

INDIA'S EVOLVING ROLE IN GLOBAL GOVERNANCE AND THE SHAPING OF INTERNATIONAL LAW

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INTRODUCTION

Background on Glb. Governance and Int. Law

Glb. governance refers to the intricate and evolving network of formal and informal rules, norms, institutions, and actors that collectively manage complex transboundary issues in the absence of a centralized Glb. authority or world government. It embodies a diverse and dynamic process, encompassing the activities not only of Int. organizations (IOs) like the UN., the World Trade Organization (WTO), the World Health Organization (WHO), and the Int. Monetary Fund (IMF), but also a broad range of other stakeholders. These include sovereign states, non-governmental organizations (NGOs), multinational corporations, regional bodies, advocacy networks, and various other non-state actors that collaborate, negotiate, compete, and coordinate to address shared Glb. challenges¹⁰⁵⁷.

GRASP - EDUCATE - EVOLVE

¹⁰⁵⁷ Cht. of the UN.s and Statute of the Int. Court of Justice, available at <https://www.un.org/en/about-us/un-charter>, (Last visited, 10th Jan 2025)

The scope of Glb. governance covers a wide array of domains, including the maintenance of Int. peace and security, promotion of economic stability and development, management of Glb. health crises, regulation of transnational environmental issues such as climate change, and the protection and promotion of human rights and humanitarian standards. Importantly, Glb. governance is characterized not by a hierarchical structure, but by a fragmented, multi-level, and often decentralized system, where Infl. and authority are dispersed across multiple actors and platforms.

Int. law provides the fundamental normative framework that underpins much of Glb. governance. Traditionally understood as the set of legally binding rules governing the conduct of states in their mutual relations, the domain of Int. law has expanded significantly over the past century. Today, Int. law regulates not only inter-state relations but also interactions between states and Int. organizations, between states and individuals (as seen in the fields of Int. human rights law and Int. criminal law), and increasingly involves the activities and responsibilities of non-state actors such as corporations and insurgent groups.

The primary sources of Int. law are codified in Art. 38(1)¹⁰⁵⁸ of the Statute of the Int. Court of Justice (ICJ), which identifies Int. conventions (treaties and agreements), Int. custom (long-standing practices accepted as law), general principles of law recognized by civilized nations, and, as subsidiary means for determining rules of law, judicial decisions and the teachings of the most highly qualified publicists.

Despite lacking a centralized enforcement mechanism comparable to those found in domestic legal systems, Int. law relies on key principles such as state consent, reciprocity, collective enforcement measures, and the legitimacy derived from inclusive and transparent processes of rule-making and adjudication. Compliance with Int. law is often incentivized by considerations of reputation,

reciprocal benefits, diplomatic pressure, and sometimes economic sanctions or collective security measures. Glb. governance institutions play a crucial role not only in the creation and development of Int. legal norms but also in their interpretation, application, and at times, limited enforcement, thereby acting as critical nodes in the architecture of Int. law and order.

Thus, Glb. governance represents a continual effort to orchestrate collective action across national borders, striving to reconcile diverse interests and promote common goods in an increasingly interdependent and complex world.

India's Historical and Contemporary Role in the Glb. Order

India's journey in the Glb. or since its independence in 1947 is a remarkable narrative of transformation and adaptation. Emerging from nearly two centuries of British colonial rule, India's initial Foreign Pol. posture was profoundly shaped by the experiences of subjugation, exploitation, and the painful struggle for self-rule. These historical experiences fostered a fierce commitment to the principles of sovereignty, territorial integrity, self-determination, and strategic autonomy. These ideals formed the cornerstone of India's early Int. engagements.

This worldview manifested most prominently in India's pivotal leadership role in the Non-Aligned Movement (NAM) during the Cold War. As one of NAM's principal architects, alongside leaders like Egypt's Gamal Abdel Nasser and Yugoslavia's Josip Broz Tito, India positioned itself as the voice of newly independent states that resisted alignment with either the US-led Western bloc or the Soviet-led Eastern bloc. It advocated strongly for decolonization across Africa and Asia, championed racial equality – especially in the Glb. campaign against apartheid in South Africa – and became a vocal proponent of nuclear disarmament and Glb. peace. India's self-image during this period was that of a moral force in Int. affairs,

¹⁰⁵⁸ Statute of The Int. Court of Justice, Art. 38(1)

promoting justice, fairness, and the rights of developing nations.¹⁰⁵⁹

India's early engagement with the UN. reflected this idealistic orientation. It was an active contributor to peacekeeping missions, sending thousands of troops to conflict zones in Asia, Africa, and the Middle East. India's advocacy for a more equitable world or was visible in its calls for reforms to Int. economic and political institutions to better reflect the needs and aspirations of the Glb. South.

The end of the Cold War, the collapse of the Soviet Union, and the onset of economic liberalization in the early 1990s marked a major turning point. Rapid economic growth transformed India's Glb. economic profile, with its economy becoming one of the fastest-growing among major countries. This economic resurgence, combined with India's demographic dividend (now the world's most populous nation), established democratic credentials (despite ongoing internal challenges), and rising military capabilities (including nuclear deterrence), propelled India into a new phase of Glb. engagement.

