

## **Global Multilateral Institutions: The Indian G20 Moment**

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### **Introduction**

The increasing pace of globalization coupled with the rapid evolution of technology has thrown up several new challenges before the international community. These developments have made the territoriality principle under international law almost irrelevant. The world has practically transited from the dominant sovereign nation State-Centric approach to an all-encompassing global connectedness. These developments have inevitably necessitated enhanced levels of international cooperation and understanding among States. Multilateral institutions inevitably play a pivotal role while managing the affairs of the ever-changing world of the present times. The evolution of multilateral institutions has a history of over a hundred years. They have transformed the nature and content of the prevailing concept of State sovereignty. Shedding their sovereignty, States over the years have consented eventually to the creation of various kinds of multilateral institutions.

### **Evolution of Multilateral Institutions**

The earliest multilateral institution created during the later part of the 19<sup>th</sup> Century was the Universal Postal Union (UPU) to facilitate exchange of letters across various States<sup>1</sup>. This was followed by the International

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<sup>1</sup> Universal Postal Union (UPU) was established in 1874 with the conclusion of Treaty of Bern to coordinate postal policies among its 192 Member States, see Universal Postal Union (upu.int) (accessed 24.08.2023)

Telecommunication Union (ITU) to coordinate the telegraphic communication.<sup>2</sup> The industrial revolution during the later part of the 19<sup>th</sup> century necessitated protection of intellectual property rights in the form of patents and copyrights. The Paris Convention for the Protection of Industrial Property, 1883 and the Berne Convention for the Protection of Artistic and Literary Works were concluded. An institutional mechanism was put in place to implement both the Paris and Berne Conventions.<sup>3</sup>

The Hague Peace Conference of 1899 and 1907 created for the first time a mechanism to settle international disputes with the creation of the Permanent Court of Arbitration (PCA).<sup>4</sup> It was with the establishment of the League of Nations after prolonged negotiations during and post First World War with the conclusion of the Treaty of Versailles that the era of permanent political multilateral institutions began.<sup>5</sup> Major events such as World Wars, Great Economic Depression and the financial meltdowns have greatly impacted the global economic and political order. Some of these developments in the field of international law, however, had been limited to few Western and European countries. Colonization was also a major factor in global affairs as it created an inequitable world order. However, all this changed with the conclusion of the long and traumatic Second World War.

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<sup>2</sup> International Telegraphic Union (now known as International Telecommunication Union) was established in 1865 making it the oldest multilateral institution; See, About ITU (accessed 24.08.2023)

<sup>3</sup> The World Intellectual Property Rights Organization (WIPO) administers both Paris and Berne Conventions. These conventions have a separate institutional mechanism in the form of a treaty body; for details see WIPO-Administered Treaties (accessed on 24.08.2023)

<sup>4</sup> PCA was established in 1899 through a treaty; see Home | PCA-CPA (accessed 24.08.2023)

<sup>5</sup> The Treaty of Versailles in 1919 ended the First World War and created the League of Nations. The International Labour Organization (ILO) was also established along with the League of Nations. See The League of Nations | UN GENEVA (accessed on 24.08.2023); For ILO history see History of the ILO (accessed 24.08.2023)

The Second World War and its aftermath resulted in the creation of the United Nations (UN) as a successor to the League of Nations. Most of these multilateral institutions had been constituted to regulate use of force by the States and ensure prevalence of peace among nations. The creation of the United Nations through an intensely negotiated UN Charter during and in the aftermath of the Second World War transformed the nature and functioning of international institutions.<sup>6</sup> The independent existence and the personality of an international institution, duly constituted by a constituent instrument, were formally recognized by international law.<sup>7</sup>

With a large number of new States, almost hundred and more, joining the international community as independent States post Second World War, the necessity for the creation of a more equitable, durable and global international institution became inevitable. With a large number of new States joining the United Nations as members, the nature and working of the United Nations transformed considerably.<sup>8</sup> The sovereign equality of States was the guiding principle in building the basic structure of all the future multilateral institutions.

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<sup>6</sup> See, Leland M Goodrich, Edvard Hambro, Anne Patricia Simons, United Nations Charter: Commentary and Documents (UNESCO:1969) Charter of the United Nations: commentary and documents - UNESCO Digital Library (accessed 25.08.2023)

<sup>7</sup> On the issue of legal personality of an international organisation, in particular, United Nations see the Advisory Opinion given by the International Court of Justice (ICJ) in the *Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter)*, International Court of Justice (1962) *Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)* (icj-cij.org) (accessed on 24.08.2023); Also see Rahmatullah Khan, *Implied Powers of the United Nations*, (Vikas:1970).

