THE IMPACT OF INTERNATIONAL INSTITUTIONS ON NATIONAL CONSTITUTIONS

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INTRODUCTION

Nowadays, international institutions are so powerful that developing nations have given up control of their own affairs. In order to shed light on this phenomenon, I have examined the background and understanding of sovereignty, as well as the divergences from the prevailing view. It is widely recognised that the World Trade Organisation (WTO) has helped to ease international trade by creating consistent global standards. Because these international policies are applied uniformly across developed, developing, and least developed nations, there is a lack of consistency in their relevance and effect. However, in order to accomplish this goal, developing countries are frequently forced to pass laws that they would not have chosen to adopt otherwise. In this article, we take a look at the pharmaceutical, textile, agricultural, and IP rights industries. The report goes on to examine how these policies have played out at home in developing countries.

The goal of this article is to examine how normative theories of sovereignty have been affected by the existence of international institutions and how the idea of a state has been conceptualised. In order to completely grasp the idea of a state and sovereignty, one must understand what it means to have "Supreme authority within a territory." Examining a social contract is another way to comprehend sovereign power. Individuals who enter into a legally binding contract with an organisation called the "government" to protect the rights bestowed upon them are granted the sovereignty of the people in this system. Thus, sovereignty is the authority that a people grant to their government in order to improve their living conditions. It is within the purview of this sovereign body to represent the federal government in treaty negotiations.[1]

In order to better understand sovereignty, I will look into how international institutions came to be and what responsibilities a sovereign state has as a member of these organisations. With

[1] Kantorowicz, E., 1957. *"The King's Two Bodies: An Exploration of Medieval Political Theology"*, Princeton: Princeton University Press.

an emphasis on policy changes and their lasting consequences on the Indian state, this article will examine the influence these institutions have had on the country in depth.

Evolution of State and Changing Paradigms of Sovereignty

The author Ernst Kantorowicz has shed light on how people's views of the power of government have changed over time. The shift from thinking of the body of Christ to thinking of dual bodies was the catalyst for the systemic change. The host that was consecrated and placed on the altar, as well as the church and its administrative structure, were the bodies that were being referred to. According to this belief, people's souls would live on after death but their bodies would perish along with the king.

Sovereignty, according to Bodin, whose concept is considered foundational in the field, must be bestowed upon a specific person, and this person is then considered to be above the law. No human being can question the sovereign's authority, he said in "De la république," because that authority is subject to divine law. His work was built upon his contemplations of sovereignty. Hobbes, who theorised during the American Civil War, proposed that the people created sovereign power by signing a contract giving up their rights to the unknowable Element State, which he compared to a leviathan. While the United States was engaged in the Civil War, Hobbes developed his theories. The idea that the sovereign stands for absolute power and is appointed by God is one that Hobbes and Bodin both pushed for.[2]

People should be able to control their government, according to Rousseau, who disagreed with Bodin and Hobbes. Among modern debates about sovereignty, Rousseau's views are held in the highest regard. It is the belief in the power of the people that underpins every constitutional state.

In Kantorowicz's contemporary view of polity, there is one unified body with defined borders and interests, headed by a unified authority that is supreme in protecting and advancing the political community's best interests. Sovereignty is the very essence of the modern political system, which is called the state. By defining these boundaries, territoriality delineates the subjects of authority and sets the parameters within which individuals are governed. Some academics argue that the Treaty of Westphalia marks the beginning of statehood, while others

[2] Bodin, J., 1992. *"On Sovereignty: Four Chapters from the Six Books of the Commonwealth"*, Cambridge: Cambridge University Press.

argue that the core principles of statehood were already in place long before that. Krasner (1999), Carvalho, Leira, and Hobson (2011) are the scholars. Therefore, one could argue that the Treaty of Westphalia should not be seen as laying the groundwork for the creation of a state.