India has transitioned from being primarily a 'norm-taker' or 'norm-resister' – particularly on issues perceived to impinge on sovereignty or its developmental prerogatives – to increasingly aspiring to be a 'norm-shaper' in Int. forums. It seeks not only to participate in Glb. governance but to Infl.the creation and reform of Int. norms and institutions. Its active membership in the G20, BRICS (Brazil, Russia, India, China, South Africa), the Shanghai Cooperation Organisation (SCO), and its critical role in regional platforms like the South Asian Association for Regional Cooperation (SAARC) and the Indian Ocean Rim Association (IORA) demonstrate this broadened diplomatic engagement.¹⁰⁶⁰

Strategically, India's foreign Pol. has evolved from non-alignment to a more pragmatic, multi-aligned approach. Initiatives like the 'Neighbourhood First' policy, the 'Act East' Pol. aiming to deepen ties with Southeast Asia, and participation in the Quadrilateral Security Dialogue (QUAD) – alongside the United States, Japan, and Australia – underscore a more assertive and diversified external engagement strategy. These efforts aim to secure India's strategic interests while contributing to regional and Glb. stability.

India's approach to Int. law has also matured significantly. While retaining a cautious emphasis on safeguarding sovereignty, it has moved towards active participation in shaping legal norms in areas like climate change (especially through its leadership in climate finance and adaptation debates), Glb. trade negotiations, intellectual property regimes, maritime security (particularly in the Indo-Pacific), and counter-terrorism frameworks.

Nevertheless, India's evolution in the Glb. or is not entirely linear or devoid of tensions. It must continually balance its rising Glb. aspirations with pressing domestic developmental priorities such as poverty alleviation, infrastructure development, health, and education. Moreover, it navigates an increasingly complex and multipolar geopolitical environment, marked by competing interests, shifting alliances, and ideological divergences.

India's ongoing journey in the Glb. order, thus, remains one of dynamic negotiation – between its historical identity, its contemporary ambitions, and the multifaceted realities of an interconnected world.

HISTORICAL CONTEXT OF INDIA'S ROLE IN GLB. GOVERNANCE

India's Post-Independence Foreign Policy: The Crucible of Nationhood

India's foreign Pol. choices in the immediate aftermath of independence in 1947 were profoundly shaped by its colonial past, the trauma of partition, the gargantuan task of

¹⁰⁵⁹ Mohan, C. Raja., "Crossing the Rubicon: The Shaping of India's New Foreign Policy", Viking, (2003)

¹⁰⁶⁰ Tharoor, S., "Pax Indica: India and the World of the Twenty-First Century, Penguin Books, (2012)

nation-building, and the emerging bipolarity of the Cold War. The overriding imperative was to safeguard its hard-won sovereignty, maintain territorial integrity, pursue independent development, and establish its identity on the world stage.

Non-Aligned Movement (NAM): Principle and Practice

The cornerstone of India's early foreign Pol. was non-alignment. Articulated most forcefully by its first Prime Minister, Jawaharlal Nehru, non-alignment was conceived not as neutrality or passive isolationism, but as an active Pol. of retaining autonomy in foreign Pol. decision-making, refusing to join military alliances led by either the United States or the Soviet Union¹⁰⁶¹. It was a strategic choice rooted in several considerations:

- a. **Anti-Colonialism:** Non-alignment was seen as a natural extension of the struggle against imperialism, rejecting the notion that newly independent nations had to subordinate their interests to those of former colonial powers or new superpowers.
- b. **Development Focus:** India needed peace and Int. cooperation to focus on its immense domestic challenges of poverty, illiteracy, and industrial underdevelopment. Aligning with a military bloc was seen as diverting scarce resources and importing external conflicts.
- c. **Maximizing Diplomatic Space:** By not aligning, India sought to maintain friendly relations with both blocs, allowing it to receive aid and technology from diverse sources and play a mediating role in Int. disputes.
- d. **Moral Leadership:** Nehru envisioned India playing a unique role based on its civilizational heritage and Gandhian principles, advocating for peace, disarmament, and racial equality. India,

alongside Yugoslavia's Tito, Egypt's Nasser, Indonesia's Sukarno, and Ghana's Nkrumah, was a principal architect of NAM, culminating in the Belgrade Conference of 1961. NAM provided a platform for dozens of developing nations (the "Third World") to articulate shared concerns, coordinate diplomatic positions (especially within the UN), and advocate for a more equitable Int. economic and political order. While NAM's Infl.waxed and waned, and its internal coherence was often tested, it represented a significant assertion of agency by post-colonial states and fundamentally shaped India's Glb. identity for decades. Legally, NAM emphasized core principles of Int. law like sovereign equality, non-intervention, territorial integrity, and peaceful settlement of disputes, often interpreting them through the lens of post-colonial sovereignty protection.

Panchsheel: A Moral and Legal Foundation?

Closely intertwined with the broader philosophy of non-alignment was the articulation of the Five Principles of Peaceful Coexistence, popularly known as 'Panchsheel'¹⁰⁶². These principles were first officially enshrined in the preamble to the Agreement on Trade and Intercourse Between the Tibet Region of China and India, signed in April 1954. The Panchsheel principles comprised the following core tenets:

- Mutual respect for each other's territorial integrity and sovereignty,
- Mutual non-aggression,
- Mutual non-interference in each other's internal affairs,
- Equality and mutual benefit, and
- Peaceful coexistence.

Initially conceived to regulate India-China relations, India, under Prime Minister Jawaharlal

¹⁰⁶¹ Prasad, V., *The Darker Nations: A People's History of the Third World*, New Press, (2007)

¹⁰⁶² Wang, Y., *Panchsheel and Sino-Indian Relations: A Historical Perspective*, Journal of Asian Studies, (2015)

Nehru's leadership, promoted Panchsheel as a universal framework for the conduct of interstate relations, particularly among newly decolonized nations navigating a bipolar Cold War world¹⁰⁶³. These principles resonated deeply with many countries in Asia, Africa, and Latin America that were emerging from the shadow of imperialism and sought to guard their hard-won sovereignty.