<sup>8</sup> For an assessment of the impact of entry of new states into the international community and on the United Nations system see R. P. Anand, *New States and International Law*, (Vikas: 1972) pp. 120.

## Emergence of Informal Alliances

With such a large number of States with varied domestic and international concerns becoming participants in the global order, the functioning of the United Nations and other international organisations confronted several challenges. Conclusion and implementation of multilateral treaties and agreements resulted in long negotiations as it had to incorporate suitable concerns of different States with varied interests. This delayed the decision-making process and also the formulation of international legal principles. Some of the global concerns in the present times require urgent attention and implementation.

In order to achieve this, forging of informal alliances became inevitable. Such informal alliances would be useful in taking quick decisions and implementing them. This led to creation of various kinds of informal groups and coalitions of States pursuing common interests at the international negotiating forums. Such coalitions were created within the existing multilateral institutions for various political and economic reasons. The ideological differences among States also resulted in the creation of different kinds of blocks and informal coalitions.<sup>9</sup> Such informal alliances and groupings with powerful States being part of it have transformed the global economic and political landscape.<sup>10</sup> G20 is one such formation that has assumed immense significance in the global arena in the present context.

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<sup>9</sup> G7 comprised of seven major economic powers; See, G7: The Group of the Seven | G7 Germany 2022 (accessed 24.08.2023); G77, established in 1964, comprised of major developing and other countries was both a political and economic alliance that shaped the global order and continues to do so; See, The Group of 77 at Fifty | United Nations (accessed 24.08.2023)

<sup>10</sup> Randall W. Stone, "Informal governance in international organizations: Introduction to the special issue", *The Review of International Organizations*, Vol. 8 (Springer: 2013) pp. 121-136.

## International Legal Status of G20

States accord international legal personality to multilateral institutions through a formal constituent instrument.<sup>11</sup> On account of this legal personality the relevant international organisation has an independent existence from its Member States. This applies to both universal and regional multilateral institutions. The number of such multilateral institutions in the present world order has been increasing phenomenally. These institutions facilitate international cooperation in various fields. The United Nations and several other leading multilateral institutions undertake codification and harmonization of international law. Most importantly, they also facilitate creation and evolution of binding international legal principles through state practice. States are the main actors in the formulation of such norms.

However, evolution of international legal norms through state practice takes considerable time to crystallize into binding customary norms. Therefore, States have been taking recourse to informal and more consensus-oriented alliances to make quick decisions. Such alliances also help States that are part of it to coordinate and harmonize their domestic policies and approaches while negotiating in the formal international organisations such as the United Nations, World Trade Organisation and others.

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<sup>11</sup> The General Agreement on Tariffs and Trade (GATT) established through a Provisional Protocol in 1948 had no legal personality. It was created as a temporary mechanism through a Provisional Protocol. It worked in that capacity for 48 years. GATT was succeeded by the World Trade Organisation (WTO) and was formally accorded a distinct legal personality in Article 1 of the Agreement Establishing the WTO; see Agreement establishing the World Trade Organization ([wto.org](http://wto.org)) (accessed 24.08.2023)

In recent times due to increasing globalization and to meet the emerging challenges, particularly in the technological areas, faster crystallization of international substantive and procedural norms is required. States increasingly prefer to assimilate their common understandings and policies through more informal institutional mechanisms. For example, the urgent need to respond and to regulate the global level digital technologies, international banking practices and several other similar areas required quick decisions in terms of policy and their implementation.

The global financial crisis in 1999 followed by the 2008 financial crisis required some urgent attention and monetary policy assimilation. G20 was created as an informal grouping of about 19 States, with the membership of both developed and developing States to discuss and to arrive at common understanding on some of these issues. Initially when established in 1999, the G20 was essentially a forum to arrive at common understanding and assimilation of monetary policies through the meetings of the Finance Ministers and the Central Banks. Subsequently in 2008 in the aftermath of the financial crisis in the West, the participation level was upgraded to the meetings of Heads of States and Governments.<sup>12</sup>

The Group of 19 States (known as G20) and nine States as invitees for the 18<sup>th</sup> New Delhi Summit meeting was created as an informal body to deal with some of the crucial economic issues that were affecting the globe. It has a membership that spans the globe. The members of this group account for nearly 85 per cent of the global GDP, over 75% of the global trade, and about two-thirds of the global population.<sup>13</sup> In terms of reach and economic

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<sup>12</sup> For an overview and background of G20 see About G20 (accessed 24.08.2023)

<sup>13</sup> See, G20 Members; About G20 (accessed 24.08.2023)

influence G20 is a formidable alliance of both developed and developing countries. Besides these, some of the key international and regional institutions have also been invited.<sup>14</sup> It is just an alliance, not a multilateral institution created through a formal treaty.

