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Legitimacy of G20: Its Challenges and Opportunities

SUDIKSSHA S.R.¹ AND V. SANDHYA RAGA²

ABSTRACT

Today's world international relations are increasing where states become signatories to formal treaties and conventions. G20 is an important forum where countries discuss global economic and political problems thereby making informal international laws. India's G20 Presidency is a significant event where it promotes universal sense of one-ness under the theme 'One Earth, One Family, One Future India' as fastest growing economy, its presidency will play a crucial role in building significant achievements. Principles of legitimacy plays a crucial role when norms and declarations are passed at international level. The passed norms or declarations are not always in accordance with principles of right process. This article compares the principles of legitimacy with that of G20 forum and need for international regulatory system. It also states the challenges that G20 presidency 2023 faced and opportunities that is lined ahead of it.

Keywords: G20, India's presidency, legitimacy, challenges and opportunities

I. INTRODUCTION

In 21st century countries have wide control over the economy including imports, exports, external investment and banking system. The fight to regulate economic power by entering into treaties and agreements offer new economic strategies and financial stabilities to countries. Universally every state has the right to engage in international trade and agreements irrespective of their political, economical and social systems. Agreements entered by these states can be bilateral or multilateral : Articles of Agreement of International Monetary Fund, The treaty of Rome of 25 March 1957, The general agreement on Trade and Tariffs are some of the examples. Apart from adoption of instruments like treaties, the period from 1972 saw new economic order namely United Nations General Assembly's Consensus Declaration of 1974 on Establishment of New Economic Order, The Charter of Economic Rights and Duties of States adopted by the Assembly of 12 December 1974, The Rambouillet Declarations adopted on 17th November 1975 by economic summit conference of major industrial powers. These made a way for new

¹ Author is a student at SASTRA Deemed University, India.

² Author is a student at SASTRA Deemed University, India.

declarations and actions coming into force³.

G20 is an international forum composed of Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Republic of Korea, Mexico, Russia, Saudi Arabia, South Africa, Türkiye, the United Kingdom, the United States, the African Union representing 55 member states and the European Union⁴. These world's largest economies come together to promote international financial stability and economic cooperation. The G20 members account for 85 percentage of global GDP, two thirds of world's population and 75 percentage of international trade⁵. The G20 meets annually at a summit with parallel tracks: the Finance track and Sherpa track. The forum focuses on issues pertaining to climate change, energy, economic growth, financial regulation, trade and development. G20 leaders recently met in New Delhi for 2 day summit hosted by Indian G20 presidency under the theme "One Earth, One Family, One Future" discussing Russia's war against Ukraine, sustainable growth, climate and environment, digital transition and gender equality⁶.

II. LEGITIMACY OF G20 UNDER INTERNATIONAL LAW

RULE OF LAW

The rule of law states that all authoritative acts are governed by pre-existing system of substantive and procedural rules. In administrative law, the rule of law acts within the government's power to make laws but in global level, rule of law is a legal order arising out of fixed and set of principles together with access to resolution of disputes by international courts⁷.

PRINCIPLES OF DEMOCRACY

The second important principle is democracy which acts as an obligation of international law. Democracy legitimises the exercise of power and maintains the political stability across nation borders⁸.

GOOD GOVERNANCE

Lastly the good governance standard which should be implemented both at supra national and international levels with exercise of decision making power. In this regard EU did pioneering role by adopting rules and regulations to fulfil principles of openness, transparency,

³ I.A. SHEAKER, STARKE'S INTERNATIONAL LAW(11TH EDITION.1994)

⁴ <https://www.india.gov.in/spotlight/group-twenty-g20>

⁵ https://www.moes.gov.in/g20-india-2023/moes-g20?language_content_entity=en

⁶ <https://www.g20.org/en/about-g20/>

⁷ Alexander, K., Lorez, K., Zobl, M., & Thürer, D. (2014). The Legitimacy of the G20-A Critique Under International Law. Available at SSRN 2431164.

⁸ T Franck, 'The Emerging Right to Democratic Governance' AJIL 86 1992, 46ff.

accountability and participation. This model of EU can be adopted by other international institutions⁹.

Comparing these three principles with G20:

G20 is an informal international law making institution contrast to traditional law making institutions like UN, EU.

Generally traditional lawmaking is a result of treaties and other sources of international law but in case of informal lawmaking, they are described as standards, protocols and declarations. They hold meetings which may be organised loosely. The actors involved are not only traditional diplomatic actors but also domestic regulators, domestic ministers, sub legislative or judicial branch¹⁰.