Panchsheel's legal and ethical foundations mirrored the spirit of the UN Charter, particularly Art. 2¹⁰⁶⁴, which underscores sovereign equality, the prohibition of the threat or use of force, and the obligation to settle disputes peacefully. Over time, Panchsheel principles were incorporated into numerous bilateral agreements India signed with other states and became a recurring rhetorical and normative theme in the declarations and summits of the Non-Aligned Movement (NAM).

Although the devastating Sino-Indian War of 1962 severely undermined the practical application of Panchsheel between India and China, the broader ideological significance of the principles endured. India continued to invoke Panchsheel in various diplomatic contexts, emphasizing its commitment to peaceful coexistence, non-interventionism, and respect for Int. law.

Nevertheless, critics have pointed out that while Panchsheel presented a morally appealing vision, its application was sometimes marred by inconsistencies and geopolitical realities. Some argued that the principles were overly idealistic in a world marked by realpolitik and power politics, while others questioned whether India itself always adhered to the high standards it advocated.

Despite such criticisms, Panchsheel remains a key reference point in India's diplomatic history, symbolizing an early attempt to craft a normative or based on mutual respect, peaceful

interaction, and sovereign equality in the G15 arena.

Early Involvement in the UN.: Idealism Meets Realpolitik

India's relationship with the UN. began even before its formal independence. As a founding member, having participated actively in the San Francisco Conference in 1945, India placed immense hope in the UN as a cornerstone for promoting collective security, Int. cooperation, and the establishment of a just, equitable world order. Jawaharlal Nehru, India's first Prime Minister, envisioned the UN as the "embryo of a world federation," reflecting both idealism rooted in India's anti-colonial experience and a pragmatic understanding of the need for an Int. system that could mediate conflicts and prevent the recurrence of world wars¹⁰⁶⁵.

From the very outset, India played an active and visible role in the General Assembly, the Economic and Social Council (ECOSOC), and other key UN bodies. Its early engagement can be characterized by several prominent themes:

a. Articulating Post-Colonial Perspectives:

India emerged as a prominent voice for newly independent and colonized nations, using the UN platform to advocate for decolonization, the dismantling of racial hierarchies (particularly condemning apartheid in South Africa), and the establishment of sovereign equality among all nations. India's interventions in debates on Namibia, Palestine, and other colonial territories reflected its commitment to universalizing the anti-colonial struggle.

b. Mediation and Diplomacy:

India sought to position itself as a mediator in Cold War conflicts, maintaining its non-aligned credentials. Notably, India played a pivotal role in the Neutral Nations Repatriation Commission (NNRC) after the Korean

¹⁰⁶³ Nehru, J., "Speech on Panchsheel Principles", Government of India Archives, (1954)

¹⁰⁶⁴ Ch. of the UN.s, Art. 2

¹⁰⁶⁵ Gupta, A., "India's Multilateral Diplomacy and the UN.s", 63(1), Journal of Int. Affairs, 73-90, (2009)

War, demonstrating its willingness to engage in delicate negotiations between opposing ideological camps. India also provided peacekeeping troops to early UN missions, such as in Congo and Cyprus, reinforcing its image as a constructive Int. actor dedicated to peaceful conflict resolution.

c. Emphasis on Economic Development:

Recognizing that political independence was hollow without economic empowerment, India consistently pushed the UN to prioritize technical assistance, development aid, and capacity-building for underdeveloped countries. India championed initiatives that led to the creation of institutions like the UN Conference on Trade and Development (UNCTAD) and argued for reforms in the Int. economic system to favor the Glb. South.

d. Rule of Law Advocacy:

India generally upheld the sanctity of the UN Cht. and broader principles of Int. law, especially sovereign equality, non-intervention, and peaceful settlement of disputes. However, its interpretations were often shaded by its experience of colonialism and its adherence to non-alignment, resulting in a strong emphasis on state sovereignty and cautious engagement with binding Int. obligations.

Yet, despite this idealism, India's experience with the UN often brought it into contact with the harsh realities of Int. politics. The Cold War gridlock severely constrained the effectiveness of the Security Council, while the dominance of the Permanent Five (P5) members – particularly their veto power – revealed the structural inequalities embedded within the UN system.

India's own national security concerns, most notably the Kashmir dispute with Pakistan, laid bare the limitations of UN interventions. While India initially sought UN assistance, disillusionment soon set in when political

dynamics, especially P5 rivalries, impeded a resolution favorable to its position. This experience reinforced India's preference for bilateralism over multilateral mediation in matters affecting its core interests and solidified its cautious and selective engagement with Int. institutions.

Thus, while India remained deeply committed to the UN's ideals, its early participation also fostered a pragmatic awareness of the organization's political constraints – a duality that continues to shape its multilateral diplomacy even today.

Key Contributions: Championing a Post-Colonial Order

Beyond its overarching Pol. framework, India made tangible contributions to shaping the post-war Glb. order, particularly in areas reflecting its core principles.