The Sovereign's authority, according to R.P. Wolff, includes the "right to command and, correspondingly, the right to be obeyed." The term "right," which means legitimacy in its most basic sense, is an important part of this statement. No matter how absolute or non-absolute, the supreme authority of a sovereign is legitimated by the people who live under their rule.

The concept of absolute and non-absolute applies exclusively to the domains that are subject to the sovereign's authority; nevertheless, this does not change the fact that the sovereign is supreme in every domain it governs. It is also important to note the "internal" and "external" components of sovereignty.

Ernst Kantorowicz provided a historical context for how our understanding of political authority has developed. According to his writings, the system began to change when the idea of the body of Christ developed into two bodies: the ecclesiastical social body and its administrative framework, and the consecrated host on the altar. Based on this theory, it was believed that the king's immortal essence would last forever, even after his physical body died.

A particular person, who is seen as superior to the law, must have sovereignty, according to Bodin, whose understanding of sovereignty is regarded as fundamental in the area. In his work De la république, which was based on his views on sovereignty, he argued that the sovereign is bound by divine law and that no human being has the right to question that authority. Thomas Hobbes, who theorised during the American Civil War, proposed that the people deposed the unknowable Element State—the leviathan—by contracting away their rights to it. Hobbes, like Bodin, believed that the sovereign is an embodiment of ultimate authority who was appointed by God.

Rousseau argued that people, not governments, should have ultimate power, in opposition to Hobbes and Bodin. Given that every state that recognises the people as sovereign has a Constitution as its foundation, Rousseau's philosophy is seen as the dominant one in modern understandings of sovereignty.

The contemporary view of polity, according to Kantorowicz, is of a single, indivisible body, bounded geographically, with a common set of interests, ruled by an integrated authority that acts most effectively to further those interests. Recognised as the modern political entity, the State is defined by its sovereignty. Within the framework of territoriality, the subjects of authority are defined, and the limits of that authority's control over individuals are defined. Krasner (1999) and Carvalho, Leira, and Hobson (2011) are among the scholars who argue that statehood did not begin with Westphalia but rather had essential elements that existed before. That is why some argue that the Treaty of Westphalia is not the foundation for a state.

For the Sovereign, power means having the "right to command and, correspondingly, the right to be obeyed," as R.P. Wolff put it. The word "right," which means "legitimate" at its core, captures the spirit of the statement. Sovereign power, whether absolute or non-absolute, is supreme, and its legitimacy stems from the people it governs.[3]

International Institutions and Sovereignty

Addressing regional concerns that may have an impact on the international trade climate is an important function of international institutions at the moment. In matters of international economics and social policy, the four most prominent institutions are universally recognised as the UN, the WTO, the IMF, and the World Bank. These organisations can now force member states to follow their own laws in an effort to create uniform economic standards worldwide.

The previously stated concept of sovereignty is embodied by the state. However, by dictating policies and demanding that states pass laws in line with these policies, disregarding the domestic capacity of the state to comply, international institutions violate state sovereignty and overstep their authority. Sovereignty allows the state to legislate with the power to control its inhabitants. When international organisations impose their policies on national levels, however, state sovereignty is undermined.

World Trade Organization

On January 1, 1995, the World Trade Organisation (WTO) came into being. The Uruguay Rounds, which ran from 1986 to 1994, had a significant influence on the formation of the organisation. International IP protection was the central focus of these meetings. Promoting multilateral trade agreements among its Member States, minimising distortions and barriers to international trade, and ensuring the implementation of effective and adequate protection

[3] Hobbes, T., 1651. Leviathan, Harmondsworth: Penguin, 1968.

measures for intellectual property have been the objectives of the World Trade Organisation (WTO) since its establishment.[4]

With 162 member states, the World Trade Organisation (WTO) has emerged as the epicentre of international trade. It is crucial to comprehend the WTO's operations in order to comprehend the ways in which the organisation violates state sovereignty.