- G20 was formed as informal ad hoc grouping government as an immediate response to Asian Financial Crisis of 1999¹¹.
- Entrenchment of G20 was not based on legal instrument such as treaty, Charter or statute otherwise which would have fundamental and procedural principles binding in fair and transparent manner¹².
- It lacked procedural protocol for inviting participants. Before 1999, participants were chosen and invited by U.S Treasury and German Finance Ministry.
- G20 lacks legal personality and raises institutional concerns for absence of fixed headquarters and secretariat.
- There is no formal connection with United Nations Economic and Social Council (ECOSOC) as the G20 members are responsible to answer economic questions pertaining to Article 63 of UN Charter. In addition, it also lacks formal connection with IMF, WTO and other economic organisations
- No effective selection process for selecting permanent and visiting members. It has no specific objectives to admit states, making it bogus. Addition of African Union into G20 also lacks admitting criteria.
- Political discretion and arbitrariness in invitation of members.

⁹ Ibid (N 57). For critique in light of EU Democratic Deficit Debate see Charlemagne, 'A democratic debate' (The Economist, 26 October 2013).

¹⁰ Wouters, J., & Geraets, D. (2012). The G20 and informal international lawmaking. *KU Leuven-Leuven Centre for Global Governance Studies Working Paper*, (86).

¹¹ Mukherjee, B. India and the G20 Presidency: Its Priorities and Challenges. *India Foundation*.

¹² J Wouters and T Ramopoulos, 'The G20 And Global Economic Governance: Lessons From Multi-Level European Governance?' *Journal of International Economic Law* 15(3) September 2012 751ff, 764

- There is no apparent reason why EU is a permanent member, some EU states representing twice while others only having visiting member status¹³.

The primary requirements for G20 permanent membership are GDP, population size, and weighting in international trade. This raises significant concerns regarding whether other economic and non-economic aspects should also be taken into account. It also put forth the question of how these variables need to be prioritized. It seems that the G20 lacks a precise and well-defined framework for legitimizing itself, which leads to an almost random and coincidental implementation of these standards. While the G20's representativeness was a significant improvement over the G8, which was primarily composed of western industrialized nations, the fundamental issue of representation has not been addressed by the G20's increased membership¹⁴.

Another lacuna is representation of minority. The head of state's representation at an international legal forum may not be adequate if international law is not just seen from the perspective of interstate relations but also from that of fundamental individual rights. This is due to the fact that state and national elected officials are limited to representing the opinions of the majority of voters who cast ballots while minority voting interests may not be sufficiently represented.

Elected representatives, such as national parliamentarians of minority parties, representatives of local and regional governments within a state, and non-governmental interest groups, must be included in an inter-subjective (as opposed to an inter-governmental) perspective on international law. In this sense, it has been stated that establishing an internationally elected parliamentary panel is the only means of achieving effective democratic control over multinational organizations¹⁵.

The accountability concept and the representation principle are intertwined. In addition to representative and transparent institutions, effective democracy and good governance also need the ability to hold decision-makers responsible through sufficient oversight and control measures¹⁶.

¹³ Alexander, K., Lorez, K., Zobl, M., & Thüerer, D. (2014). The Legitimacy of the G20-A Critique Under International Law. Available at SSRN 2431164.

¹⁴ Therefore dominating the networks ideas with Western ideas: Choo and Kelly (N 11) 56.

¹⁵ See F H Cardoso, Report of the Panel of Eminent Persons on United Nations-Civil Society Relations of 2004, especially 23ff; as well European Commission White Paper on European Governance of the EU (N 51) "Civil society plays an important role in giving voice to the concerns of citizens and delivering services that meet people's needs" 14

¹⁶ See Cardoso (N 84) 24: "One of the key principles of representative democracy is connecting citizens to the decisions that affect them and ensuring public accountability for those decisions".

First, through political processes that are both direct and indirect and entail the election and removal of representatives by the general public. Second, to ensure effective checks and balances on administrative rulemaking and unconstitutional statutes, judicial review and oversight are necessary. Similarly, public and private watchdogs, including ombudsmen, non-governmental organizations, the media, and other civil society groups, can be used to oversee administrative or governmental actions.

There are at least two ways in which the G20 disregards these limitations: First, there is no way for non-member governments to sway G20 leaders. Second, the primary decision-makers are heads of state, heads of governments, and governors of central banks; this represents an over-governmentalization of international economic interactions, especially as legislative and civil society organizations are typically excluded from G20 summit participation. The political influence of the afflicted and worried populace during the G20 policymaking phase is absent, even though critical media coverage, an aware public, and scientific and political debates can partially offset the accountability deficit¹⁷.

III. INDIA'S PRESIDENCY

India joined the G20 in 1999, the year it was founded. India made sure that its viewpoint on matters of critical national concern was included in the global financial narrative as a significant group member. India took over G20 presidency in 2023. The election of India to the Presidency coincides with a turning point in world affairs. The international world is dealing with a number of political and economic difficulties. The conflict between Russia and Ukraine has negatively impacted relations between Russia and the industrialized Western nations, the majority of which are G20 members. The war and the subsequent Western-imposed unilateral sanctions have disrupted the post-pandemic global recovery, severely affecting the cost of food and gas as well as the availability of oil and gas. As usual, the most vulnerable—developing nations and least developed countries—feel the brunt of the effects¹⁸.