Peacekeeping Missions: Commitment to Collective Security

Despite maintaining a steadfast commitment to its non-aligned foreign Pol. posture, India emerged early on as a robust and unwavering supporter of UN peacekeeping operations as an essential mechanism for preserving Int. peace and security¹⁰⁶⁶. India's approach to peacekeeping has been informed by the principles enshrined in Chapter VI and the so-called "Chapter VI and a half" of the UN Cht. – combining peaceful dispute resolution with limited enforcement actions when necessary. Over decades, India's contributions to peacekeeping have been distinguished by their scale, professionalism, and principled engagement, reflecting India's belief in multilateralism and Int. law.

a. Early Participation and Foundational Contributions:

India's involvement in UN peacekeeping dates back to some of the organization's earliest missions. It contributed troops to the First UN Emergency Force (UNEF I) in

¹⁰⁶⁶ UN's Peacekeeping (UNPKO), available at <https://peacekeeping.un.org/en>, (Last Visited 15th Jan 2025)

the Gaza Strip and Sinai Peninsula following the Suez Crisis of 1956. Indian troops played a vital role in stabilizing the region, ensuring the withdrawal of forces, and upholding ceasefire agreements. Subsequently, India deployed a significant contingent to the UN. Operation in the Congo (ONUC) (1960–64) during the Congo Crisis. In this highly volatile environment, Indian peacekeepers not only maintained peace but also engaged in active protection of civilians amidst complex conflict dynamics. Captain G.S. Salaria became a symbol of Indian valor and sacrifice, posthumously awarded the Param Vir Chakra – India's highest military honor – for his extraordinary bravery during this mission. These early deployments set the tone for India's long-term commitment to peacekeeping.

b. Scale and Sustained Commitment:

India has consistently ranked among the largest troop-contributing countries (TCCs) to UN peacekeeping operations. From missions in Africa (such as in South Sudan, Democratic Republic of Congo, Rwanda) to assignments in the Middle East (such as Lebanon and Golan Heights) and Asia, Indian peacekeepers have operated across some of the world's most dangerous and politically complex conflict zones. This enduring participation has not only enhanced India's reputation as a responsible and capable contributor to Glb. peace but also strengthened its moral and diplomatic claim for a greater role in Glb. security governance, particularly its long-standing advocacy for UN Security Council (UNSC) reforms.

c. Professionalism, Discipline, and Capacity Building:

Indian peacekeepers have earned widespread acclaim for their professionalism, discipline, resilience,

and empathetic engagement with local populations. India's armed forces have demonstrated the ability to adapt to diverse operational challenges – ranging from traditional monitoring of ceasefires to more complex multidimensional mandates involving civilian protection, institution-building, and humanitarian support. India has also institutionalized peacekeeping expertise domestically, establishing facilities such as the Centre for UN. Peacekeeping (CUNPK) in New Delhi, which trains Indian as well as Int. military, police, and civilian personnel for UN assignments.

d. Advocacy for Peacekeeping Principles and Evolution:

India's approach to peacekeeping has been deeply grounded in the traditional core principles:

- **Consent of the parties to the conflict**
- **Impartiality**
- **Non-use of force except in self-defense or defense of the mandate**

These elements, often referred to as the "holy trinity" of peacekeeping, have guided India's philosophy in its deployments. However, India has shown flexibility as the nature of conflicts evolved and mandates became more "robust" – involving, for instance, protection of civilians and, in certain cases, offensive operations against armed groups. India has consistently emphasized the need for mandates to be clear, achievable, and rooted in local political realities to avoid mission overstretch and unintended consequences.

e. Strategic and Normative Significance:

India's active peacekeeping record has substantially bolstered its image as a responsible Glb. stakeholder, willing to shoulder the burdens of Int. security in partnership with the UN. This history also forms a key pillar of India's argument for structural reforms at the UN., especially its claim to a permanent seat in a

reformed UNSC. India's peacekeeping engagement has not merely been about troop numbers but about reinforcing the centrality of multilateral solutions to Int. peace and security challenges, consistent with India's broader vision of a more equitable and representative world order.

In sum, India's contributions to UN peacekeeping are not merely quantitative but reflect a principled, strategic, and long-term commitment to the maintenance of Int. peace and stability, reinforcing its credentials as a trustworthy and influential Glb. actor.

Decolonization and Anti-Apartheid: Normative Leadership

India was arguably at the forefront of the Glb. movements against colonialism and racial discrimination, leveraging its own independence struggle and moral standing.

- a. **Championing Self-Determination:** Within the UN and NAM, India consistently advocated for the right to self-determination for peoples under colonial rule, invoking principles enshrined in the UN Cht. (Articles 1(2) and 55)¹⁰⁶⁷. It played a key role in supporting independence movements across Asia and Africa, providing diplomatic and sometimes material support. The UN Declaration on the Granting of Independence to Colonial Countries and Peoples (Resolution 1514 (XV) of 1960) reflected principles long championed by India and other newly independent states.
- b. **Leading the Fight Against Apartheid:** India was the first country to raise the issue of racial discrimination in South Africa at the UN General Assembly in 1946, even before its own independence. It severed trade relations with the apartheid regime in 1946 and consistently pushed for Int. sanctions and isolation of South Africa. India's unwavering stance provided significant

moral and diplomatic impetus to the Glb. anti-apartheid movement, framing it not just as a political issue but as a violation of fundamental human rights and Int. norms. This leadership role solidified India's image as a champion of the oppressed and a proponent of racial equality on the world stage. In summary, India's historical role in Glb. governance was defined by its non-aligned posture, its emphasis on post-colonial sovereignty and development, and its active championing of decolonization and racial equality. Through NAM and its early engagement with the UN, India sought to carve out an independent path and advocate for a more equitable Int. order, making significant contributions, particularly in peacekeeping and normative struggles against colonialism and apartheid. This period laid the foundation for its evolving role in the decades that followed.

INDIA'S CONTRIBUTIONS TO INT. LAW

India's engagement with Int. law has undergone a significant transformation since its independence in 1947. Initially, as a newly decolonized nation, India placed a strong emphasis on the principles of sovereignty, territorial integrity, non-interference in domestic affairs, and peaceful coexistence – principles rooted in its anti-colonial experience and reflected in early initiatives like the Panchsheel Agreement. Over time, however, India's role in the Int. legal or. has evolved from being largely defensive and sovereignty-focused to becoming more proactive in shaping, interpreting, and implementing Int. legal norms across a variety of critical fields.

