



In the Name of Fairness, Justice and Equity

- Aafreen Ali (IV B.A.LL.B.) and Arya Mitkari (III B.A.LL.B)

India's position on the International Criminal Court (ICC) needs to be studied to understand why India didn't sign the Rome Statute (RS). This will help clarify the challenges and reasoning behind India's decision.

The International Criminal Court derives its origin and powers from the Rome Statute (RS) that was adopted on 17th July 1998 and came into effect on 1st July 2002. Multiple debates and concerns were brought forth by countries of the world, one of them being India. India has relentlessly been working as an advocate for human rights through its policies and procedures adopted to mitigate the aftermath caused by British rule. India made conscious efforts to introduce its newfound voice in world diplomacy by raising concerns regarding the non-inclusion of the use of nuclear weapons and terrorism, along with other war crimes and crimes against humanity.

The United States of America (USA) had strongly criticised and

sanctioned India u/s 102 of the Arms Export Control Act (AECA) for conducting nuclear tests on 11th and 13th May 1998. The reasons given for the same were that India also was not a signatory to the Non-Proliferation Treaty (NPT). Similar views were expressed by other Indo-Pacific Nations. However, later that year during the meeting in Rome for the establishment of the ICC, the US was nowhere to be found in favour of supporting the inclusion of nuclear warfare or weapons under the jurisdiction of the ICC.

As a victim of constant terrorist attacks, India also argued that terrorism should also be covered under the ambit of crimes against humanity, which was also rejected. Due to these rejections, India felt that it was under continuous threat and that its sovereignty would soon be a mere idea. Indian nationals could be picked and prosecuted on any ground and it is not necessary for there to be substantial grounds for the same.

One of the objections India raised was that the ICC should not be made a subordinate body to the UNSC by providing it the power to refer cases to the ICC and the power to block ICC proceedings.

News at a Glance

The Kenya Human Rights Commission (KHRC) and public activist Wanjiru Gikonyo filed a petition in the High Court of Kenya on Thursday to challenge the recent appointments of cabinet secretaries in the country. For more information, see here.

The Court of Appeals (CA) Special 7th Division of Philippines on Friday decided that the revocation order issued by the Philippine Securities and Exchange Commission (SEC) against Filipino news website Rappler was illegal, ordering the SEC to restore the certificate of Incorporation of Rappler, Inc. and Rappler Holdings Corporation. For more information, see here.

The US, UK, and Canada announced more sanctions against Belarusian individuals and entities Friday, all pointing to human rights abuses in Belarus and its support for Russia in the war against Ukraine. The countries moved for slightly different reasons. For more information, see here.



Similarly, the UNSC has extraordinary powers to bind the non-state parties of the ICC to the RS. This is not only unjust but is also in clear violation of a fundamental principle of the Vienna Convention on Law of the Treaties (VCLT), which states that no party can be forced to accede to a treaty. This was done in the case of Omar Al-Bashir, the Sudanese President, who had committed the act of crime in his territory on his people, yet he was held liable by the ICC.

The real objection of India was the inherent or compulsory jurisdiction observed by the ICC. India contested that the ICC's jurisdiction should not interfere with the nation's sovereignty and only serve as complementary to the domestic jurisdiction. The ICC should ideally only enter the picture when the state is incompetent or unwilling to prosecute the offender.

The last few decades have been extremely turbulent with constant ups and downs in terms of Human Rights development. The world has witnessed the commission of heinous crimes without any victim compensation. India being a strong advocate for human rights

must strengthen its policies and show solidarity with effective participation on the international stage. To eliminate the core international crimes, the international community must unite. In the present scenario, India is not a signatory, nor has it ratified the Rome statute. All of the above grounds were concerning enough for India to have its reservations about the Rome statute and the establishment of the ICC. India refused to accept anything less than what it expects out of the arrangements that are supposed to be fair, just and equitable.

Exploring India's Bid for a Permanent Seat at the UNSC

- Harshita Tandon (II B.A.LL.B)

India became one the founding members of the United Nations in October 1945 whilst under British colonial rule. Since independence, India has actively participated in various UN initiatives, focusing on disarmament, colonialism, racial discrimination, and organizational reforms among other things. India's involvement in the UNSC has included non-permanent membership for eight terms, and a total of 16 years of active participation, demonstrating its commitment to the UN principles.

News at a Glance

Amnesty International sent an open letter to the prosecutor of the International Criminal Court on Friday, calling for immediate action against Venezuela for its crimes under international law, where security forces and pro-government groups have been responsible for numerous deaths and the arbitrary detention of thousands of people. For more information, see [here](#).

