governance; despite a quadrupling in the number of UN member states since 1945, the UNSC has remained untouched, granting only *de minimis* authority to the nations which rotate through the Council's ten nonpermanent seats.⁹ Frustration on this front has only mounted in recent years, with delegates continuing to actively and collectively push for expansion of the Council.¹⁰ In order to preserve the legitimacy of the UNSC as the UN's central security organ, it is time to heed these calls.

Notably, the UN Charter has once before been amended to allow for an expansion of the UNSC: in 1965, Article 23 of the UN Charter was amended to expand the number of nonpermanent UNSC seats from six to ten.¹¹ Another amendment to the Charter could only be passed pursuant to the express approval of every P-5 nation, as a function of the veto power impliedly endowed upon each permanent member by Article 27 of the Charter.¹² If the aim is to add another permanent seat, rather than to merely expand the number of nonpermanent members, it is difficult to imagine the P-5 assenting quietly. One nation in particular, however, stands out as a likelier candidate to survive such screening than perhaps any other: India.

7. Matthew D. Stephen, *Legitimacy Deficits of International Organizations: Design, Drift, and Decoupling at the UN Security Council*, 31 CAMBRIDGE REV. INT'L AFF. 96, 97 (2018).

8. Christian Reus-Smit, *International Crises of Legitimacy*, 44 INT'L POL. 157, 157 (2007).

9. Ville Lättilä, *A New Proposal for UN Security Council Reform*, OXFORD RSCH. GRP. (May 28, 2019), <https://www.oxfordresearchgroup.org.uk/blog/a-new-proposal-for-un-security-council-reform>.

10. Press Release, General Assembly, Security Council Must Reflect Twenty-First Century Realities, Delegates Tell General Assembly, with Many Calling for Urgent Expansion of Permanent Seats, U.N. Press Release GA/12288 (Nov. 16, 2020) [hereinafter U.N. Press Release GA/12288].

11. Madeleine O. Hosli et al., *Squaring the Circle? Collective and Distributive Effects of United Nations Security Council Reform*, 6 REV. INT'L ORGS. 163, 165 (2011).

12. U.N. Charter art. 27, ¶ 3.

III. THE POTENTIAL MERITS OF INDIAN ACCESSION TO THE UNSC

A. India as a Uniquely Viable Candidate for Accession

Perhaps the primary reason India ought to be considered as a potential addition to the permanent membership of the UN Security Council is simply that their bid would be the likeliest to succeed. This is for several reasons. First, India certainly has the credentials to seek a seat at the UN's highest table. Over the past two decades, India has enjoyed explosive economic growth and a rapidly expanding foreign policy outlook, and is now well-poised to emerge as another potential superpower.¹³ As President Obama famously remarked a decade ago, "India is not simply emerging," rather, "India has emerged."¹⁴ Second, India enjoys broad-based support from other members of the United Nations. India is currently serving its eighth term as an elected nonpermanent member of the Council, winning its seat with a resounding 184 votes out of a possible 192.¹⁵ Finally, the current members of the P-5 are increasingly open to the possibility of allowing India on board. The US, the UK, France, and Russia have each signaled interest in at least moderate expansions of the Council,¹⁶ and even China, which has historically resisted India's bid for a permanent seat, backed India for nonpermanent membership on the UNSC for its current term.¹⁷

B. The Potential Value of Indian Accession

India's permanent accession to the Council would be beneficial, in the first instance, to the United Nations' legitimacy and operational integrity. India has not only remained the largest contributor of UN peacekeeping troops for decades—providing nearly twice as many peacekeepers as every member of the P-5 combined—but its consistent record of timely payment

13. Carina van de Wetering, *India as an Emerging Power: Understanding its Meaning, in* THE CHANGING GLOBAL ORDER (Madeleine O. Hosli & Joren Selleslaghs eds., 2020).

14. Sheryl Gay Stolberg & Jim Yardley, *Countering China, Obama Backs India for U.N. Council*, N.Y. TIMES (Nov. 8, 2010), <https://www.nytimes.com/2010/11/09/world/asia/09prexy.html>.

15. Dipanjan Roy Chaudhury, *India Wins 184 out 192 Votes to Enter UN Council*, ECON. TIMES (June 18, 2020), <https://economictimes.indiatimes.com/news/politics-and-nation/india-mexico-norway-ireland-elected-to-un-security-council/articleshow/76435650.cms>.

16. U.N. Press Release GA/12288, *supra* note 10; Press Release, General Assembly, Member States Call for Removing Veto Power, Expanding Security Council to Include New Permanent Seats, as General Assembly Debates Reform Plans for 15-Member Organ, United Nations Press Release GA/12091 (Nov. 20, 2018) [hereinafter U.N. Press Release GA/12091].

17. *Major Differences Among UN Members over India's Permanent Membership in UNSC: China*, ECON. TIMES (Jan. 16, 2020), <https://tinyurl.com/yvzwu6ve> (reporting that though China's Foreign Ministry spokesman noted that major reforms to the Council will require further consensus, he emphasized the importance of enhancing developing nations' representation in Council affairs, and to that end, supported India in its bid to occupy a nonpermanent seat on the Council through 2022).

to UN coffers will prove invaluable as the UN seeks to stabilize its budget.¹⁸ Validating these contributions with an offer to join the ranks of the Council's permanent membership may also be important to prevent India from gradually sliding away from the UN and towards more fragmented multilateral organizations, which place greater value on India's contributions, but sap the UN of relative legitimacy.

Of course, the value of elevating India to a permanent seat on the UN Security Council would not begin and end with India. To begin with, such a move would immediately bolster efforts by African nations which have long maintained that the absence of African representation on the Council constitutes a grave injustice.¹⁹ Indeed, most issues discussed by the UNSC have a direct nexus to African affairs, yet none of the continent's fifty-four nations wield significant decision-making authority over these operations.²⁰ One potential approach, advanced by Sierra Leone's UN representative, may be to reserve two permanent seats on the Council for African nations.²¹ India's ascension to the Council would create a strong precedent that may enhance the viability of such measures in the future.

In addition to paving the way for future expansions of the Council, accession itself provides an opportunity for India to advocate for the views of historically marginalized nations. India has always styled itself as a "moralistic force" of the developing world, with Indian UN officials often highlighting that their nation's own recent emergence puts them in a strong position to advocate for other states still on the rise.²² This posture must be rewarded and developed if the UNSC is to successfully recapture the spirit of global community which undergirded the UN's genesis. Only by restoring faith in the Council's representative capacity can the UNSC safeguard its legitimacy and influence for years to come.

18. Manish S. Dabhade, *India's Pursuit of United Nations Security Council Reforms*, 131 OBSERVER RSCH. FOUND. 1, 7-8 (2017).

19. Ted Anthony, *Sierra Leone Leader: Add Africa to UN Security Council Now*, AP NEWS (Sept. 26, 2019), <https://apnews.com/article/7ac3b26e10894b02a7f3db1fa6c695ca> (reporting that African leaders have consistently highlighted the injustice of denying permanent Council membership to an entire continent, home to 1.4 billion people and more than fifty countries, which was dominated by colonial powers at the time of the Council's formation).

20. U.N. Press Release GA/12091, *supra* note 16.

21. U.N. Press Release GA/12288, *supra* note 10.

22. Dabhade, *supra* note 18, at 9.