While India continues to be fiercely protective of its national interests, particularly in areas like security, economic policy, and strategic autonomy, it has nonetheless made substantial contributions to the development of Int. law¹⁰⁶⁸.

¹⁰⁶⁷ Cht. of the UN.s, Art. 1(2) and 55

¹⁰⁶⁸ Chimni, B.S., "Third World Approaches to Int. Law: A Manifesto", 8(1), Int. Community Law Review, 3-27, (2019)

India has played an influential role in areas where Glb. legal norms intersect with its developmental priorities, environmental commitments, human rights concerns, and security imperatives. For instance, India has actively participated in negotiations related to the Law of the Sea, contributing to the crafting of the UN. Convention on the Law of the Sea (UNCLOS). It has championed the cause of equitable and sustainable development in climate change negotiations, notably under the UN Framework Convention on Climate Change (UNFCCC) and the Paris Agreement.

Moreover, India has also contributed to peacekeeping operations under the UN., providing one of the largest contingents of personnel, thus reinforcing the norms of collective security and humanitarian assistance. In areas such as Int. trade law, intellectual property, outer space governance, and cyber law, India continues to push for a balanced approach that takes into account the needs of developing nations. Through participation in forums like the Int. Law Commission (ILC), the UN Human Rights Council, and other treaty negotiations, India has steadily enhanced its reputation as a serious stakeholder in the Int. legal system.

While some critics argue that India's approach remains selectively multilateral and occasionally cautious, there is broad recognition that India's engagement is becoming more nuanced, contributing meaningfully to the ongoing evolution of Int. law in an increasingly multipolar world.

Maritime Law and the UN. Convention on the Law of the Sea (UNCLOS)

As a peninsular nation with a vast coastline, extensive Exclusive Economic Zone (EEZ), and significant maritime interests, India places great importance on the Int. law of the sea. India actively participated in the Third UN Conference on the Law of the Sea and ratified UNCLOS in 1995.

Upholding Freedom of Navigation and Maritime Security

India has been a steadfast advocate for the principles of freedom of navigation and overflight, and the unimpeded movement of lawful commerce, firmly grounding its position in accordance with the provisions of the UN. Convention on the Law of the Sea (UNCLOS), 1982. This commitment reflects India's broader strategic and economic interests, given that a substantial portion of its trade – including critical energy supplies – transits through major sea lanes in the Indo-Pacific, particularly the contested waters of the South China Sea¹⁰⁶⁹. Although India is not a direct party to the territorial disputes in the South China Sea, it remains an affected stakeholder by virtue of its trade routes and broader maritime interests.

India consistently emphasizes the need for all states to respect Int. law and resolve disputes peacefully without resorting to force or coercion. It has diplomatically supported the principles reaffirmed in the 2016 South China Sea Arbitration award (Republic of the Philippines v. People's Republic of China), which invalidated China's sweeping "nine-dash line" claims. However, India has carefully calibrated its stance to avoid direct confrontation with China, choosing instead to reinforce the importance of compliance with UNCLOS and the Int. rule of law through both its official statements and diplomatic engagements.

Beyond rhetoric, India's commitment to maritime security is also operationalized through active participation in multilateral initiatives aimed at combating piracy, maritime terrorism, and illicit trafficking. The Indian Navy regularly deploys ships for escort missions in critical chokepoints like the Gulf of Aden and has been a prominent contributor to Int. maritime security architecture under

¹⁰⁶⁹ G. Padmaja, "Revisiting 'Sagar' – India's Template for Cooperation in the Indian Ocean Region", available at <https://maritimeindia.org/revisiting-sagar-indias-template-for-cooperation-in-the-indian-ocean-region/>, (Last visited 12th Feb 2025)

frameworks such as the Combined Maritime Forces (CMF) and UN.-authorized missions.

India's regional maritime strategy is embodied in its SAGAR vision ("Security and Growth for All in the Region"), which promotes collective responsibility for maritime safety and sustainable use of maritime resources. Through the Indian Ocean Rim Association (IORA) and other forums, India has worked to foster greater maritime domain awareness, build capacity among littoral states, and encourage cooperation on search and rescue operations, environmental protection, and disaster response.

Domestically, India has codified its adherence to Int. maritime norms through legislation such as the Maritime Zones Act of 1976. This Act delineates India's territorial sea, contiguous zone, exclusive economic zone (EEZ), and continental shelf in terms consistent with the definitions and rights outlined under UNCLOS. India's robust legal framework, combined with its diplomatic and operational initiatives, underscores its role as a responsible maritime power committed to preserving the stability, security, and freedom of the Glb. commons.

Defining Maritime Boundaries and Resource Management

India has successfully utilized UNCLOS provisions and dispute settlement mechanisms to delimit its maritime boundaries with neighbouring states. A notable example is the peaceful resolution of its long-standing maritime boundary dispute with Bangladesh in the Bay of Bengal through arbitration under Annex VII of UNCLOS. The Permanent Court of Arbitration (PCA) delivered its award in 2014, which both countries accepted, demonstrating India's commitment to resolving disputes through Int. legal processes. India has also submitted extensive claims to the Commission on the Limits of the Continental Shelf (CLCS) under Art. 76 of UNCLOS¹⁰⁷⁰ to establish the outer limits of its continental shelf beyond 200

nautical miles, asserting its sovereign rights over seabed resources in accordance with the Convention.

Climate Change and Environmental Law: Balancing Development and Sustainability

India's stance on Int. environmental law, particularly climate change, is heavily influenced by its development imperatives and large population facing climate vulnerability.

