

# Violation of the UN Resolutions on Kashmir: India's Quest for UNSC Permanent Membership

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## Abstract

*India's bid to become a permanent member of the United Nations Security Council (UNSC) to achieve the organisational power play remains unfulfilled. It is more to gain supremacy to refute the UNSC resolutions and gloss the continuing atrocities in the Indian Occupied Kashmir (IOK) completely. The Resolution 48 is the oldest of the UNSC resolutions waiting for its implementation since 1948. It called for a plebiscite in the IOK to determine its sovereign status according to the will of its people. The reassertion of the Indian External Affairs Minister, Sushma Swaraj, in her address to the UN in November 2016, declaring the IOK as an "integral part of India" is a barefaced non-compliance to the global institutional framework meant to harmonise, supplement and enforce the peace efforts in the world according to the UN Charter. Swaraj's reference to the insurgency in Balochistan, in her address to the UN, is yet another blatant antithesis of the principles enshrined in the Charter to respect the mutual sovereignty and coexistence. In 2017, the Organisation of Islamic Cooperation (OIC), has also urged India to implement the resolutions of the UNSC.<sup>1</sup> A country, in violation of the human rights, UNSC resolutions and international norms, does not qualify to be a member of the crisis-management body. India has certainly failed to set an example.*

**Keywords:** India, Pakistan, Kashmir, UN Resolutions, UNSC, Permanent UNSC Seat.

## Introduction

Historically, the canvas of political and territorial history is replete with pragmatic strategies to solve the issues. Territorial imperatives motivate the

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<sup>1</sup> "OIC Calls Upon India, UN to Implement Security Council's Resolutions on IoK," *Associated Press of Pakistan (APP)*, July 11, 2017, [www.app.com.pk](http://www.app.com.pk)

regional states to develop unity on converging interests in the light of political realism. Though not all realists deny the presence of ethics in international relations, the distinction is drawn by the classical realists and radical or extreme realists. The classical theorists of the 20th century, who are represented by Reinhold Niebuhr and Hans Morgenthau, emphasise the concept of national interest, contrary to the Machiavellian doctrine “that anything is justified by reason of state.”<sup>2</sup> The classical realists do not involve the glorification of war or conflict. At the same time, they do not reject the possibility of moral judgment in international politics also. In fact, they criticise moralism as an abstract moral discourse since it does not take into account political realities. The supreme value, in their view, is assigned to a successful political action based on prudence. The ability to judge the rightness of a given action from among possible alternatives on the basis of its likely political consequences is basically the virtue.<sup>3</sup>

The existing literature predominantly covers India’s behaviour of non-cooperation, which desynchronises with the theory of both classical realism as well as neo-functionalism. Associated with the model of the European Union (EU), neo-functionalism focuses on limited functional and economic areas of integration with the neighbours. Increasing momentum is experienced thereafter by the partially integrated states for further cooperation. It is considered as an incremental process.<sup>4</sup>

By use of the controversial ‘Instrument of Accession’ and changing the demography of Kashmir by India, the expropriation and seizure of land in the IOK, is a machination to dodge the international law contested by Pakistan since the partition of the Indian Subcontinent in 1947. The Article 49 of the IV Geneva Convention clearly says that “the occupying forces shall not deport of its own civilian population into the territory it occupies.”<sup>5</sup> The recently introduced settlement plan highlighted by the Modi government is seen in the purview of the continued violation of the Convention. According to the Geneva Convention, it is an outright

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<sup>2</sup> “Political Realism in International Politics,” *Stanford Encyclopaedia of Philosophy*, May 24, 2017, plato.stanford.edu

<sup>3</sup> Ibid.

<sup>4</sup> Thomas Gehring, “Integrating Integration Theory; Neo-functionalism and International Regimes,” *Global Society* 10, no. 3 (1996).

