

Democratisation of International Institutions: Challenges and Prospects

Introduction

The term 'international organisation' is usually used to describe an organization set up by agreement between two or more States.¹ These organisations are established for the purpose of achieving collective goals. In that sense, they are inter-State institutions with the mandate of working for the goals stipulated in the constituting documents. However, these common goals cannot be divested from the general welfare of the people around the world. Each institution has its own constituting document which sets out its primary objectives, powers and functions. Expressing willingness to be bound by the constitution by any State would qualify it to become a member of the institution. In fact, it is a kind of club of States but could be established for various purposes as agreed upon the founding members. Although there were many such institutions established well before, the arrival of the United Nations (UN) has remarkably changed the landscape of the nature and functions of such institutions.

Today one could find such institutions functioning in many spheres such as politics, defence, economics and finance, natural resources, trade, health, science and technology, travel, tourism etc. Prominent among them are the UN and its specialised agencies, the International Labour Organisation (ILO), World Health Organisation (WHO), the World Bank, the International Monetary Fund (IMF) and the World Trade Organisation (WTO). As promoted by the UN, States have shown keen interest in establishing powerful regional

organizations as well. The North Atlantic Treaty Organisation (NATO), the European Union (EU), the Council of Europe, the Organisation for Security and Cooperation in Europe (OSCE), the African Union, and the Inter American Organisation States are considered as institutions that wield much power today in the international arena.

The primary function of these organisations is collaborating with and contributing to the activities of the States at national as well as international level in promoting and protecting the welfare of the people. They have acquired necessary legal enforcement powers for the stated purposes and have proved to be very effective in their chosen field with due monitoring mechanism. They never hesitate to use the 'carrot and stick' policy in ensuring compliance by the governments of the third countries.

However, with the end of cold war and the beginning of the globalisation process, there has been a discernible paradigm shift in the focus of activities of the international institutions. The slogan of 'democratisation and rule of law' has become the attractive label affixed to all of their activities and remains a condition precedent in evaluating the performance of the member States. It is true that in the internalized world affairs, there are many issues which transcend territorial boundaries of States and they cannot be addressed by the respective States without the support and cooperation of other States. Examples are transport, communication, information technology and proliferation of

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cross-border crimes. Therefore, the necessity is felt that the States have to act in collaboration with each other. The easiest way of doing it is through international organizations. However, requesting strict adherence to the conditions laid down by some of these organisations is considered as bias and irritating many developing countries. In their opinion, these conditions amount to an interference with their domestic politics and restrict them from the lawful exercise of the sovereignty of the people concerned. In that sense they have become necessary evils undermining the political independence and territorial integrity of their own members. Topping the list of these conditions is the one relating to democratisation of the system of governance of States.

Globalisation and Democratisation

A widely-held misconception is that globalization promotes democracy and rule of law.² Leave alone the different types of democracy one may be obsessed with, it is very much contested by scholars from the developing countries. For example, Anghie argues that the difference between the colonised and the coloniser has been replaced by the terms developed and under-developed. It is perceived by them that globalization is just a tool employed by the developed to perpetuate the cleavage between the haves and have-nots in the

globalised world. The underlying truth is correctly pointed out by George Monbiot in his observation that 'in our age everything has been globalised except our consent'³.

'Globalisation' and 'Global' in today's context are all about economy and market.⁴ The process of globalisation transcends all borders including geographical, political and social ones. Not surprisingly, those institutions which are entrusted with the task of stabilising financial market(s) have taken particular interest in taking forward the process of globalisation. Strategically, they adopt the policy of promoting democratisation and rule of law in all areas of governance. In addition, globalisation has its own inherent ability of operating through networks.⁵

What should not miss our attention is that all the programmes designed for such promotion are fundamentally based on market-oriented agendas. The 'not so hidden agendas' of many of these institutions are aimed at creating a *legal environment* conducive for promoting market interest of the developed world.