From Kyoto to Paris: Evolving Positions

Under the UN Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol, India, as a non-Annex I (developing) country, did not have binding emission reduction targets. It strongly defended this differentiation based on historical responsibility and development needs. While initially resistant to binding commitments, India's position evolved significantly leading up to and following the Paris Agreement (2015). India played a crucial, albeit sometimes tough, negotiating role in Paris, ultimately submitting ambitious Nationally Determined Contributions (NDCs) that included targets for reducing emissions intensity of its GDP, increasing non-fossil fuel power capacity, and creating additional carbon sinks. India has subsequently updated and enhanced its NDCs, signalling a greater willingness to contribute to Glb. mitigation efforts, although it continues to stress the need for climate finance and technology transfer from developed nations.

Championing Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC)

The principle of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC) continues to be the bedrock of India's climate diplomacy and environmental negotiation strategies. India has consistently and vocally maintained that developed countries, having historically contributed the most to the accumulation of greenhouse gases since the Industrial Revolution, must bear a greater share of the burden in mitigating climate change. This historical responsibility,

¹⁰⁷⁰ UN's Convention on the Law of the Sea, Art. 76

India argues, necessitates that developed nations lead in both ambitious emission reductions and in extending substantial financial, technological, and capacity-building support to developing countries, including India.¹⁰⁷¹

Although India has accepted the principle of universal participation in the climate action framework under the Paris Agreement, it strongly insists that differentiation based on national circumstances, levels of development, and capabilities must be preserved and respected.¹⁰⁷² India emphasizes that equity and justice must remain at the core of Int. climate law, recognizing the diverse developmental needs and priorities of different countries.

This insistence on CBDR-RC shapes India's negotiating position across a broad range of climate-related issues – not just mitigation, but also adaptation efforts, mechanisms to address loss and damage associated with climate impacts, commitments to climate finance, and the fair transfer of environmentally sound technologies. India actively seeks to embed these equity considerations into the legal architecture of the Glb. climate regime, ensuring that any future obligations are not disproportionately burdensome on developing nations, which have contributed the least to the problem but are often the most vulnerable to its effects.

Furthermore, India's climate diplomacy also involves coalition-building efforts, often aligning with other developing nations through groups like the Like-Minded Developing Countries (LMDCs) and the G77+China to strengthen the collective bargaining power of the Glb. South. Through its principled advocacy, India aims to promote a balanced, inclusive, and development-friendly climate governance system that acknowledges both the historical

context and the present-day realities of different countries.

The Int. Solar Alliance (ISA): A Proactive Initiative

In a significant shift towards proactive leadership, India, jointly with France, launched the Int. Solar Alliance (ISA) during the Paris Climate Conference (COP21) in 2015. Headquartered in Gurugram, India, the ISA is a treaty-based intergovernmental organization aiming to promote solar energy deployment, particularly in solar-rich developing countries located between the Tropics of Cancer and Capricorn. The ISA seeks to mobilize investment, reduce technology costs, build capacity, and foster collaboration. It represents India's tangible contribution to Glb. climate solutions and its effort to shape the agenda on renewable energy governance, positioning itself as a leader in this critical area.

Trade and Intellectual Property Rights: Protecting National Interests and Public Health

India's engagement with Int. trade law, especially concerning Intellectual Property Rights (IPR) under the WTO's TRIPS Agreement, highlights the tension between Glb. harmonization norms and national Pol. space, particularly regarding public health.

Navigating the TRIPS Agreement: Flexibilities and Public Health

India was initially critical of the TRIPS Agreement, fearing it would stifle domestic innovation and increase the cost of essential technologies, particularly medicines. However, upon joining the WTO, India amended its domestic patent law to comply with TRIPS obligations. Crucially, India actively participated in negotiations leading to the Doha Declaration on the TRIPS Agreement and Public Health (2001). This declaration affirmed the right of WTO members to use TRIPS flexibilities to protect public health and promote access to medicines for all. India has been a leading proponent and user of these flexibilities, including:

¹⁰⁷¹ UN's Framework Convention on Climate Change, available at <https://unfccc.int>, (Last visited 23rd Jan, 2025)

¹⁰⁷² Chaturvedi, S., & Sharma, A., "India's Climate Diplomacy: Balancing Growth and Responsibility", 66(2), Indian Journal of Int. Affairs, 123-145 (2020)

- **Compulsory Licensing:** Allowing governments under certain conditions to license the production of patented products (like medicines) to third parties without the patent holder's consent.
- **Parallel Importation:** Allowing the import and resale of patented products that have been legitimately marketed in another country, often at a lower price.
- **Defining Patentability Criteria:** Utilizing provisions that allow members to define specific criteria for patentability. India's Patents Act, particularly Section 3(d), which restricts patents for new forms of known substances unless they demonstrate enhanced efficacy, has been controversial Int.ly but is defended by India as a crucial measure to prevent "evergreening" of patents and ensure affordable access to medicines.

Patents, Generic Medicines, and Access to Affordable Healthcare

India's robust generic pharmaceutical industry, often called the "pharmacy of the developing world," benefited significantly from the pre-TRIPS patent regime and continues to thrive by utilizing TRIPS flexibilities. India has positioned itself as a champion of access to affordable medicines Glob.ly. Its stance on IPR, particularly its use of compulsory licensing (e.g., the landmark case involving Bayer's cancer drug Nexavar) and its stringent patentability criteria, while often criticized by multinational pharmaceutical companies and some developed countries, is defended as a legitimate exercise of its rights under Int. law (TRIPS and the Doha Declaration) necessary to meet its public health obligations under Int. human rights law (right to health) and its own Constitution. India's contribution here lies in actively shaping the interpretation and application of Int. IP law to prioritize public health concerns.