For conspicuous reasons, the likelihood of direct war between Israel and Iran is increasingly high. What remains inconspicuous is that such a war could quickly or incrementally involve North Korean military assets. For more information, see [here](#).

Human Rights Watch (HRW) and Turkish NGO Freedom of Expression Association warned in a statement on Friday that the Turkish government's blanket blockage of Instagram violates users' freedom of expression and access to information. For more information, see [here](#).



of international peace and security India's quest for a permanent seat at the [UNSC](#) originated in the early 1990s, coinciding with the nation's rise in economic and political prominence on the global stage. The momentum increased notably after the [1998 Nuclear Tests](#), as it demonstrated India's capabilities as a responsible nuclear power. Today, India stands as the largest democracy in the world and presents itself as a key player in international diplomacy and governance. It asserts that reforms are necessary to make the UNSC more representative and efficiently address contemporary global issues. At the Ninth edition of the [Raisina Dialogue](#) in February 2024, the [External Affairs Minister Dr. S. Jaishankar](#), highlighted the stagnation in the [UNSC reforms](#), attributing it to the "short-sighted" approach of the five permanent members, with a veiled reference to China as the primary obstacle.

There are several motivations behind India's demands for a permanent seat at the UNSC. The primary among these is the inherent issues within the UNSC system, particularly in the case of countries with [veto power](#) who enjoy enormous decision-making

powers in the council. For instance, India has been trying to designate [Masood Azhar](#) as a global terrorist since 2009. However, one veto power of China had kept [obstructing](#) it. This arbitrary power of these five countries stands as a direct challenge to the democratic values of the council and the United Nations as a whole. Further, the present composition of permanent members of the Council no longer reflects the geopolitical realities of the world. Since World War II, several new global powers have emerged, significantly altering international relations. Countries like India, Brazil, and Germany have risen in economic and political prominence but still lack representation as permanent members of the UNSC.

Therefore, in 2005, the "Group of Four Countries" ([G4](#)) was founded. The group consists of India, Germany, Brazil, and Japan united with a vision to transform the narratives of the UNSC while bringing reform to its rules and regulations along with the decisions it makes for the United Nations and international peace and relations. However, the G4 has not succeeded in its ambitions. This is largely because the G4 has

News at a Glance

The Sverdlovsk Regional Court announced on Thursday that the treason trial of Ksenia Khavana, a dual citizen of the US and Russia, had reached its final stage. The prosecutor requested that Khavana be sentenced to 15 years of imprisonment in a general regime penal colony, followed by a two-year restriction of freedom. For more information, see [here](#).

A US federal jury on Thursday convicted Manuel Chang, a former finance minister of Mozambique, of conspiracy to commit fraud and money laundering for his involvement in a two billion dollar loan fraud to fund fishing projects. For more information, see [here](#).

Civil society representatives spoke to the UN Security Council on Wednesday, arguing that gender perspectives must be integrated into all components of the peace mission. For more information, see [here](#).



faced strong opposition from other countries. The “Uniting for Consensus” (UfC) group, which is led by Italy, Pakistan, Mexico, South Korea, and others, opposes any expansion of permanent membership. This is mainly because these countries feel that a mere increase of permanent seats in the Council is not an adequate solution as it would only give arbitrary and undemocratic veto power to even more countries. They propose an alternative solution of introducing new “long-term” seats in the Council and a possible re-election. However, the present UN Charter does not allow the same.

Additionally, the permanent members of the UNSC or the P5 (the United States, Russia, China, the United Kingdom, and France) have been reluctant to support reforms that would dilute their power or potentially create more permanent members with veto power. Particularly China has opposed India's inclusion not only at the UNSC but has used its power to block India's inclusion in other important international bodies such as the Nuclear Suppliers Group. This is largely due to the strained relationship between the two countries.

In March 2024, India participated in Intergovernmental Negotiations on Security Council Reform and presented a detailed model for the United Nations Security Council Reform on behalf of the G4. The model calls for a new and democratic election of permanent members of the UNSC by the General Assembly. The model also highlights the glaring under-representation of key regions in the Council's current composition, which hampers its effectiveness. For instance, no permanent member currently represents the African Continent in the UNSC. The model further advocates for flexibility on the veto issue. This means that the new permanent members would refrain from exercising the veto until a decision on the matter is taken during a review process, demonstrating a willingness to engage in constructive negotiations. At present the UNSC displays a paralysis on major underlying global issues. This can be most recently observed in its ludicrous role in mitigating the Russian invasion of Ukraine, where the council failed to reach a draft resolution intended to end the Russian Federation's military offensive against the neighboring State.

