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Article

China's Multilateral Gambit in South Asia*

Asoke Kumar Mukerji

Abstract

The recent activism of China on the Jammu and Kashmir issue at the United Nations is a signal of its increasing assertiveness in using its multilateral profile as a permanent member of the UN Security Council (UNSC). As a permanent member of the UNSC, China has the advantage of holding "The India-Pakistan Question" item on the Council's agenda to ransom. It can calibrate the timing and manner of exploiting this issue, as demonstrated on 16 August 2019. Its advantage will only disappear when India is able to successfully conclude her decades-long campaign to reform the UNSC.

The sudden activism of China on the Jammu and Kashmir issue is a signal of its increasing assertiveness in using its multilateral profile as a permanent member of the UN Security Council (UNSC) in South Asia. Despite signs of constructive cooperation between India and China at the United Nations General Assembly (UNGA) between 1988 and 2011, especially on sustainable development and climate change issues, China's new assertiveness in the UNSC today poses a challenge to India's bilateral and multilateral interests.

Background

During the formative period of the creation of the United Nations (UN), the two countries had a low-profile cooperative relationship, which continued even after the emergence of the Chinese Communist Party (CPC) as the new government of China in October 1949. It was only after the replacement of the Republic of China (ROC) with the

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* On 16 August 2019, China compelled the President of the UN Security Council (Poland) to convene a meeting of the UNSC. The only compromise that China agreed to was for the meeting to take place behind closed doors, without the participation of India and Pakistan.

People's Republic of China (PRC) in the UN and the UNSC in October 1971 that the first stirrings of a more confrontational relationship between China and India emerged in the UNSC.

The UN grew out of an initiative taken by President Franklin D. Roosevelt of the United States during the Second World War. The United States wanted a coalition of "allied countries" to support the implementation of the objectives of the Atlantic Charter, signed in August 1941 between the United States and United Kingdom. One of the objectives was the creation of "international postwar system". Among the principles of the Atlantic Charter was a commitment to "allow all peoples to choose their own form of government",¹ which was used by the United States to justify inviting India, then a British colony, into the coalition.

At the Washington Conference on 1st January 1942, 26 participating countries issued the "Declaration by United Nations".² The Declaration endorsed the principles and objectives of the 1941 Atlantic Charter between the United States and United Kingdom. This launched the process to create the modern United Nations. In the period between January 1942 and June 1945, when the UN Charter was negotiated and adopted at the San Francisco Conference, India and the ROC cooperated within the broad framework of the "Declaration by United Nations". Three examples illustrate this cooperation.

First, in the military sphere, India was used by the United States to train almost 50,000 soldiers of the ROC's Army who fought in the China-Burma-India theatre in Asia between 1942-1944.³ Today, the base where the training to Chinese soldiers was imparted houses one of the Indian Army's oldest units, the Punjab Regimental Centre, Ramgarh (Jharkhand). The objective of the Allies was to re-open a land route to China during the Second World War, to offset Japanese naval activity in the Pacific.

Second, in the financial and monetary sphere, India participated with the ROC at the United Nations Monetary and Financial Conference held in Bretton Woods, New Hampshire in July 1944. India was among the five delegations supporting China's position that a country's quotas of the International Monetary Fund (IMF) "reflected a country's international standing".⁴ China was able to secure the eventual agreement at Bretton Woods for the top five shares of quotas to be allocated to the United States, United Kingdom, the Soviet Union, ROC and France.⁵

Third, in the area of justice based on rule of law, India and the ROC were members of the 17-country United Nations War Crimes Commission (UNWCC) established in London between 1943-1948. India was an active participant in the Far Eastern and Pacific Sub-Commission of the UNWCC set up by the ROC in Chungking to collect, investigate and record

evidence of war crimes. The work of the UNWCC had an important bearing on the UN's legal initiatives to outlaw mass atrocity crimes, including the Convention on Genocide of 1948.⁶ The records of the UNWCC were transferred to the Holocaust Museum in Washington D.C. in 2014.⁷

The ROC's primary objective in participating in the UN process was to gain international recognition as a major power. The Dumbarton Oaks meetings⁸ between October 1943 and February 1945 provided the ROC with a platform to secure this objective in the political sphere. The Soviet Union opposed direct discussions with the ROC in these meetings because of the ROC government's opposition to the Communist Party of China (CPC). The four powers met in two troikas, consisting of the United States-United Kingdom-Soviet Union, and the United States-United Kingdom-ROC.