<sup>5</sup> Claude Bruderlein, “Protection, Occupation and International Humanitarian Law and in the OPT,” Humanitarian Practice Network, November 2004, odihpn.org

apartheid which has been explained as “any measures, including legislative measures, designed to divide the population along racial lines by the creation of separate reserves and ghettos for the members of the racial group or groups...the expropriation of land property belonging to a racial group or groups or to members thereof.”<sup>6</sup>

The IOK is the most militarised region of the world with more than seven million Indian soldiers occupying the land. It has evidently displayed the appalling human rights violations in all these years. India’s brazen and systematic crimes against humanity infringe the Article 12 of the flagship human rights treaty of International Covenant on Civil and Political Rights (ICCPR) already ratified by it. For example, Bharatiya Janata Party (BJP) has decided to settle 200,000 to 300,000 Hindus in the IOK. The three disclosed and two undisclosed composite Hindu townships for the non-*Kashmiris* would be made on the land of *Kashmiris* which is in contrast to the Article 370 of the Indian constitution, also.

Similarly, acceded by India itself, a socio-economic customary international law and the International Covenant on Social and Cultural Rights (ICSECSR) also gets jeopardised by the Indian atrocities. Both are international laws since 1976.<sup>7</sup>

Pakistan and India are equally relevant in pursuing the politics of regional cooperation to sustain the neo-functionalists’ values on regional integration and maintenance of peace and prosperity in the region. A forthright discriminatory support by the international community for India despite the violations of the UN norm is, however, a pertinent worry. This development not only undermines the objectives of the unanimously agreed international standards but the policy has also not been able to assuage the continuing acrimony between India and Pakistan. It is keeping the region volatile and at the threshold of a nuclear flash-point.

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<sup>6</sup> “Collection of International Instruments and Legal Texts Concerning Refugees and others of Concern to UNHCR,” UNHCR, June 2007. 645, <http://www.unhcr.org/publications/legal/455c460b2/collection-international-instruments-legal-texts-concerning-refugees-others.html>

<sup>7</sup> International Covenant on Economic, Social and Cultural Rights Adopted and Opened for Signature, Ratification and Accession by General Assembly Resolution 2200A (XXI) of December 16, 1966, entry into force January 3, 1976, in accordance with article 27, [www.ohcr.org/Documents](http://www.ohcr.org/Documents)

The fading role of the UN in the Kashmir issue and the contravening position of India to incapacitate the peace efforts of an international governing forum have raised several questions. The paper is an endeavour to historically trace the causes and pin points the transformation in the geo-politics and geo-economics as the cause. The recent paradigmatic shift due to emerging regional alliances is likely to aggravate the qualms while making the human tragedy obvious. How and why should India be allowed to stay unfair is the concern. What can be proposed to minimise the damage is the attempt of the paper.

### **Kashmir: an Issue Awaiting Justice**

Initially passed under the rubric of the “Kashmir Question” almost 70 years ago, the issue of Kashmir is still debated in the UN. It continues to elude the solution.

The UN Commission for India and Pakistan (UNCIP) adopted a resolution regarding the issue of Kashmir on January 5, 1949. The main points of the resolution were:

- i. To resolve the question of the accession of the State of Jammu and Kashmir to India or Pakistan through the democratic method of a free and impartial plebiscite.
- ii. A plebiscite will be held, when it shall be found by the commission that the cease-fire and truce arrangements set forth in Part I and II of the commission’s resolution of August 13, 1948, have been carried out and arrangements for the plebiscite have been completed.<sup>8</sup>

Ironically, though the resolution prescribes a mandate for the acquisition of the will of the people while recognising the illegal occupation of the IoK by India and commands to hold plebiscite for the resolution of the issue.

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<sup>8</sup> “Resolutions adopted at the meeting of the United Nations Commission for India and Pakistan January 5, 1949, Document no. 5/1196 para. 15, dated January 10, 1949,  
<http://www.mofa.gov.pk/documents/unsc/Resolution%20adopted%20at%20the%20meeting%20of%20the%20United%20Nations%20Commission%20for%20India%20and%20Pakistan%20on%205%20January%201949.pdf>

Yet, the conditions laid down for the plebiscite by the UN give space to the persistent bitterness between the two countries due to the inherent loopholes in the resolution itself. Earlier on June 3, 1948, also a resolution was passed by the UNSC, which reasserted the partition formula and referred to Kashmir as a “disputed area.”<sup>9</sup>

Contradiction nonetheless foreruns the apprehensions of ulterior intentions. Has Kashmir deliberately been kept as a trouble point by the guardians of the international system? How supreme is the national interest in the absence of moralism? The reconfirmation of the Machiavellian strings of the major powers, while employing of discriminatory policies towards India and Pakistan, is keeping the issue alive at the cost of peace and prosperity.