Consensus is the cornerstone of the World Trade Organization's (WTO) decision-making procedure. A large number of its members are developing economies or least developed economies, and this fact must be acknowledged. Developed nations frequently rely on their less powerful allies to vote in favour of decisions that benefit them, even though these decisions could have negative consequences for the global economy. After reaching a consensus, the legislatures of the participating states ratify the agreements by passing legislation that implements the policies outlined in them. Regardless of the specific requirements of each member state, the organization's member states cannot implement domestic policies that are in harmony with one another in regard to foreign capital in order to comply with agreements like the Trade Related Investment Measures (TRIM).

The legislature of a state is primarily responsible for creating laws and policies that are specific to the needs of the people and economy of that state. It is generally acknowledged that the people hold the sovereignty, which is delegated to the government for the purpose of governance, and that the State must fulfil its fundamental legislative obligation by passing laws and developing policies. In addition, the transfer of state sovereignty to a transnational organisation is demonstrated when policies are formulated under the World Trade Organisation (WTO) without specifically addressing the needs of the subjects or citizens of a particular Member State.

It becomes a very problematic situation when the safeguards that a nation and its people have against the more powerful industrialised world are diminished. Because of these obstacles, the state can pass laws that might hurt international trade but are necessary to protect its inhabitants. Prior to the TRIPS agreement becoming legally enforceable, developing nations voiced strong opposition to it. This resistance stemmed from the fact that developing nations have been making great strides lately, thanks to their unfettered access to the technology that wealthy

[4] Krasner, S. D., 1999. Sovereignty: Organized Hypocrisy, Princeton: Princeton University Press.

countries have. These countries' economies suffered as a result of the TRIPS agreement's high licensing costs, which severely restricted their access to this technology.[5]

International Monetary Fund and World Bank

In 1944, during the Bretton Woods conference, the World Bank and the International Monetary Fund (IMF) were established. These groups work closely together and are mostly on the same page. Exchange controls and competitive devaluation are global economic problems that the IMF is determined to solve. The group's original intent was to help its member nations deal with balance of payments deficits by establishing a "code of fair practice" for the foreign exchange market and lending them money for shorter periods of time. These short-term loans come with certain conditions that the receiving state must meet. Domestic revenue and economic stability are protected by these international policies known as conditionalities. On the other hand, these caveats do not pertain to any one state in particular but apply everywhere. So, these conditions must be enacted by law in the Receiver State, regardless of how socially or economically prepared it may be.

Remarkably similar is the practice of the World Bank imposing conditions on the borrowing limits for nations. The goal of these loans is to help the state that receives them grow. Because of economic inequality, nations give up some of their sovereignty when they are forced to enforce laws that they would have otherwise chosen not to. The nations are compelled to enforce laws that they would not have enforced otherwise, and this is what happens. As a rule, these requirements include the receiving state liberalising, privatising, and deregulating its economy, which creates free markets that attract foreign investment and allow for the acquisition of public sector assets at steep discounts to their market worth.

Capital account convertibility is a policy that weakens developing nations' sovereignty, but it's encouraged by the International Monetary Fund (IMF). This is because developing countries aren't good at controlling the flow of money abroad. For their own profit, international organisations have consistently violated the sovereignty of individual states. The system has the potential to have a long-term impact on these countries' economies.[6]

Changing Nature of State in India under the WTO Regime.

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[5] Wolff, R. P., 1990. The Conflict Between Authority and Autonomy, Oxford: Basil Blackwell.

[6] B.S. Chimni, *International Institutions Today: An Imperial Global State in the Making*, European Journal of International law, 2004, at 7.

India has maintained its status as an economic closed market for nearly forty years, beginning in 1947. With its inward-looking development system, India owes a great deal to the Soviet development model. India did not put its international trade and commerce first when it was in a precarious position. Despite India's continued worries about its vulnerability to the global economy, the country's economy was opened up to international trade in 1991. As a result of its position in the post-Marrakesh negotiations, India is reluctant to divert from trade in manufactured goods at the World Trade Organisation (WTO) during the Uruguay rounds.