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The ROC was able to secure its political objective of being accepted as an equal major power during the Cairo Conference of 1943,⁹ held between the leaders of the United States, United Kingdom and the ROC. The Cairo Conference declaration met the ROC's core interests, including the consolidation of its territories occupied by Japan after the war.

Asian Representation in the UNSC

In February 1945, the United States, United Kingdom and Soviet Union met at Yalta to agree on the veto rights of the permanent members of the proposed Security Council of the United Nations for any substantive decisions by the UNSC. Both the ROC and France, which did not participate at the Yalta Conference, acquired the veto, as well as the right to be self-selected without election as permanent members of the UN Security Council. These agreements were inscribed as non-negotiable provisions in the draft UN Charter circulated by the ROC, Soviet Union, United States and United Kingdom to the 47 other countries who participated at the San Francisco Conference on 26 June 1945.¹⁰ The adoption of the UN Charter gave the ROC a major role in decisions on international peace and security in the UNSC. The delegation of China at the San Francisco Conference included a representative of the Communist Party of China (CPC), Dong Biwu.¹¹

In the case of India, she was represented in the UNGA and its committees as a separate entity from the United Kingdom from 1945. Only after achieving independence on 15 August 1947 did India declare her candidacy for a non-permanent seat in the UNSC. In the elections for one of the vacant non-permanent seats in the UNSC, for the 1948-1949

term, conducted in the UNGA from 30 September 1947 till 20 October 1947, India was pitted against the Ukraine SSR. Despite 11 rounds of voting, both countries failed to secure the two-thirds majority of votes in the UNGA to be elected. On 13 November 1947, India informed the President of the UNGA of her desire "to withdraw its candidature" for the seat, and Ukraine was elected as a non-permanent member of the UNSC instead. India would have to wait till 20 October 1949 to be elected for the first time as a non-permanent member of the UNSC for 1950-1951.¹²

India's complaint was brought under Article 35 of the UN Charter and focused on Pakistan's "act of aggression against India".

The Indian Complaint to the UNSC, 1948

On 1 January 1948 India lodged a complaint against Pakistan's violation of her territorial integrity with the UNSC. Since India had conceded the election to the UNSC just six weeks earlier she was not represented as a member of the Council when it debated and decided on India's complaint. The UN records that:

"On 1 January 1948, the Government of India reported to the Security Council details of a situation existing between India and Pakistan owing to the aid which invaders, consisting of nationals of Pakistan and tribesmen from the territory immediately adjoining Pakistan on the north-west, were drawing from Pakistan for operations against Jammu and Kashmir, a State which, having acceded to the Dominion of India, the Government of India declared to be part of India. The Government of India considered the giving of this assistance by Pakistan to be an act of aggression against India, and likely to endanger the maintenance of international peace and security, since in self-defence India might be compelled to enter Pakistan territory in order to take military action against the invaders."¹³

India's complaint was brought under Article 35 of the UN Charter and focused on Pakistan's "act of aggression against India". At no stage did India refer to the territory of Jammu and Kashmir which was being attacked as being in "dispute". As India clarified in the UNSC:

"the act of accession of Jammu and Kashmir to India was an international act, the legality of which, however, was beyond challenge and not in question and which involved no issue of international peace and security. The only issue of the latter kind was the aggression committed by Pakistan."¹⁴

“The India-Pakistan Question”

On 22 January 1948 the UNSC decided to unilaterally change the description on its agenda of India’s complaint dated 1 January 1948 from the original “The Jammu and Kashmir Question” into “The India-Pakistan Question”. This was instigated by the United Kingdom, which felt that issues other than Pakistan’s alleged aggression in Jammu and Kashmir should be also considered by the Council.¹⁵ In its decision, the UNSC clarified that the “Kashmir question” would be discussed first as a particular case of the India-Pakistan dispute. India sought to adjourn the meeting, which was subsequently resumed in April 1948.

This decision of the UNSC, to which the ROC was a party as a permanent member, has played a significant role in the way the Council has handled India’s original complaint. The UNSC’s change in the description of the issue inserted the communal principle on which the United Kingdom partitioned British India, viz. “The India-Pakistan Question”. According to this principle, the Muslims of British India (but not India’s Princely States) needed a separate homeland, which led to the creation of Pakistan.

Under the Indian Independence Act, 1947¹⁶ the rulers of the Princely States had the sovereign right to accede to either India or Pakistan. Accession meant the integration of the territory of the Princely State into either India or Pakistan. On 26 October 1947, following the sovereign decision of the Ruler of Jammu and Kashmir to accede to India, the entire territory of the Princely State of Jammu and Kashmir became an integral part of the territory of India.