It is correctly observed by Harold Hongju Koh that in the new millennium there are, at least, three universal 'languages': money, the internet, and democracy and human rights.⁶ Hence, the question of democratisation is bound to address issues relating to rule of law, democracy, equal access to justice, empowerment of the people, etc. All the international institutions have designed their programmes and prepared their budgets giving high priority to addressing the above-mentioned issues. In fact, it has been argued that the democratisation process is nothing new but grounded in the UN Charter itself. Reference has been made to the Preamble to the UN Charter and the subsequent State practice.⁷

Undertaking the process of globalisation as their primary task;

today the international institutions are in a position to 'dictate' terms to their principals, i.e., the States. This is very much so in the case of the institutions dealing with global finance such as the IMF and the World Bank. This has led to the allegation that international organisations simply reflect the interests of a few powerful States.⁸ On the other hand, it is equally amazing to see 'why weak States should participate in such arrangements skewed towards the interests of the strong.'⁹ But, again can it be considered as a strange phenomenon? What about the 'undemocratic' arrangement in the UN Charter itself as clearly demonstrated as to the powers of the permanent members of the Security Council? Why do still States want join the club, the UN? The answer lies in the understanding of the functional structure rather than the reverence to certain abstract principles.

Global Networks and 'Undemocratic' Liberalism

The increased influence of these institutions is evident not only in many spheres of international affairs, but also in shaping domestic politics and economy in the member States. As referred to above, although not all international institutions are in the same level of wielding power over matters falling within the ambit of sovereignty of member States, the extended reach of some of them affect day-to-day life of everyone in the globe. There are many concerns over the 'democratic deficit' at the international level mainly attributed to these institutions. Considering the fact that these institutions are nothing but agents of States and acting as formidable partners in the globalisation process, democratising the world cannot be done unless these institutions themselves are democratic in their internal and external outlook and operations.

The purported autonomy of the international institutions is in no way helpful to make them democratic. Many States are enticed to become members of major financial international institutions through attractive common purposes. The weaker States tend to believe that they can expect benefit through such cooperation. At this stage, all member States agree to delegate enormous powers in the hands of the agent, the newly-created organisation.

Once armed with the powers entrusted through a common agreement, the international organisation begins to produce, most of the time predictable, policies reflecting the concerted views of the powerful members within the organisation. In making these policies and demanding their implementation, each institution has its own style of operation. However, scholars have observed a common phenomenon running through the functions of many of these institutions.

This observation has helped Stone to conclude that international organizations operate according to two parallel sets of rules; formal and informal.¹⁰ The formal-level operation demands consensual procedure adopted by the members. The informal-level operation only warrants much criticism for its lack of transparency and accountability towards its own members.

After studying the operational style of the IMF, Stone concludes that it is at the informal level only the US is in full control of the Fund.¹¹

Is it possible to think about any meaningful ways and means of checking the 'undemocratic liberal' practices of the institutions? This question is largely related to the international legal framework that governs international institutions.

Is Autonomy Evil in Itself?

According to Malcolm Shaw, international institutions have
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objective legal personality.¹² Generally, the criteria adopted for determining legal personality include its constitution and its ability to enter into relation with States and other organizations. It is also based on the institution's ability to conclude treaties with States and its capacity to undertake and perform according to the treaties.

This personality on the other hand also invites responsibility which could be extended not only towards States but also other organisations and individuals. Therefore, there is a legitimate expectation from various quarters that international institutions should adopt democratic practices in their operations. Quoting from the celebrated judgment of the International Court of Justice (ICJ) in *Reparation case*¹³, the leading authority on international institutions, Bowett noted that what is most dangerous is the implied powers of the organisations to do whatever necessary for achieving the general purposes and enabling to perform their functions.¹⁴ Under this umbrella, the institutions enjoy a certain degree of "freedom" to design and carry forward their activities.