Further, G20 has no formal institutional structure such as a Secretariat or such similar bodies. One of the members of the G20 designated as President for a year decides the agenda and hosts meetings for that period. In other words, the State which hosts the meeting of the G20 assumes the Presidency of the group for that year. As President of the Group the concerned State could host several other relevant smaller meetings throughout the year. All these meetings will arrive at certain conclusions and recommendations and will be taken up at the final summit level meeting hosted by the State that has assumed the Presidency. These decisions and recommendations adopted at the various meetings by the experts will be reflected in the final declaration to be adopted at the Heads of States' meetings.

The entire decision-making is done through a Troika of States which is a constitution of three States that include (a) the State which is hosting; (b) the State which hosted the meeting previously; and (c) the State which is going to host the meeting in the coming year.<sup>15</sup> It is the responsibility of the host State to create a Secretariat with a designated officer known as *Sherpas* and

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<sup>14</sup> Following International Organisations have been invited as guests by India: The regular international organizations such as United Nations, International Monetary Fund, World Bank, World Health Organization, World Trade Organization, International Labour Organization, Financial Stability Board, Organization for Economic Cooperation and Development and Chairs of Regional Organisations such as African Union, African Union Development Agency- The New Partnership for Africa's Development and Association of South-East Nations. India will also be inviting the International Solar Alliance, The Coalition for Disaster Resilient Infrastructure (UN Agency) and Asian Development Bank.

<sup>15</sup> *How G20 Works*, See, About G20 (accessed 24.08.2023)

work round the year to host several meetings, seminars and workshops under the auspices of G20.

The international legal status of the G20 emerges from its State-centric representative character. The final meeting of the G20 is represented by the Heads of States and Governments. Under international law, the statements made by such Heads of States and Governments in any forum are regarded as binding. The level of representation provides G20 its international legal status. However, the language of the final Declaration adopted by the Summit Meeting is crucial. The language of the Declaration is worded in a more persuasive manner. Most importantly, a closer scrutiny of the Declarations of G20 as adopted in the last fifteen Heads of States' Summits reveals to us that it is more about coordination and convergence of economic and related policies in various other formal negotiating forums. In the following discussion, a brief account of the 2022 of the Bali Declaration (Indonesia) has been provided to show as to how the G 20 Summit Declaration is formulated and worded.<sup>16</sup>

### **G20 Declarations: Signpost to Future**

The final Head of the State/Government Summit of the G20 Declaration is a non-binding, yet a formal document under international law. This Declaration will have to be adopted by the G20 Member States generally through consensus. This Declaration will have to be fine tuned to incorporate concerns of all Member States. The Declaration will be a powerful document as it seeks to reflect the consensus of a majority of the global economic powers. The

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<sup>16</sup> *G20 BALI LEADERS' DECLARATION*, Bali, Indonesia, 15-16 November 2022



Declaration is what is generally termed in international law as a ‘soft law’ instrument.<sup>17</sup> Under international law a binding document will have to be a formal treaty as adopted by the States after negotiations. Such documents concerning a treaty adoption are termed as “hard law” instruments. Such hard law instruments create binding obligations on States. For that reason, States may sign the treaty, but may take time to ratify the same after completion of their domestic legal requirements.

The language adopted at the G20 Bali Declaration from 15-16 November, 2022 on various global contentious issues through consensus should be noted. On Russia-Ukraine War it, *inter alia*, noted that it was causing immense human suffering and exacerbating existing fragilities in the global economy like constraining growth, increasing inflation, disrupting supply chains, heightening energy and food insecurity and elevating financial stability risks. It also further noted diverse views and different assessments of the situation and sanctions. However, there is insistence on upholding international law and the multilateral system that safeguard peace stability.<sup>18</sup>

On the economic front the Declaration undertook to initiate tangible, precise, swift and necessary actions using all available policy tools to address common challenges including international macro policy cooperation and concrete collaborations. There was clear commitment to economic and related concerns of developing and least developed countries with specific reference

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<sup>17</sup> On ‘soft law’ and ‘hard law’ and international law-making see C.M. Chinkin, “The Challenge of Soft Law: Development and Change in International Law” *The International and Comparative Law Quarterly*, Vol. 38, No. 4 (Oct., 1989), pp. 850-866; Also see Pemmaraju Sreenivasa Rao “The Role of Soft Law in the Development of International Law: Some Random Notes” in *Essays in International Law* (Asian-African Legal Consultative Organization: 2007).