### **UN Commitment**

History of the UN engagement in the Kashmir dispute can be divided into three phases:

- i. 1947-1965
- ii. 1965-1972
- iii. 1972 till now

Historically, the State of Jammu and Kashmir has remained independent, except in the anarchical conditions of the late 18th and first half of the 19th century, or when incorporated in the vast empires set up by the Mauryas (3rd century BC), the Mughals (16th to 18th century) and the British (mid-19th to mid-20th century). It was to join Pakistan as a majority Muslim state at the time of the partition of the Subcontinent. It also has geographical contiguity with a boundary of 770 Km. This was mandatory in the Partition Plan. However, the controversial ‘Instrument of Accession’ signed between India and the Hindu ruler of Kashmir on October 26, 1947, is the major pretext of the forcible occupation by India and used as a justification to deprive

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<sup>9</sup> Mushtaq Ahmad Mir and Nisar Ahmad Sheikh, “India Pakistan: The Process of Conflict Resolution,” *International Journal of Innovative Research and Development*, 4, issue 3 (March 2015).

the people of Jammu and Kashmir of their right to self-determination.<sup>10</sup>

Kashmir was amongst the first issues that the UN had to address. It passed 23 resolutions on the conflict of Kashmir from 1948 to 1971. Several efforts for the mediation between India and Pakistan were made to resolve the issue. The UN had been particularly very active in the first 18 years.

The UNCIP was established to both scrutinise and mediate between India and Pakistan on the Kashmir conflict. It had, by then, become a conflict between the two states and was not considered as a “Kashmir Question” alone. India had charged Pakistan for ‘aiding and abetting’ the Pakistani tribal invasion in Jammu and Kashmir, in its resolution to the UN on January 1, 1948, under the Article 35 (Chapter VI).<sup>11</sup>

In April 1948, the membership of the UNCIP was enlarged from three to five. The UN Military Observers Group (UNMOGP) was also formulated in July 1949 to establish a de facto ceasefire line between the two states since a war broke out between them in 1948. It was to supervise the ceasefire line. The UNCIP submitted its proposal of the truce agreement signed between India and Pakistan to the UNSC and suggested the withdrawal of the Pakistani tribal and nationals from Kashmir. It also suggested India to withdraw the bulk of its troops, which was rejected by India since the agreement did not concede to its demand of declaring Pakistan an aggressor. Similarly, Pakistan also doubted the loyalties of Sheikh Abdullah who was made the Prime Minister of Jammu and Kashmir State on March 5, 1948, due to his affiliations with India. He could have influenced the results of any plebiscite to be held under the auspices of the UN. India was allowed to keep some of its troops in Jammu and Kashmir in order to maintain law and order.<sup>12</sup>

The UNCIP once again laid out a proposal on December 11, 1948, elaborating on the plebiscite as “the question of accession to India and

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<sup>10</sup> “Muhammad Yusuf Saraf, “Kashmiris Fight for Freedom, 1819-1946,” National Institute Kashmir Studies, 2015, 61.

<sup>11</sup> Arjun Makhajani, “Short History of Kashmir Dispute,” Institute for Energy and Environment Research.

<sup>12</sup> “United Nations Military Observers Group (UNMOGP) in India and Pakistan,” United Nations, [www.un.org](http://www.un.org)

Pakistan... to be decided by a free and impartial plebiscite.”<sup>13</sup> It suggested holding the plebiscite under full control of the plebiscite administrator. India rejected the proposal and unfortunately declared that the state has become a part of the Indian Union.