At first, India was against participating in the Doha rounds. The industrialised countries' inability to fulfil their obligations during the Uruguay Rounds led to this. Consequently, India had no reason to take part in any additional talks. To the contrary, India's pessimistic view was heavily criticised. Despite this, India ratified the Doha Agreement, which sparked one of the most fruitful rounds of negotiations in WTO history. The Doha rounds brought about numerous concessions, one of which was the TRIPS flexibilities pertaining to public health and medicine.

Just recently, in 2015, Nairobi hosted the tenth Ministerial Conference. Nirmala Sitharaman, India's minister of commerce, has denied rumours that the country left the conference "empty handed" because no concrete agreements were reached. However, she has confirmed that India reiterated its stance, which it had previously expressed at the 2014 General Council Meeting and Bali. Issues affecting developing and least developed countries' agriculture were the main points of discussion during the Round.

India has followed international trade and protection standards and implemented multiple policy reforms since the World Trade Organisation (WTO) was established. These policies have had more negative than positive consequences on developing countries at times.

Agricultural Industry

Royalties have been a substantial source of income for industrialised nations as a result of the World Trade Organization's (WTO) enforcement of intellectual property rights mandates. Businesses in developing countries have to buy intellectual property licenses from companies in developed economies because they can't afford to conduct extensive research and development in-house.

There have been major shifts in Indian thinking regarding IP rights. In the beginning, India was strongly against including IP rights in trade talks. Indian policy on intellectual property rights

(IPR) has been more passive in the past, but new developments show that this is beginning to change.

The Doha Round of negotiations in 2001 was the last stage in establishing the TRIPS agreement's flexibilities. When it came to situations that were considered vital for the public's health, all of the Member States agreed to bypass patents. The Ministerial meeting in Nairobi led to the removal of this clause because many Member States were against these flexibilities. A disagreement over an earlier unanimous decision has left the present situation unclear. It is highly unlikely that we will continue with this selection at this time.

Because of this, developing nations are extremely vulnerable. It is probable that developing nations will be pressured to agree to higher royalties in order to obtain pharmaceutical aid during an epidemic. Reducing such flexibilities greatly increases the likelihood of this outcome. One of the most important things governments can do is to make sure the public is healthy. The domestic entity could manufacture the drug's generic version if the TRIPS flexibilities were applicable. As a result, developing countries would be able to grant domestic entities compulsory licenses. The astronomical costs set by pharmaceutical companies, who primarily pursue a capitalist approach to public health, are the main cause of people not being able to afford medications that could save their lives. One of the main reasons why generic medications are necessary is because they are not easily accessible. Most of these companies are headquartered in wealthy nations that reap substantial financial benefits from protecting intellectual property rights. To that end, the World Trade Organisation (WTO) must make this issue a top priority and alter its path towards ethics.[7]

Intellectual Property Rights and Pharmaceutical Industry

A large portion of the funds were diverted to pay royalties to wealthy nations as a result of the World Trade Organization's (WTO) regulations pertaining to intellectual property rights. The lack of capital for extensive R&D forces developing-world businesses to licencing intellectual property from more developed economies.

Over the years, India's stance on IP rights has changed dramatically. Intellectual property rights were initially met with fierce opposition from India during trade negotiations. India, on the

[7] Kantorowicz, E., 1957. *"The King's Two Bodies: An Exploration of Medieval Political Theology"*, Princeton: Princeton University Press.

other hand, is shifting from an aggressive stance in some areas of intellectual property rights (IPR) to a more defensive one.

A consensus was reached on the TRIPS flexibilities in 2001 during the Doha Round of negotiations. The need to allow patent override in situations deemed essential for public health was agreed upon by all Member States. It was observed that many Member States disagree with the suggested flexibility, so the relevant clause was removed during the Ministerial meeting in Nairobi. Consequently, a disagreement over a decision that was previously agreed upon by all parties has rendered the situation unclear. At this time, there is very little chance of continuing to engage with this group.