Nuclear Pol. and Non-Proliferation: A Unique Trajectory

India's relationship with the Int. nuclear non-proliferation regime is unique and complex.

Principled Opposition to the NPT and CTBT

India has consistently refused to sign the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) (1968) and the Comprehensive Nuclear-Test-Ban Treaty (CTBT) (1996). Its opposition to the NPT stems from the treaty's perceived discriminatory nature, dividing the world into nuclear "haves" (the five states recognized as nuclear weapon states under the treaty – US, Russia, UK, France, China) and "have-nots," while imposing non-proliferation obligations only on the latter without concrete disarmament commitments from the former. India argues for universal, non-discriminatory nuclear disarmament. Similarly, it opposed the CTBT on grounds that it did not include a time-bound framework for Glob. nuclear disarmament. After conducting nuclear tests in 1998 (Pokhran-II), India declared itself a state possessing nuclear weapons, remaining outside the NPT framework.

Nuclear Doctrine: Credible Minimum Deterrence and No First Use

Following the 1998 tests, India promulgated a nuclear doctrine based on:

- **Credible Minimum Deterrence:** Maintaining a sufficient nuclear arsenal to deter aggression, but not engaging in an arms race.
- **No First Use (NFU):** Pledging not to initiate nuclear conflict but reserving the right to retaliate massively if attacked with nuclear weapons. It also maintains a pledge of non-use against non-nuclear weapon states.
- **Civilian Control:** Strict political control over nuclear weapons. While NFU has been subject to occasional debate within India, it remains official Pol. and is presented Int.ly as a posture of restraint and responsibility.

Engagement with the IAEA and the Indo-US Civil Nuclear Deal

Despite being outside the NPT, India maintains a relationship with the Int. Atomic Energy Agency (IAEA). It has placed its civilian nuclear facilities under IAEA safeguards through specific agreements. A major turning point was the India-US Civil Nuclear Agreement (2008). This deal, facilitated by an India-specific waiver from the Nuclear Suppliers Group (NSG) – a group controlling nuclear trade which India is not yet a member of – allowed India access to Int. civilian nuclear technology and fuel despite not being an NPT signatory. This was seen as a de facto recognition of India's nuclear status and its responsible non-proliferation record. India continues to seek full membership in the NSG and other export control regimes (it is already a member of the Missile Technology Control Regime, Wassenaar Arrangement, and Australia Group), arguing its adherence to non-proliferation norms warrants inclusion. In essence, India's contributions to Int. law reflect a blend of principled stands (CBDR-RC, anti-colonialism), pragmatic engagement (UNCLOS, WTO dispute settlement), defense of national Pol. space (TRIPS flexibilities, NPT opposition), and occasional proactive leadership (ISA). Its approach underscores the complex interplay between universal legal norms, national interests, developmental priorities, and evolving geopolitical status for a major rising power.

CHALLENGES AND CRITIQUES OF INDIA'S GLB. GOVERNANCE ROLE

While India's Infl.on the Glb. stage is undeniably growing, its role in Glb. governance is fraught with significant challenges, contradictions, and criticisms. These stem from the inherent difficulty of balancing national interests with Int. norms, navigating complex geopolitical rivalries, and managing pressing domestic imperatives that often constrain its Glb. aspirations and capacity.

Balancing National Interests and Glb. Norms: Inherent Tensions

Like all nations, India faces the fundamental tension between pursuing its perceived national interests – economic development, energy

security, strategic autonomy, territorial integrity – and adhering to its commitments under Int. law and evolving Glb. norms. For a large, diverse, and still-developing country like India, these tensions are particularly acute and manifest across various Pol. domains.

Climate Policy: Coal Dependency vs. Emission Reduction Pledges

India's climate Pol. exemplifies this tension. On the one hand, India has made ambitious pledges under the Paris Agreement, significantly expanding renewable energy capacity (especially solar) and committing to reducing the emissions intensity of its economy and achieving net-zero emissions by 2070. It champions climate justice and demands greater action and support from developed nations. On the other hand, India remains heavily dependent on coal for its energy security and industrial growth, supporting millions of livelihoods. Phasing down coal rapidly presents immense socio-economic challenges. Consequently, while increasing renewables, India also continues to invest in coal-fired power plants to meet rising energy demand. This reliance on coal draws Int. criticism and complicates its position as a climate leader, forcing India to constantly justify its stance by emphasizing its low per capita emissions, historical responsibility arguments rooted in CBDR-RC, and its overriding development needs. The challenge lies in managing a just energy transition that meets both climate goals and national development imperatives.

Trade Policies: Protectionism, 'Make in India', and WTO Compliance

In the realm of Int. trade, India advocates for a rules-based multilateral system under the WTO but simultaneously pursues policies aimed at boosting domestic manufacturing and achieving self-reliance (Atmanirbhar Bharat or 'Make in India'). These policies sometimes involve raising tariffs on imported goods, implementing localization requirements, or using quality standards and regulations in ways

that foreign companies argue are protectionist and potentially violate WTO principles like national treatment or prohibitions on quantitative restrictions. This has led to trade disputes initiated against India at the WTO by partners like the US and the EU over measures concerning ICT tariffs, steel tariffs, or agricultural support programs. India defends these measures as necessary for its industrial development, job creation, and national security, arguing they are within the bounds of WTO rules or permissible under S&DT provisions. However, this balancing act fuels concerns among trading partners about India's commitment to open trade and its compliance with multilateral disciplines, creating friction despite its formal support for the WTO system.