In December 1949, President General UNSC, A. G. L. McNaughton, submitted a number of proposals about the demilitarisation of Kashmir for ensuring an impartial plebiscite. The proposals were, however, rejected by India.<sup>14</sup>

In 1950, the UN made another effort to resolve the issue by the appointment of a single UN representative, Owen Dixon, and dissolved the UNCIP. He, soon, realised the impossibility of demilitarising the region amidst deep-rooted hostilities, therefore, he put forward the proposal of a ‘regional plebiscite’ in the entire state of Jammu and Kashmir. He suggested to hold a plebiscite in some specific areas of Kashmir, which were situated in the Valley of Kashmir. The way his, successors, Frank Graham and Gunnar Jarring, met failures in resolving the issue, Dixon met the same failures. Dixon’s proposals are considered as last of any serious effort made by the UN.<sup>15</sup>

Under Sheikh Abdullah’s rule, the state of Jammu and Kashmir adopted a constitution in January 1957, declaring its accession to India. This caused further turbulence in Indo-Pak relations. Once again, the issue was discussed in the UNSC, which reiterated its earlier stance by calling for the resolution of the issue through democratic means, such as plebiscite, according to the will of the people of Jammu and Kashmir. In 1962, when the Kashmir issue was debated in the UNSC, no resolution could be passed since the Soviet Union, the then close ally of India, vetoed the resolution.

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<sup>13</sup> Wajahat Ahmad, “Kashmir and the United Nations,” Counter Currents, August 27, 2008, [www.countercurrents.org](http://www.countercurrents.org)

<sup>14</sup> Hilal Wani, “United Nations Involvement in Kashmir Conflict,” Research Gate, [www.researchgate.com](http://www.researchgate.com)

<sup>15</sup> Ibid.

**Table No. 1**  
**UN Resolutions on Kashmir**

01	Resolution of the Security Council of April 21, 1948
02	Resolution of the Commission of August 13, 1948
03	Resolution of the Commission of January 5, 1949
04	Resolution of the Security Council of March 14, 1950
05	Resolution of the Security Council of March 30, 1951
06	Resolution adopted by the Security Council on 24 <sup>th</sup> January 1957, concerning the India-Pakistan question
07	Resolution adopted by the Security Council at its meeting on 20 <sup>th</sup> September 1965

*Source:* "UN Resolutions," Kashmir Valley, [kashmirvalley.info](http://kashmirvalley.info)

Following an armed conflict between India and Pakistan in September, 1965, the UN Secretary General visited India and Pakistan and reported the UNSC on the conditions posed by both the sides. The Secretary General decided to set up the United Nations India Pakistan Observers Mission (UNIPOM) as an administrative adjunct of UNMOGIP to supervise the ceasefire along the India-Pakistan border. However, the UN had almost elbowed out of the Kashmir issue by then.<sup>16</sup> Even the agreement on the withdrawal of the forces at their original positions after the 1965 war was made at the initiation of the Chairman of the Council of Ministers of the Soviet Union, on January 10, 1966. The Prime Minister of India and the President of Pakistan met in the city of Tashkent to reach an agreement.

Earlier, the UNSC, in its meeting of November 1965, adopted the Resolution 215 (1965) and called for the cessation of ceasefire violations while cooperating with the UN. The resolution remains unheeded till date. With the withdrawal of the Indian and Pakistani forces from the borders, on February 26, 1966, the Representative of the Secretary General decided to abandon its role as well. In fact, the UNIPOM was

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<sup>16</sup> Ahmad, "Kashmir and the United Nations."



terminated in March 1965, and 59 additional observers, appointed in September 1965, were also gradually withdrawn.<sup>17</sup>

The UN became inactive in the post-1965 armed conflict between India and Pakistan. The last UNSC Resolution 307 was passed in 1971, only after the ceasefire between India and Pakistan's second armed conflict. At that time, the contentious issues were India's intervention in Pakistan and its consequent dismemberment, resulting into the loss of its eastern wing. This was yet another example of India breaching the UN rules. In the Article 2(4) of the UN Charter, it is mentioned, "All Members shall refrain in their international relations from the threat of use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the purposes of the United Nations."<sup>18</sup>

India considers the IOK as its integral part and maintains that the will of the people could be ascertained through an alternate and recognised mean of elections, which the people of the IOK have already participated in 1950. In these elections, 0.2 per cent participation of the people of Kashmir mirrors the denial of the Indian claims.<sup>19</sup> India considers talks on Kashmir as an interference in its internal affairs, which contradicts the UN resolutions. It recognises the endorsement of Shiekh Abdullah, who decided to accede with India in 1957.