India look for workable international solutions for everyone's well-being, in keeping with the true spirit of *Vasudhaiva Kutumbakam* (the world is one family). India's rapid economic and social change, spearheaded by the Prime Minister, has influenced the country's vision for the global development agenda, especially in the areas of green and digital transformation¹⁹.

The pandemic's aftereffects are especially significant because they highlighted the need for

¹⁷ The intra state checks-and-balances system must fulfil its duty. See Choo and Kelly (N 11) 64.

¹⁸ Mukherjee, B. India and the G20 Presidency: Its Priorities and Challenges. *India Foundation*.

¹⁹ <https://www.g20.org/en/g20-india-2023/logo-theme/>

robust healthcare systems and international cooperation.

India's foreign policy has been reshaped by PM Modi to emphasize the "global common good." India intends to apply this idea to the identification of long-term solutions for some of the major worldwide issues arising from the interconnection of the world, including food and energy security, climate change, and new and emerging technology²⁰.

CHALLENGES OVERSEEN

1. IMF was founded to support the monetary system by promoting collaboration on global monetary matters, giving members technical and advisory support, and providing emergency loans to countries that consistently struggle to return their balance of payments to equilibrium. However, the IMF developed a new exchange rate system in its place. Unlike the previous international gold standard, countries would adjust their exchange rates to the U.S. dollar under this arrangement. The Bretton Woods system is the name given to this arrangement. Only the US dollar is used as the medium of exchange for international trade since the Bretton Woods system was established. Trading of oil and other commodities, forex reserves (also known as foreign exchange reserves), bilateral trade agreements (in which case commerce in dollars will occur between India and Sri Lanka), and dollar-denominated assets were all conducted exclusively in US dollars. Because of all of this, there is now an international economic system that exclusively benefits American business interests²¹.

2. Chinese yuan domination has recently supplanted the US dollar's dominance. Through its Belt and Road Initiative, China has been gradually substituting Chinese yuan for US dollars in commerce. It requires to expand its economic hegemony and has agreements to trade in national currencies with Australia, Russia, Japan, Brazil, and Iran. This is risky for both our own national interests and the health of the global economic system as a whole. The Arab world and the euro each have their own petrodollars²².

3. The developed nations support protectionism in terms of farm subsidies to domestic agricultural industries, but they oppose free trade in industrial goods and services. Stated differently, their aim is for developing nations to reduce their tariff barriers to trade for manufactured goods like electronics and digital products. However, since developing nations

²⁰ <https://www.newindianexpress.com/nation/2022/nov/27/india-must-utilise-g20-presidency-by-focusing-on-global-good-pm-modi-2522707.html>

²¹ Warwantkar, S. (2023). INDIA'S G20 PRESIDENCY: CHALLENGES AND OPPORTUNITIES. *VIDYA-A JOURNAL OF GUJARAT UNIVERSITY*, 2(1), 48-52.

²² <https://www.businessinsider.in/policy/economy/news/chinaaposs-yuan-is-emerging-as-a-strong-challenger-to-the-dollaraposs-dominance-here-are-5-countries-that-recently-turned-to-the-yuan-instead-of-the-usd-for-trade-/slidelist/100086525.cms>

are better positioned when it comes to agricultural products, raw materials, or natural resource products, they turn to covert, subtle non-tariff trade barriers like import quotas, subsidies, customs delays, and technical barriers. It is now impossible to begin new WTO negotiations after the Doha Development Round due to this impasse. The WTO mechanism, which is primarily based on multilateral free trade agreements, has been sidelined as a result of the rise in bilateral free trade agreements between nations.

4. The World Bank and IMF were established to provide emergency loans to countries experiencing balance of payments issues. These loans, however, are contingent upon the implementation of specific policies, or SAPs, by the recipient nations, including privatization, trade and foreign investment liberalization, and deficit balancing. Reduction of the budget deficit through austerity measures, which include raising taxes and cutting spending. Reduction on government spending by privatizing state-owned businesses and liberalizing the hiring of foreign direct investment. As a result, nations totally forfeit their economic independence. The impoverished are the main victims of cuts to governmental spending. Governments found themselves spending more money on paying off foreign debts than on these basic services in many circumstances. Multinational corporations are able to enter states and take use of their resources by undermining a government's capacity to structure and control its domestic economy. Neo-colonialism has the effect of using foreign wealth not for the development of the less developed regions of the world but for their exploitation. Under neo-colonialism, investment widens the global divide between rich and poor nations rather than narrowing it²³.