China’s role in the UNSC on “The India-Pakistan Question”

On 1 October 1949, the Communist Party of China (CPC) leader Mao Zedong proclaimed the founding of the People’s Republic of China (PRC) in Beijing. On 30 December 1949, India extended *de jure* recognition to the new Chinese government. On 1 April 1950, India became the first non-socialist country to recognize the PRC. In 1951, the PRC annexed Tibet, converting the India-Tibet border into the India-China border.

India was elected to a two-year term as a non-permanent member of the UNSC from 1 January 1950. On 10 January 1950, India abstained in a vote in the UNSC decision on a proposed Soviet resolution to seat the PRC in the UNSC. The Council decided to consider this resolution at a subsequent meeting with a recorded vote, in which only the Soviet Union and Yugoslavia voted in favour. On 1 August 1950, the Soviet Union moved a proposal in the UNSC to unseat the ROC from the UNSC. This move was defeated by voting. India voted in favour of the Soviet proposal, along with Yugoslavia as it had already recognized the PRC.¹⁷ In September 1950, the Soviet Union and India tabled a resolution in the 5th Committee of the UNGA to seat the PRC in the UN. This resolution was also defeated by a vote, and the

matter was referred to a committee, which kept it in abeyance.¹⁸

During 1948-1952, the UNSC adopted 8 resolutions on "The India-Pakistan Question". The ROC voted in favour of the initial three resolutions adopted on 17 January, 20 January 1948 and 13 April 1948. These called for a cessation of hostilities in Jammu and Kashmir, established a UN Commission for India and Pakistan (UNCIP) to make a fact-finding visit to the region, and sequenced the need for "demilitarization", prioritizing withdrawal of Pakistan's armed forces from Jammu and Kashmir before the holding of a plebiscite.¹⁹

The ROC abstained on a fourth UNSC resolution²⁰ on 3 June 1948, which reiterated the Council's mandate for the UNCIP. In response to India's objections to expanding the scope for the UNCIP, the ROC strongly backed the UNSC President in conveying to India that the UNCIP should look into not only the Jammu and Kashmir issue, but also the issue of Junagadh and the treatment of Muslims in India.

The ROC supported the UNSC resolution²¹ of 14 March 1950 terminating the UNCIP and appointing a UN Representative for India and Pakistan (Sir Owen Dixon). On 30 March 1951, the ROC supported the UNSC resolution²² adopting Sir Owen Dixon's report, in which he stated that without agreement on "demilitarization" the proposed plebiscite could not take place in Jammu and Kashmir. This resolution also referred to the proposed constituent assembly in Jammu and Kashmir, stating that such an assembly could not substitute for any plebiscite. India abstained on both these resolutions.

For the next four years, until 1957, the UNSC did not take any more decisions on "The India-Pakistan Question". The development of relations between India and the PRC outside the UNSC framework was marked by the signing of the India-Tibet Region of the PRC Border Trade Agreement of 29 April 1954, which introduced the concept of the Five Principles of Peaceful Co-existence (*Panchsheel*) into the lexicon on international relations.²³ The PRC Prime Minister Zhou Enlai visited India in June 1954. India's Prime Minister Jawaharlal Nehru visited the PRC in October 1954.

Meanwhile, Pakistan formalized its military alliance with the United States, signing a Mutual Defence Agreement in May 1954.²⁴ This was followed by Pakistan's membership of the anti-communist South East Asia Treaty Organization (SEATO) which included the United States, Britain, France, Thailand, the Philippines, Australia and New Zealand in September 1954.²⁵ In 1955, Pakistan joined the Baghdad Pact formed by the United Kingdom, Turkey, Iraq, Iran and Pakistan to prevent communist incursions in the region between NATO and SEATO. The Pact became the Central Treaty Organization (CENTO) after Iraq's withdrawal in 1959.²⁶

The second flurry of activity in the UNSC on “The India-Pakistan Question” occurred after the ratification of the accession of Jammu and Kashmir to India by the Constituent Assembly of the state in 1957. The ROC –which still held China’s UN seat-- was party to the three resolutions adopted by the Security Council²⁷ which reiterated that the decision of the Constituent Assembly could not substitute for the plebiscite, for which demilitarization was a pre-requisite.