On the other hand, Pakistan advocates the UNSC resolutions for the right of the people of Jammu and Kashmir. It upholds an independent plebiscite a lawful procedure to determine the status of Jammu and Kashmir while considering the fact that the complaint on Kashmir was initiated by India to the UNSC. The UNSC itself decided on holding a free and independent plebiscite in Jammu and Kashmir while rejecting India's claims. The UNCIP has already mediated for the plebiscite agreed under specified conditions.

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<sup>17</sup> Ahmad, "Kashmir and the United Nations."

<sup>18</sup> Miige Kmacioglu, "The Principle of Non-Intervention at the United Nation: The Charter Framework and the Legal Debate," *Perceptions*, (Summer, 2005):17.

<sup>19</sup> Wani, "United Nations Involvement."

### Map No. 1 Disputed Territory of Kashmir



Source: “OIC Urges Peaceful Resolution of Kashmir Dispute, India Rejects Call,”  
ALWAGHT News and Analysis, August 12, 2017.

#### **Simla Agreement: a Breached Bilateral Contract**

Kashmir issue has become more bilateral in nature after the Simla Agreement, which was signed in 1972. The agreement emphasises that the bilateral resolution of the issue should be taken into account while upholding “the principles and purposes of the Charter of the United Nations.”<sup>20</sup>

The Article 1 (IV) refers to the Kashmir conflict and highlights “the basic issues and causes of conflict which have bedevilled the Indo-Pak relations.”<sup>21</sup> It regards the Line of Control (LoC), the key for a durable peace since it is the most significant Confidence-Building Measure (CBM) for a way forward. Para 4 (ii) of the agreement identifies “Line of Control” distinct from an international border while recognising the “recognised position of either side.”<sup>22</sup> All the parties to the UNSC resolutions, both the member states of the UN (in majority) and Pakistan, recognise the disputed status of Jammu and Kashmir. These resolutions press on the legitimate

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<sup>20</sup> Ministry of External Affairs, Government of India, *Simla Agreement*, July 2, 1972, [www.moea.gov.in](http://www.moea.gov.in)

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

demand of holding a plebiscite in Kashmir and, which is in spirit with their undeniable right to self-determination. Para 6 of the agreement also recognises the issue of Jammu and Kashmir as one of the outstanding issues waiting for the settlement.<sup>23</sup>

How far has India assumed its obligations as a responsible member of the UN in its bilateral relations?

### **India's Non-compliance to the UNSC Resolution**

Addressing the 77th session of the United Nations General Assembly (UNGA), the Indian External Affairs Minister, Sushma Swaraj, disowned resolutions and emphatically declared that "Kashmir is an integral part of India and it will remain an integral part of India. No one can take it away..."<sup>24</sup> Responding to Sushma's speech, Pakistan's spokesperson for the Foreign Office, Nafees Zakaria, said "If India claims that Kashmir is its "integral part" then why is it on the Agenda of the Security Council?"<sup>25</sup>

Sushma's claim was also categorically rejected by the leaders of All Parties Hurriyat Conference (APHC). They stated that Kashmir was never a part of India and said that Swaraj's statement was far from reality.<sup>26</sup> While condemning the Indian stance, the Hurriyat leaders regretted the lie at an international forum by the Indian External Affairs Minister, they also denounced India for distorting the history of Kashmir and misleading the world.<sup>27</sup> A great humanitarian crisis befalls on the people of Kashmir under the illegal occupation of the Indian state and its army. Tens of thousands of people have been killed. Their properties are either confiscated or destroyed. Thousands of children have been orphaned and an equal amount of women have been widowed. The land of Kashmir, without having any panacea of the people's ordeal, has been held in a curfew for the last few months. According to the report by the International Peoples' Tribunal on Human

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<sup>23</sup> Ibid.

<sup>24</sup> Shubahjit Roy, "India Wants to Corner Pakistan: Sushma Swaraj's Speech at UN, Rallying Global Support," *Indian Express*, September 20, 2016.

<sup>25</sup> Abdul Rasheed, "If Kashmir is India's 'Integral Part,' then Why is it on UN Agenda," *Dawn*, September 27, 2016.