5. The rapid transformation in field of technology posts threats towards many G20 countries as some are being left out behind the transformation, resulting in severe economic and social consequences.

6. The implementation of New Delhi leaders declaration will have significant impact as speed and consistent efforts are required to oversee the implementation mechanism.

7. G20 meeting on tourism held in India-administered Kashmir was boycotted by China and Saudi Arabia because Kashmir territory contains territory claimed by Pakistan as well as by India. A row broke out between China and India where China released a map claiming Arunachal Pradesh and Akashi Chin as Chinese territory²⁴.

²³ Warwantkar, S. (2023). INDIA'S G20 PRESIDENCY: CHALLENGES AND OPPORTUNITIES. *VIDYA-A JOURNAL OF GUJARAT UNIVERSITY*, 2(1), 48-52

²⁴ *China's new map outrages its neighbors* (2023a) *NBCNews.com*. Available at: <https://www.nbcnews.com/news/world/china-new-map-anger-india-south-china-sea-border-disputes-rcna102921> (Accessed: 14 December 2023).

IV. OPPORTUNITIES AHEAD

1. A primary objective of India's G20 agenda is to deliberate on methods for international partners to embrace India's digital payment services, such BHIM-UPI. India is the leader in digital payment technologies. Member nations, in particular, are eager to embrace this technology, drawing much of their inspiration from India's digital payment boom. India, together with its other Global South members, can advocate for a more egalitarian and stable system of economic transactions through its G20 chair. India has made use of technology to produce open, inclusive, and interoperable digital public goods. India and Russia signed the Rupee-Ruble Trade Arrangement in March 2022. The primary goal of this DE dollarization process is to eliminate Dollar Hegemony and replace the US dollar as the only currency used in international commerce and investment. This will allow us to far more effectively defend our own national economic interests²⁵.
2. By advancing the Doha agenda, India, as the G20 summit chairperson, may bring the group's discussions about revamping the WTO back on track. India may use the G20 process to achieve a stable, inclusive, and representative global financial and economic system by banding together with other like-minded nations.
3. India has the chance to represent the underrepresented Global South in these forums by taking on the role of G20 Presidency. Latin American, African, and Asian nations rely on India to stand up for them. The interests of the Global South will determine our G20 priorities. India can present a number of ideas for a New International Economic Order (NIEO) that would genuinely interdependence and put an end to economic colonialism and dependency. The following resembles those in the "Declaration on the establishment of a New International Economic Order":

- Each State retains complete sovereignty over its natural resources and other economically vital activities for development.

- Transnational corporations should be reregulated.

- Possibilities for the transfer of suitable methods and technologies, as well as limited foreign help.

- One criticism leveled at these Bretton Woods institutions is that the nations who contribute the most have an excessive amount of power over the institutions' policies. Consequently,

²⁵ 'interested in improving rupee trades with G20 countries': Commerce secretary (2023) *The Indian Express*. Available at: <https://indianexpress.com/article/business/economy/interested-in-improving-rupee-trades-with-g20-countries-8522463/> (Accessed: 14 December 2023).

there is a great desire for the institutions to become more democratic²⁶.

V. CONCLUSION AND SUGGESTIONS

Safety and financial stability have attained global character. The establishment of Bretton Woods Institutions are no longer able to meet the needs of today's growing economy. Although IMF, WTO and World bank have their stable institution structures as advantage, they lack scope of legitimacy and authority to address the financial risks sprouting from different countries.

The phases of G20 added considerable progress to stabilize the global economy. However there posts a threat for effective international regulatory system. G20 's lack of accountability and opaque institutional structures hinder the initiatives that countries take resulting in delayed and effect less implementation. India's presidency of 2023 saw a consensus on joint declaration marking a significant diplomatic breakthrough however, lacking legal principle of Legitimacy.

This article argues on G20's declarations and norms that are not effective and legitimate because they are not formed in accordance with accepted principles of right process. The article critiques on challenges and overseen opportunities in 2023 presidency. In furtherance what ever reforms the G20 adopts must comply with democratic and equitable international order put forth by UN institutions. This can lead to redefined mandate for allowing non- member to participate in policy making. It is also suggested that G20 should integrate itself with other UN ECOSOC, IMF, WTO, World Bank, in order to have effective governance structure. Adoption of rules and regulations by European Union to fulfil principles of openness, transparency, accountability and participation can be induced into G20 for effective institutional structures.

G20 remains as a significant forum for global economic governance, its success will depend only on continued commitment and cooperation of the members.

²⁶ Warwantkar, S. (2023). INDIA'S G20 PRESIDENCY: CHALLENGES AND OPPORTUNITIES. *VIDYA-A JOURNAL OF GUJARAT UNIVERSITY*, 2(1), 48-52