A few examples would be illustrative of the extent to which that freedom can be used or otherwise. Way back from the 1990s, the EU has made human rights as an important element of its relationship with third parties. When the EU signed a trade agreement with India in 1996, a human rights clause was included in it, and it was approved by the European Court of Justice. But, in the same year, the same Court ruled that the EU lacked competence to accede to the European convention on Human Rights.¹⁵ With the latest amendments and modification of the regulations of the EU relating to financial assistance to developing countries, decision-making on sanctions is

influenced, not strictly by legal principles but by political and pragmatic considerations. Another worrying aspect for the governments of the global south is that the regulations recently adopted by the EU which authorizes it to extend financial assistance to non-governmental organisations and projects independent of the consent of the third country government concerned.¹⁶

In the case of IMF, as pointed out by Stone, it is in a position to mobilise more resources than the US Agency for International Development as the former can lend without US congressional approval. It is obvious, therefore, that the US can exercise its influence over the Fund to induce the recipient governments to support its long-term foreign policy objectives¹⁷.

The decision-making procedures adopted by these organizations do not always satisfy all the democratic requirements. As noted earlier, there may be a requirement of unanimity, veto, and sometimes, lack of willingness or genuineness on the part of the powerful member States.

Democracy at Home

While welcoming the conditions requesting the fulfillment of requirements relating to democracy and human rights, the recipient countries are well within their domain of legitimate expectation that these institutions practice the same values within. One of such expectations is making decisions through parliamentary assemblies which represent the national assemblies of the member States. If this practice is adopted, situations such as the control of the US over the IMF while holding only 17% of the voting power can be, at least, reduced to a minimal. This is, in fact, a parliament of governments at international level.

However, it is suggested that instead of constituting such supranational parliaments with

national parliamentarians, it is preferred to elect them directly as in the case of the European Parliament. The time is ripe to think about expanding democracy beyond the boundaries of the nation-State.

Many of those issues previously considered which fell within the sphere of domestic decision making at the national level have now been shifted to the global level. Going by the same yardstick, the democratic decision-making process at the national level stressed by the global south should be made equally applicable at the international level as well. Opportunities for participation, not only by civil society actors, but also by those 'would be targets' should be made available at all international fora where matters are transacted in the name of democracy and human rights.

Democracy at the international level cannot afford to function only with supranational parliaments. After all, a government needs the presence of its all three organs to make it a democratic one. As such, there should be an executive branch, and access to justice would be made available, not only to the State parties, but to all of those who would be affected by the 'governmental actions'.

Conclusion

The need for democratisation of international institutions is timely, and it is possible through reducing the dominant role and influence of national States in the process of globalisation. It should be a participatory process involving all the stakeholders including civil society actors representing a variety of interests within and across national boundaries. Promoting the establishment of supranational organizations, whether at regional or international level, would end up in widening the gap between the global south and the north, if not checked for their representative character of the people at large. In parallel to the globalisation process by States and inter-State organizations, there should be international civil society

movements as well. These movements will undertake to monitor the activities of these institutions not from a State-centric perspective but purely from a people's perspective. The civil society movements are need not be bound by market-oriented interests or membership constraints in the respective international organizations. This could be a very effective way of placing a check on the process of globalisation depriving the basic rights of the people of 'recipient' countries. It is a strange phenomenon that there exists a quite number of monitoring bodies for evaluating the performance of national States of their adherence to democratic norms and human rights values, but at the same time, there is no such body in existence to check the domestic practices of those institutions which are entrusted with the task of demanding such adherence.

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have poised it on the brink of a period of significant economic growth. If appropriately harnessed, these opportunities could establish the region as a growing economic power of considerable note. Its success in this regard will, however, depend crucially upon India's continued economic achievements and the region's ability to absorb the consequent spillover benefits. This, in turn, relies upon a far greater level of regional integration than is currently being experienced. Yet, despite the relative slowness of the process, greater attention is now being paid to achieving just this. If, during the next few years, South Asia is able to overcome geopolitical concerns and improve regional integration, particularly with India, to a more desirable level, it could well fulfil its potential of becoming Asia's newest economic 'miracle'.

References

- ¹ Tan Tai Yong (ed.), *Challenges of Economic Growth, Inequality and Conflict in South Asia*, Singapore: World Scientific Publishing, 2010, p. 32.
- ² World Bank, *Reshaping Tomorrow: Is South Asia Ready for the Big Leap?* (forthcoming).