<sup>26</sup> "Indo-Pak Verbal Duel Intensifies in UN over Kashmir," *Times of Islamabad*, September 27, 2016.

<sup>27</sup> "Maliha Calls Sushma's UNGA Speech 'a pack of lies,'" *News*, September 27, 2016.

Rights and Justice in Kashmir and the Association of Parents of Disappeared Persons (APDP), from 1990 to 2014, more than 900 individuals have been killed by the Indian security forces, which have brutally violated human rights.”<sup>28</sup>

India’s gross atrocities and human rights violations in the IOK have been persistently growing. The people have been living in a perpetual flux of humiliation and fear. The acts of violation have been more institutionalised to further contravene the UN Charter which states, “To reaffirm faith in fundamental rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small”.<sup>29</sup>

India has used force and is still continuing with the use of force and alternate means to force *Kashmiris* to surrender to their will of annexation. The situation in Kashmir, even today, does not correspond with the myth of passivity or docility in the *Kashmiri*. They have not resigned to the Indian occupation. Notwithstanding the discontent, Kashmir never felt itself to be part of India before 1947 and feels even less so after its forcible seizure by the Indian troops. Their peaceful struggle with the same vigour is making the de-annexation process inevitable day-by-day while leaving the choice with the occupying forces to resolve the issue through the use of force or counter-force.

### **UN’s Failure to Resolve Kashmir Issue**

During the course of its engagement with the Kashmir issue, the UN resolutions were aimed at resolving the conflict. In accordance with the UN’s objective of maintaining peace and security along with developing friendly relations among countries, the resolutions were based on respect for the principles of equal rights and self-determination of the people. However, certain patterns of thinking, policies, priorities and actions did dominate the UN, which held it back from resolving the Kashmir issue after Dixon’s proposal.

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<sup>28</sup> Jason Burke, “Indian Forces in Kashmir Accused of Human Rights Abuses Cover-up,” *Guardian*, September 12, 2015.

<sup>29</sup> UN Charter (Full Text), [www.un.org](http://www.un.org)

There, certainly, is no denying the fact that historically, the transformation in the nature of the international politics has largely modified the UN decision-making process. The tensions between the Soviet Union and the US overshadowed the UN's security functioning during the Cold-War era. The post-Cold War era faced renewed tensions amid increasingly volatile geopolitical circumstances. They negotiated with the new major powers along with the old super powers. Though competing nationalism is yet another conflicting phenomenon, yet the preponderance of the US role has persistently been seen in any collective security even in the post-Cold War era. The UN remained emasculated throughout. The UN role in Korea in 1950 and in the Persian Gulf, from 1990 to 1991, are the prime example of the major powers influence and their interests in their respective regions.

Weiss and Thakur identified five gaps between the nature of existing global crisis and the availability of inadequate solutions: knowledge, norms, policy, institutions and compliance. Except for knowledge and norms, the UN has been ineffective in upholding all the four norms . The 'compliance gap' has been the most unproductive since it is related with implementation, monitoring and enforcement. Similarly, there could be two types of international actors who would be either unwilling or unable to agree to the international policies dictated by the commonality of interests.<sup>30</sup>

UN's mechanism of compliance in the past six-and-a-half decades has failed, particularly in the areas of peace and security. Though, the UN Charter makes it mandatory for the member states to coexist peacefully, yet, there is no standing UN military force neither a military staff committee which could ensure compliance. Similarly, in the realm of human rights, there is no enforcement, whether it is of hard or soft laws. Thus, it inflicts selective application of collective sanctions, international judicial pursuit and even military force while displaying malfunctioning of the UN. It unfortunately has become more of a debating forum.

Today the world is witnessing the rise of new powers and actors in international arena. There are shifting alliances and reshuffling of the balance of power under the shadow of emerging multi-polar world. According to a 2002 report by National Security Strategy of the United States of America, the US, as a sole super power, is still thinking along the

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<sup>30</sup> Thomas G. Weiss and Ramesh Thakur, "Global Governance and the UN: An Unfinished Journey," Indiana University Press, 2010, 25.

lines of the Cold War, where communism was replaced by global terrorism while primarily considering the US interest as the sole criterion of right and wrong.<sup>31</sup> As an unchallenged world ruler, they would reward their friends when and how it pleases them. Similarly, their competitors would be pre-emptively exterminated in the same vein.