<sup>18</sup> *G20 BALI LEADERS’ DECLARATION*, Bali, Indonesia, 15-16 November 2022

to efforts towards economic recovery post pandemic. There was reference to the recently adopted Multilateral Taxation Agreement as adopted under the OECD auspices. The COVID-19 induced transformation of the digital ecosystem and the digital economy also formed part of the Declaration.

The Declaration also has references to issues concerning food security, food supply chains Sustainable Development Goals (SDGs), use of technologies including digital innovations, climate and energy crises, implementation issues relating to global biodiversity framework (GBF), together to improve collective prevention, preparedness and response capabilities with regard to post Covid health recovery. The Declaration also referred to the work being done by World Health Organization (WHO) and other member countries in relation to extensive COVID-19 immunization and termed it as 'global public good'. It also recognized the need to ensure "timely, equitable and universal access to safe, affordable, quality and effective vaccines, therapeutics and diagnostics (VTDs)." It also acknowledged the adoption of the Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics and the Ministerial Decision on the TRIPs Agreement at the WTO's 12<sup>th</sup> Ministerial Conference (MC12).<sup>19</sup>

The main focus of G20 has always been the global economic recovery and to support the measures undertaken within different forums such as the International Monetary Fund, World Bank and others. The Financial Stability Board (FSB) of the G20 is the key body in this regard. The debt restructuring programmes of some of the poor countries is also its focus area. The human rights issues relating to migrants, migrant workers and refugees in the global

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<sup>19</sup> *G20 BALI LEADERS' DECLARATION*, Bali, Indonesia, 15-16 November 2022

context also form part of the Declaration. Terrorism and the work done within the Financial Action Task Force (FATF) also figure in the Declaration.

The G20 Final Declaration is not intended to be a formal one. But the adoption of it through consensus carries immense amount of value in other forums. The intent expressed by the G20 States on various important topics under negotiation or consideration at different formal levels has its own impact. The content of the Declaration is based on the various meetings held throughout the year through various Working Groups and several rounds of Ministerial meetings coordinated by the host country. Therefore, the final outcome of the G20 Declaration is a well-considered and balanced document acceptable to all of its Member States. References to ongoing conflicts, though contentious, such as for example between Russia-Ukraine could be crucial. Even its views on climate change, global economic reforms within some of the financial institutions and regarding the work undertaken within the United Nations Forum could also have a unifying effect. In this sense, despite its non-binding effect, the G20 Declaration provides a predictable intent of the large group of economically and numerically strong States. It is a signpost to the future.

## Conclusion

### G20: The Indian Moment

India holds the Presidency of the G20 from December, 2022 to November, 2023. India, therefore, is responsible for bringing together the G20 agenda in consultation with other members and in response to developments in the global economy. The main theme of the Indian Presidency is *one earth, one family, one future (vasudhaiva kutumbakam)*.<sup>20</sup>

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<sup>20</sup> For the elaboration on logo and the theme of the Indian G20 meeting see Logo & Theme (g20.org) (accessed 24.08.2023)

The Indian focus areas during its Presidency are ‘socio-economic issues such as agriculture, anti-corruption, climate, digital economy, education, employment, energy, environment, health, tourism, trade and investment’. India had constituted thirteen working groups to deal with these issues. Meetings of these working groups had already been held in different parts of the country. The outcome of these working group meetings will be reflected in the final New Delhi Declaration. India will be hosting the 18<sup>th</sup> Heads of States and Governments Summit of G20 from 9-10<sup>th</sup> September, 2023 at New Delhi.

The Finance Track of the G20 discussions is the most important and this has been in place since its inception in 1999. This is headed by the Finance Ministers and Central Bank Chiefs. They had met four times during the Indian Presidency. This included two meetings held on the side-lines of the World Bank and IMF meetings. The focus areas of their meetings are Fiscal and monetary policy issues such as the global economy, infrastructure, financial regulation, financial inclusion, international financial architecture and international taxation.<sup>21</sup>

There are eleven Engagement Groups of G20. The various meetings of these Groups are being held. These Groups deal with different sections of the global society, including Parliamentarians, civil society, youth, business, labour, audit institutions, start-ups, science academics, the idea group (known as Think20), Urban and Women groups.

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<sup>21</sup> On finance track see, Finance Track ([g20.org](https://g20.org)) (accessed 24.08.2023)

The Indian Presidency of G20 is crucial considering its own political and economic importance in the global arena. The New Delhi G20 Declaration will provide a new impetus to the global economic development and growth. The balancing role played by India in the ongoing conflicts, especially Russia-Ukraine conflict, should help in ameliorating the situation to a great extent. The extensive meetings held within India and the conclusions of those meetings through G20 track should be a signpost for the future. It is, therefore certainly an Indian G20 Moment.