Footnotes

- ¹ Michael Akehurst, *Modern Introduction to International Law* (1997), p.92
- ² Anghie, Antony., "Sovereignty in the Post Colonial State", in *Imperialism, Sovereignty and the Making of International Law* (2005)
- ³ Monbiot George, *The Age of Consent : A Manifesto for a New World Order* (2003),p. 23
- ⁴ Nye and Donahue (eds.), *Governance in A Globalising World* (2000), p.02
- ⁵ Synder, F. G., "Governing Globalization" in *Transnational Legal Process: globalization and Power Disparities*, Likosky, M. (ed.), (2002), at p.67
- ⁶ US Department of State, *1999 Country Reports on Human Rights Practices*, Feb., 2000
- ⁷ See for detail discussion; Peter Burnell (ed.), *Democracy Assistance: International Cooperation for Democratization* (2000), pp.67-89

- ³ David E. Bloom, David Canning and Larry Rosenberg, "Demographic Change and Economic Growth", in World Bank, *Reshaping Tomorrow: Is South Asia Ready for the Big Leap?* (forthcoming).
- ⁴ *ibid.*
- ⁵ *ibid.*
- ⁶ Homi Kharas, "The Rise of the Middle Class" in World Bank, *Reshaping Tomorrow: Is South Asia Ready for the Big Leap?* (forthcoming).
- ⁷ World Bank, *Reshaping Tomorrow: Is South Asia Ready for the Big Leap?* (forthcoming).
- ⁸ *ibid.*
- ⁹ *ibid.*
- ¹⁰ Research and Information System for Developing Countries, *South Asia Development and Cooperation Report 2008*, New Delhi: Oxford University Press India, 2008, p. 27.
- ¹¹ *ibid.*, p. 27.
- ¹² *ibid.*, p. 27.
- ¹³ *ibid.*, p. 29.

- ¹⁴ IMF Direction of Trade Online Statistics, < <http://www2.imfstatistics.org/DOT/>>, last accessed 16 June 2011.
- ¹⁵ 'Sino-Indian Trade Volume Exceeds USD 60 bn Target', *Jagran Post*, 27 January 2011, <http://post.jagran.com/Sino-India-trade->

- ⁸ Randall W. Stone, "The Scope of IMF Conditionality", *International Organization*, Vol.62, No.04, Fall 2008, at p.590
- ⁹ *Ibid.*
- ¹⁰ *Ibid.*
- ¹¹ *Ibid.*
- ¹² Malcolm W. Shaw, *International Law*, at p.241
- ¹³ 1949 *ICJ Reports* 174
- ¹⁴ Bowett, D.W., *The Law of International Institutions* (1982), at p. 337.
- ¹⁵ *Portugal v. Council* [1996] ECR I-6177
- ¹⁶ Regulation (EC) No. 1889/2006 of the European Parliament and the Council of 20 Dec. 2006
- ¹⁷ Stone, *op.cit.*, at p. 594

- ¹⁶ Research and Information System for Developing Countries, *South Asia Development and Cooperation Report 2008*, p. xix.
- ¹⁷ Research and Information System for Developing Countries, *South Asia Development and Cooperation Report 2008*, p. 47.
- ¹⁸ *Ibid.*, p. 47.
- ¹⁹ *Ibid.*, p. 48.
- ²⁰ *Ibid.*, p. 53.
- ²¹ *Ibid.*, p. 19.
- ²² Ejaz Ghani (ed.), *The Service Revolution in South Asia*, New Delhi: Oxford University Press, 2010, p. 6.
- ²³ Research and Information System for Developing Countries, *South Asia Development and Cooperation Report 2008*, p. 37.
- ²⁴ *Ibid.*, pp. 38-39.
- ²⁵ Arvind Panagariya, *India: The Emerging Giant*, New Delhi: Oxford University Press, 2008, p. 266.
- ²⁶ Ejaz Ghani (ed.), *The Service Revolution in South Asia*, p. 216.
- ²⁷ Research and Information System for Developing Countries, *South Asia Development and Cooperation Report 2008*, p. 54.