In this backdrop, how important would be the legitimacy of the UN Charter and its resolutions on the Kashmir point, which is at its boiling point with both India and Pakistan as nuclear powers? How would the Neo-functionalists proposal of regional integration by the application of their recommended mechanisms bear results? The rivalry between the states within the alliance system does inherit a predominantly destabilising factor. The coalitions would further add tension to any peaceful contest or competition between the regional countries apart from the major powers. The emerging global governance and politics largely depends on the transformation within the states from geo-politics to geo-economics, particularly in India dominated by the extremism of *Hindutva* and right-wing BJP. The proximate factors of economic growth, political stability and regional peace would have the maximum role in establishing stable balance.

### **India in the UNSC**

In order to echo its significance as a major power of South Asia, India desires for permanent membership of the UNSC. It is willing to let go of the veto power as well initially. So far, it has a support of 122 members out of 193 countries in the UN including the US.<sup>32</sup> It has been blocked by China and Pakistan till now. The emerging strategic partnership between India and the US has the potential to change the course of events in Asia. The significance that the US assigns to India is primarily due to its burgeoning economy and trade-driven foreign policy. By the convergence of interests, both India and the US have evolved a strategic partnership since 2004, with the signing of civil-nuclear deal. It would help India in expanding its footprints in the region and the world to eventually get her a permanent seat in the UNSC.

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<sup>31</sup> Henry C. K Lu, "US Unilateralism: Non-Proliferation and Unilateral Proliferation," Global Research, [www.globalresearch.ca](http://www.globalresearch.ca)

<sup>32</sup> Deepshika Ghosh, "India Ready to Let go off Veto initially for UN Security Council Seat," *NDTV*, March 09, 2017, [www.ndtv.com](http://www.ndtv.com)

The permanent seat in the UNSC will also give India a formal status as a nuclear power with the greater legitimacy of initiatives, whether wrong or right. This would certainly have a potential to destabilise the region by fuelling regional confrontation and conflicts. Even the very existence of Pakistan would be endangered since the division of the Subcontinent remains a sore point in the Indian politics. The UNSC still upholds legitimacy for a worldwide action. It is crucial in maintaining the international order while looking after the super powers interests. However, it is difficult to see the role of the UN in such a world order more than a rubber-stamp. For example, the UN was emasculated when Iraq was invaded and Afghanistan was attacked.

There is no doubt that the rise of China is very important and the rise of India is also noteworthy. Similarly, resurgence of Russia is also an important development. However, the US still remains a major power in the world in terms of military, economics and technology. It would not hesitate to use the UN by the help of its close allies and for their interests. Though, Pakistan is an important ally of the US, particularly in the War on Terrorism (WoT), yet, the US would steer clear of using the UN identically as it did in other parts of the world.

### **Neo-Functionalists and Regional Integration: a Way Forward**

Contrary to the classical realists, liberalists believe human nature is good and capable of restraining from aggression. They believe that war is not inevitable if cooperation is achieved if anarchical conditions are reduced.<sup>33</sup> This requires the proactive role of the international institutions. Idealists propose that if international organisations promote peaceful change, disarmament and international laws, cooperation would be much easier to achieve. States which are bound by rules and norms or are members of the institutions will have no choice but to cooperate.<sup>34</sup> This makes it imperative for the UN to assert itself on India for the resolution of the Kashmir issue and check its perpetual violation of the resolutions.

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<sup>33</sup> Robert Jervis, "Realism, Neoliberalism and Cooperation: Understanding the Debate," *International Security* 24, no. 1(1999): 43.

<sup>34</sup> Robert Keohane and Lisa Martin, "The Promise of Institutionalists Theory," *International Security* 20, no. 1(1995): 43.

Further, the process of integration in the region built on the work of Ernst B. Haas, a German-born American political scientist, and Leon Lindberg, an American political scientist could be encouraged to promote the prudence of Neo-functionalism. Neo-functionalists prescribe three important factors and their interaction for upholding the regional cooperation:<sup>35</sup>

- i. Economic interdependence between nations in the era of globalisation.
- ii. The building of international legal regimes and the power of the organisations to resolve disputes.
- iii. The replacement of the national regulatory regimes by the supranational market.