Geopolitical Competition: Navigating a Multipolar World

India operates in an increasingly complex and contested geopolitical environment characterized by the decline of undisputed US hegemony, the assertive rise of China, and the resurgence of Russia, leading to a more fluid and potentially unstable multipolar or multi-centric world order. India's foreign Pol. response has been one of 'multi-alignment' or 'issue-based alignment,' seeking to maintain strategic autonomy by engaging with multiple, sometimes competing, powers and forums rather than entering into binding alliances. This strategy, while offering flexibility, entails significant balancing acts and inherent risks.

The US-India Strategic Partnership: Convergence and Divergence

The relationship with the United States has transformed into a comprehensive Glb. strategic partnership, driven by shared democratic values, converging concerns about China's rise, and growing defence and security cooperation, particularly within the Indo-Pacific framework (including the QUAD). Areas of convergence include maritime security, counter-terrorism, intelligence sharing, and defence trade. However, significant points of divergence and friction remain. These include

persistent trade disputes, differences over approaches to Russia and Iran, US concerns regarding human rights and democratic freedoms in India, disagreements on digital trade rules, and occasional misalignment on specific multilateral issues. Managing these divergences while deepening convergence requires continuous diplomatic effort from both sides.

The China Challenge: Competition, Cooperation, and Conflict

India's relationship with neighbouring China is arguably its most complex and consequential. It is characterized by simultaneous competition, cooperation, and potential conflict. The unresolved boundary dispute, which escalated significantly with border clashes in the Galwan Valley in 2020, remains a major source of tension and military build-up. Strategic competition extends across South Asia, the Indian Ocean region, and Glb. forums, as both countries vie for influence. Economically, despite efforts to reduce dependency, India runs a large trade deficit with China. Yet, both countries cooperate within forums like BRICS and the SCO on shared interests, such as advocating for multipolarity or reforms in Glb. governance. India's strategy involves strengthening its own military and economic capabilities, building countervailing coalitions (like the QUAD), managing the economic relationship carefully, and maintaining dialogue to prevent border incidents from escalating, all while competing robustly for regional and Glb. influence. This multi-pronged challenge profoundly shapes India's foreign Pol. choices.

Maintaining Ties with Russia: Historical Legacy and Strategic Hedging

India maintains a long-standing 'special and privileged strategic partnership' with Russia, rooted in Cold War history, significant defence procurement dependencies, and shared perspectives on certain Glb. issues. Russia has historically been a reliable supplier of advanced military equipment and a supportive diplomatic partner, including at the UN Security Council.

However, Russia's 2022 invasion of Ukraine placed India in a difficult position. While upholding principles of sovereignty and territorial integrity, India has refrained from explicitly condemning Russia's actions, abstaining on critical votes at the UN and continuing to purchase Russian oil (often at discounted prices) and defence equipment. This stance, driven by national interest considerations (energy security, defence needs, maintaining a channel of communication with Moscow) and a desire to preserve strategic autonomy, has drawn criticism from Western partners who expect stronger condemnation of Russian aggression. India's challenge is to navigate this complex relationship, balancing its historical ties and strategic dependencies with Russia against its deepening partnerships with the West and its commitment to a rules-based Int. order. Diversifying defence imports and managing the optics of the Russia relationship remain key foreign Pol. challenges.

Internal Challenges: Domestic Imperatives and Glb. Aspirations

India's ability to project power and Infl.Glb.ly is inevitably constrained and shaped by its significant domestic challenges and imperatives. Foreign Pol. aspirations must contend with the demands of national development and internal stability.

Poverty, Inequality, and Development Priorities

Despite rapid economic growth, India still faces enormous development challenges, including lifting millions out of poverty, addressing significant income inequality, improving healthcare and education outcomes, building modern infrastructure, and creating jobs for its vast young population. These pressing domestic needs shape India's negotiating positions in Int. forums, particularly on issues like climate finance (where it demands substantial support), trade (where protecting farmers and vulnerable industries is paramount), and intellectual property (balancing innovation with access to affordable essentials like medicines

and food). The sheer scale of domestic development requirements also limits the financial and institutional resources available for ambitious foreign Pol. initiatives or extensive diplomatic engagement.

Internal Security and Social Cohesion Issues

India grapples with various internal security challenges, including cross-border terrorism, insurgencies in certain regions (like the Northeast), and managing social cohesion within its diverse society. Communal tensions, caste-based discrimination, and regional disparities require significant government attention and resources. These internal issues can sometimes spill over into the Int. arena, attracting criticism from human rights organizations or foreign governments and impacting India's soft power and diplomatic capital (as discussed in Chapter 6). Maintaining internal stability and social harmony is thus not only a domestic priority but also crucial for sustaining India's Int. standing and capacity for Glb. engagement.

Capacity Constraints: Diplomatic and Legal Resources

Compared to its size, economic weight, and Glb. ambitions, India's diplomatic corps remains relatively small. The Ministry of External Affairs (MEA) faces capacity constraints in terms of personnel, resources, and specialized expertise needed to effectively engage across the full spectrum of complex Glb. issues and multilateral forums. While efforts are underway to expand and modernize the Indian Foreign Service, keeping pace with the growing demands of India's Glb. role is a continuous challenge. Specifically, strengthening legal expertise within relevant ministries (MEA, Commerce, Environment, Finance) is crucial for effectively negotiating complex Int. treaties (in areas like trade, investment, climate change, cyber law), managing Int. disputes (at WTO, ICJ, or arbitral tribunals), and shaping the development of Int. law in emerging areas. Enhancing policy-relevant research capacity in universities and think tanks to support

diplomatic efforts is also vital for informed and effective Glb. engagement.

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