News at a Glance

Bulgaria's National Assembly approved an amendment to its Pre-School and School Education Act on Wednesday, prohibiting its education system from promoting LGBTQ+ views in schools where it specifically aims to ban any promotion, incitement or propaganda of non-traditional sexual choices and gender identifications in the Bulgarian education system. For more information, see [here](#).

The UK Supreme Court on Wednesday refused Shamima Begum's application for permission to appeal the 2019 decision to revoke her British citizenship, ruling that the grounds of appeal “do not raise an arguable point of law” as it came after The Begum lost her Court of Appeal challenge in February this year, in a protracted legal challenge. For more information, see [here](#).



Armed with the success of the [Vaccine Maitri Campaign \(2021\)](#), India believes itself to emerge as a leader and representative of the global south in the Council. However, many challenges hurdle India's aspirations and the lukewarm response from the international community has been a cause of great frustration. A permanent seat for India in the UNSC is also hindered due to the fact that its neighbors, [Pakistan](#), [China](#), and many other [South Asian countries](#) oppose the idea of India's permanent membership. India's ongoing tensions with its neighbors thus remain a prime factor in its endeavor for permanent membership in the UNSC. Questions also remain on [India's human rights records](#), particularly in the context of the [disputed region](#) of Jammu and Kashmir.

Although institutional reforms are needed in the UN Security Council, the mere addition of a permanent member to the Security Council is not beneficial for global peace and stability. Instead, a [UN charter-based](#) approach must be adopted for reforms that are both democratic and cooperative. To do this any reform including one that adds another permanent member

to the Security Council would require the agreement of at least two-thirds of UN member states in the General Assembly and must be ratified by two-thirds of Member States. It is evident that there exists a consensus that the UNSC structure is outdated and needs reforms based on merit and democratic values, however, in the end, it will probably be a political decision justified by powerful UNSC permanent member states rather than a democratic one.

Understanding the Recent Greenwashing Regulations of India and the EU

Kaveri Nanduri (II B.A.LL.B)

[Greenwashing](#) is a technique devised by companies to support their claims of being environmentally friendly, whereas the reality is quite the opposite, thus misleading the customers. It is a common phenomenon occurring around us, for instance some products comprising labels like "carbon-free" or "green" do not [entail](#) any reliable evidence or backing of being actually environmentally friendly, they mostly reflect a single environmentally helpful aspect without considering others. Globally, there is an [increasing](#)

News at a Glance

UN experts in Geneva issued a press release urging the Australian government to immediately fulfill its commitment to compensate the families of 39 murdered victims of war crimes in Afghanistan in adherence to International Human Rights Law (IHRL) and International Humanitarian Law (IHL) on Wednesday. For more information, see [here](#).

The US Court of Appeals for the Federal Circuit reinstated a claim brought by landlords on Wednesday who argued that the Centre for Disease Control and Prevention's (CDC) nationwide eviction moratorium during the COVID-19 pandemic constituted a "taking" under the Fifth Amendment, entitling them to compensation. For more information, see [here](#).



awareness among consumers about the issue of climate change and the need to be sustainable, so such misleading practices can cause consumers to lose trust and further discourage them from buying products that are genuinely sustainable.

One famous case of greenwashing was in the year 2015 when Volkswagen was found by the US government agency to be misleading its consumers and regulators by portraying its diesel cars as environmentally friendly when in fact they were actually emitting 40 times the permitted levels of pollutants. In India also there have been various cases such as the Godrej GoodKnight Patches Case where Godrej Consumer Products Ltd. was accused of making false claims of being “100% natural” and “chemical-free” when it contained synthetic ingredients. Godrej was fined Rs. 15 lakhs by the Advertising Standards Council of India (ASCI).

Greenwashing is a serious problem that needs our immediate attention. It not only misleads consumers but also sets back the real efforts that are taken to protect the environment. When companies make false green

claims, they create a false sense that enough is being done for the environment. This can make consumers feel like they are making environmentally friendly choices when in reality they are not. As a result of this, products and practices by companies that are actually sustainable might be overlooked, thus wasting precious time in our fight against climate change. Recognizing the seriousness of this issue, both India and the European Union have begun implementing regulations to curb greenwashing and help consumers make better-informed choices.