The earlier Neo-functionalist theory decimated the significance of nationalism and nation-state. They were of the view that there would be a paradigm shift of the objectives with utilitarian intentions taking the role. The political and market integration would be at the supra-national level.

Haas further recommended the mechanisms to encourage the integration forward:

- i. The integration of the regional states in one economic bloc with a positive spill-over effect.
- ii. Creation of institutions for negotiations.
- iii. Relocating the domestic allegiances in order by building confidence in the regional institutions while keeping the society pluralistic.
- iv. To encourage greater regulatory complexity for persuading integration at higher levels.
- v. With technocratic automacity the supranational institutions would push for more integration.
- vi. Political integration will then become an “inevitable” side-effect of integration in economic sectors.<sup>36</sup>

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<sup>35</sup> Ernst B. Haas, “International Integration: The European and the Universal Process,” *International Organisations*, Cambridge Journals: 366-392.

<sup>36</sup> Josep Maria Colomer, ed., *The Institutionalization of Europe* (London: Routledge, 2002).



Undoubtedly, Pakistan and India have occasionally valued the international and regional cooperation both within and outside the umbrella of the international forums. For instance, signed under the auspices of the World Bank, the Indus Water Treaty between India and Pakistan on the distribution of waters has been the most noteworthy to honour them with the membership of international legal regime.

Similarly, seen as a compliment to the bilateral and multilateral relations, the South Asian Association for Regional Cooperation (SAARC) was established in 1985, by the countries of South Asia; Pakistan, India, Nepal, Sri Lanka, Bhutan and Maldives. Based on respect for sovereign equality, territorial integrity, political independence, non-interference in internal affairs of the member states and mutual benefit, the SAARC works towards collective regional efforts to encourage economic development, respect human rights and counter poverty in the region populated by the one fifth of the world population.

Nonetheless, trade is significantly placed amongst the pragmatic measures for fermenting bilateral ties. The trade between India and Pakistan for example is far from what is needed. The trade volume of Pakistan and India has averaged less than US\$1 billion till 2005 and less than US\$3 billion till 2016.

## Conclusion

Kashmiris want an honourable space for themselves according to the UN Charter. In 1990, when a popular uprising broke out, the most shouted slogan was, ‘until a plebiscite is held, our struggle will continue.’<sup>37</sup> The history has seen large processions heading towards the UNMOGIP headquarters demanding for their independence. The protests were re-lodged on August 18, 2008, and called for the implementation of the UN resolutions. On March 1, 1990, more than one million *Kashmiris* marched towards the UNMOGIP headquarters and called for the UN-supervised plebiscite. More than 600 memoranda were submitted for the UN Secretary General to urge India to grant *Kashmiris* their right of self-determination.<sup>38</sup> The disputed status of Kashmir and the continuous denial of India to their right of self-determination have further strengthened their national identity.

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<sup>37</sup> Ahmad, “Kashmir and the UN.”

<sup>38</sup> Ibid.

The Plebiscite Movement, originated by the Plebiscite Front in 1955, has greatly contributed to keeping the demand alive along with the presence of the UN resolutions. It represents the popular demand.

On the other hand, the role of the UN has been invalidated with the passage of time. The most recent UN attempt was made in 2002, when Indo-Pak forces confronted each other at the borders. India mobilised half a million troops to pressurise Pakistan, not to side with the Kashmiri freedom fighters on their principle demand. However, the current wave of atrocities by India to suppress the movement after the extrajudicial killing of the freedom fighter, Burhan Wani, in July 2016, and the use of pellet guns to blind several have not been able to stir the world's conscience.

The use of the brutal force by India is impertinence to an international organisation. It compounds vulnerability for peaceful world governance. The functions and the powers of the UNSC under the UN Charter are to maintain international peace and security and investigate the disputes, which eventually might lead to any international friction. The threats, which might violate peace, are also determined and terms of settlement are recommended. The UN needs to assume its role more assertively. Furthermore, the US support to India's bid for a permanent seat in the UNSC would give a free rein to India to continue with the violation of international norms and further lead to the failure of yet another crisis management body.