Meanwhile, in the Himalayas, the PRC militarily asserted its control over the Aksai Chin region of Jammu and Kashmir. Responding to a Parliament Question in December 2014, India’s External Affairs Minister confirmed that “Indian territory under the occupation of China in Jammu & Kashmir is approximately 38,000 sq. kms. In addition, under the so-called China-Pakistan “Boundary Agreement” signed between China and Pakistan on 2 March 1963, Pakistan illegally ceded 5,180 sq. kms. of Indian territory in Pakistan Occupied Kashmir to China.”²⁸

In October 1962, the PRC initiated the war against India, which precipitated the open rupture of bilateral relations until these began to be normalized from 1976.²⁹ In the UN, however, the ROC voted with India and a large majority of developing countries in the UN General Assembly, when it adopted its historic resolution 1991 on 17 December 1963 for amending the UN Charter and reforming the UNSC by adding four more non-permanent seats to the Council.³⁰

In 1965, the UNSC adopted 5 resolutions, all of which the ROC supported, in response to the 1965 India-Pakistan war.³¹ The objective of these resolutions was to ensure a cease-fire between India and Pakistan. The ROC (and the PRC, which had fallen out with the Soviet Union following the growing “rift” between the two Communist powers³²) would have been aware that the Soviet initiative leading to the 1966 Tashkent Declaration finessed any direct UNSC role in this context. The Declaration pointedly does not refer to UNSC resolutions on “The India-Pakistan Question” in its text.³³

On 25 October 1971, the UN General Assembly adopted resolution 2758 by a recorded vote (in which India voted in favour along with 75 other countries out of 128) to unseat the ROC in the UN/UNSC and replace it with the PRC.³⁴ Earlier, in July 1971, U.S. Secretary of State Henry Kissinger, while on an official visit to Pakistan, made a secret visit to China, setting the stage for the rapprochement between the United States and the PRC during President Richard Nixon’s visit to China in February 1972.³⁵

This laid the foundation for the alignment of positions of the PRC, United States and Pakistan in the UNSC in December 1971. In the debate on the India-Pakistan conflict,

the PRC strongly criticized what it claimed was India's "aggression" and opposed any participation of representatives of Bangladesh (East Pakistan) in the UNSC discussions. The Council adopted its last resolution (UNSCR 307) on "The India-Pakistan Question" on 21 December 1971.³⁶ The resolution called for cease-fire in East Pakistan (Bangladesh); the application of the 1949 Geneva Conventions to the 93,000 Pakistani soldiers taken prisoner of war; and respecting the "cease fire line" in Jammu and Kashmir supervised by the UN Military Observer Group in India and Pakistan (UNMOGIP), established by the UNSC in January 1949. On 25 August 1972, the PRC cast its first veto in the UNSC against the admission of Bangladesh to the UN.³⁷

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Participating in the UNSC discussion on 21 December 1971, India had conveyed to the Council that she would discuss and negotiate a regulatory framework to ensure a non-confrontational development of India-Pakistan relations. Between December 1971 and July 1972, India and Pakistan negotiated and formalized this framework. Their bilateral treaty was signed on 2 July 1971 at Simla. The Simla Agreement makes no mention of UNSC resolutions on "The India-Pakistan Question". It also makes no mention of the pre-1971 cease-fire line which was being monitored by UNMOGIP.³⁸

In keeping with the provisions of the UN Charter (Article 102), the treaty was registered with the UN Treaty Database (Number 12308, Volume 858). As a registered legal document, the Simla Agreement is invocable by India in any organ of the UN, including the UNSC. It is for this reason that the Simla Agreement overtakes any earlier legal obligations imposed on member-states of the UN by previous UNSC resolutions on Jammu and Kashmir.³⁹

Conclusion

The rationale for China's raising the "India-Pakistan Question" in the UNSC on 16 August 2019 appears to be anchored on two primary considerations. First, China would be keen to retain its occupation of Indian territory in Jammu and Kashmir, including the Aksai Chin region. Second, the importance of this territory for one of China's major projects in its high-profile Belt and Road Initiative, the China Pakistan Economic Corridor (CPEC), which passes through the Pakistan occupied part of Jammu and Kashmir.

These two considerations, along with the usefulness of having its "all-weather ally" Pakistan on the other side of Jammu and Kashmir, enable China to use "The India-Pakistan Question" on the UNSC agenda as a lever in its strategic engagement with South Asia. As a

permanent member of the UNSC, China has the advantage of holding “The India-Pakistan Question” item on the Council’s agenda to ransom. It can calibrate the timing and manner of exploiting this issue, as demonstrated on 16 August 2019. Its advantage will only disappear when India is able to successfully conclude her decades-long campaign to reform the UNSC.

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