In February earlier this year, the Consumer Affairs Ministry released the draft Guidelines for regulating Greenwashing in India. These guidelines require companies to disclose all their environmental claims including a comparison with products of another company. This should be backed by reliable certification and independent third-party verification. All these disclosures should be done by companies either directly on the product, its package, in relevant advertisements, or through the use of digital technology like weblinks. These also require companies to disclose what stages of the

News at a Glance

The Supreme Court of India on Friday granted bail to Manish Sisodia, the former deputy chief minister of Delhi and a senior leader of the Aam Aadmi Party (AAP), marking a significant development in the ongoing legal proceedings related to the alleged Delhi excise policy scam. For more information, see [here](#).



manufacturing process these environmental claims are related to and avoid selectively presenting information that only favours them. Finally, these guidelines include fines up to 10 lakh rupees that the CCPA can charge and provisions for discontinuing of the advertisement when the CCPA finds that an advertisement has made a false environment claim. Apart from the draft guidelines, the ASCI has also released guidelines which have come into effect from February 2024 which state that terms that suggest a positive effect on the environment such as “planet-friendly” should be backed by some verifiable scientific evidence.

The EU recently introduced the “Green Claims Directive” and “Empowering Consumers towards Green Transition Directive” as a part of the green deal of the EU to make the European Union a carbon-neutral continent by 2025. The EU directive on “Empowering Consumers towards Green Transition” mostly aims to make sure the consumers are making well-informed choices, without being duped by deceptive claims on the environmental and social benefits of the product. This directive includes a variety of

restrained practices like displaying unverified sustainability labels, prohibits use of unascertained claims of being “green” or “carbon-friendly” while advertising the product unless they are backed by standards like the EU Ecolabel Regulation.

The Green Claims Directive, adopted in March 2023, works in integration with Greenwashing Directives in order to reinforce consumer rights in a better manner. It requires businesses to validate their claims through a more transparent mechanism like facilitating with URL or QR Codes that contain all information and studies undertaken to measure the environmental impact of the product. Further, this directive also ensures that environmental claims and labels will be subject to independent third-party expert verification. The Green Claims Directive provides a mechanism for individuals and organizations to appeal against misleading marketing practices and also goes on to impose penalties such as fines of up to 4% of the annual turnover and confiscation of revenue gained from noncompliant claims on companies that fail to comply with the directive.

Upcoming Activities

Biennial Conference on Local Approaches to International Economic Law:

Saielin has extended the last date for submission of an abstract for its 4th Biennial Conference on Local Approaches to International Economic Law to 31 August 2024, 23:59 IST. For more information, see [here](#).

Calls for Papers Increasing Avenues for International Justice and Accountability in Asia:

The Asia Justice Coalition and Universitas Andalas Law Faculty are seeking abstracts for a workshop entitled ‘Increasing Avenues for International Justice and Accountability in Asia’. The workshop will be held from 23rd-24th September 2024. For more information, see [here](#).



Turning our attention back to India, the [ASCI guidelines](#) currently ensure that companies use verifiable environmental claims. However, it becomes important to note that these guidelines are not providing penalties or fines for not complying with them. The [draft guidelines](#) by the consumer ministry which are yet to be formally enforced take care of this by providing for punishments in case of false green claims. However, on the other hand, directives adopted by the EU which have come into force include strict penalty provisions to hold companies accountable and prevent future false green advertisements by companies.

Nevertheless, it seems for now that both India and the European Union have acknowledged this problem and created rules to tackle it. By looking at the approaches of both of them simultaneously, we understand the various strategies that can be used for combating greenwashing such as the implementation of strict guidelines, third-party verifications, and penalty provisions.

Greenwashing is a harmful practice that misleads consumers and stands in the way of real progress

in our global fight against climate change and protecting the environment. Even though India has taken positive steps with its new draft guidelines, they have not yet been officially adopted like the EU's regulations. The EU's Green Claims Directive could serve as a model to regulate the practice of greenwashing and achieve sustainability. Climate change is a broad issue that transcends boundaries, and collaboration between different regions can help create a future which is more greener and transparent.

Upcoming Activities

EU Trade and Investment Law Workshop Questioning Economic Security:

This year's workshop focuses on 'economic security' and the economic security package. The blurring of trade and security has been visible in many corners of EU trade policy. Scholars are invited to submit abstracts that critically engage with these issues by Friday, 27 September 2024. For more information, see [here](#).

ASIL International Economic Law Biennial Conference:

Applications are now open for paper and panel proposals, and the deadline by which to submit a proposal is 15 October 2024. For more information, see [here](#).

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