The result is that developing nations are extremely vulnerable. Due to the retraction of these flexibilities, developing nations may be forced to agree to higher royalties in order to obtain pharmaceutical aid during an epidemic. It is the primary responsibility of governments to guarantee the well-being of their citizens.

Developing countries could be able to give domestic entities compulsory licenses if the TRIPS flexibilities were applicable. These American companies will make the generic version of the drug in issue. Access to life-saving medications is severely limited due to the astronomical prices set by pharmaceutical corporations, who primarily utilise a capitalist approach to public health. One of the main reasons why generic medications are necessary is because they are not easily accessible. Most of these companies' headquarters are located in wealthy nations because those nations make a killing off of IP protection. The World Trade Organisation (WTO) must make this matter a top priority and revise its code of ethics immediately.

Textile Industry

Demand in India's textile industry has hit record lows, leading to a severe liquidity crisis. There is a real possibility that these advantages, which have helped make this category the fourth biggest exporter, will soon be taken away. The US and Turkey have both spoken out against these particular subsidies.

If a developing nation meets two consecutive criteria—a per capita income of $1,000 and an export share of 3.5 percent in a particular industry—under the Subsidies and Countervailing Measures Agreement of the World Trade Organisation (WTO), the developing nation must gradually reduce its subsidies over eight years, beginning from the second instance it reaches this threshold.

The industrialised world claims that in 2005 and 2006, India's GDP grew by more than 3.25%. For the first time, India had reached this milestone. By January 2015, the process of subsidy disbursement should have been finished. Since the World Trade Organisation (WTO) only recommended that India consider this option in 2010, India claims it has the chance to gradually remove these subsidies by January 2018, as specified in the WTO regulations.

In a request for clearer explanations, India has asked the World Trade Organisation (WTO) to define "product" and "applicable period of phasing out subsidy." Even though the market as a whole may have reached the benchmark, India maintains that certain goods in the category still haven't stabilised their export competitiveness. Hence, the government should provide them with aid. This clarifies the thinking behind India's position.

We expect the new foreign trade policy to be in place from 2015 to 2020, so by 2018, we should have reduced textile export subsidies. No matter what happens with exports, India plans to keep helping the textile industry boost production. The World Trade Organisation (WTO) allows countries to provide subsidies to encourage production, but export-related subsidies are not allowed.

Mr. DK Nair, Secretary-General of the Confederation of Indian Textile Industry, has warned that the Indian government would put the textile industry through a lot of trouble if it gives in to pressure from foreign groups. Especially when demand is low, cotton farmers have a hard time passing costs onto customers from all walks of life. When the price of cotton in the domestic market is higher than its international market price, this becomes even more true.

Impact of changes in domestic policies in India

Agricultural Industry

Nearly 70% to 80% of India's population relies on agriculture for their income. Everyone knew that India's farmers would feel the effects of any multilateral trade deal that dealt with farm subsidies and access to markets. An important part of the country's economy is the agricultural sector.

When it comes to agricultural trade policies, India has always taken a protectionist stance. As part of its efforts to control the export of agricultural goods, India imposed a levy on a number of food crop varieties.

On multiple occasions, the country has voiced its desire for the government to have the leeway needed to assist the sector. A negative product-specific support might have hit India, even though the overall non-product-specific support was well below the de minimis threshold. Looking over India's preliminary submissions will reveal this. Therefore, the agricultural sector in India is subject to a net tax burden, as indicated by the negative Aggregate Measure of Support (AMS).

For a number of commodities, including wheat, rice, and pulses, India has maintained price parity with other nations around the world. India has asked wealthy nations to reduce agricultural subsidies so local businesses don't suffer as a result of foreign policies.[8]

In response to the Doha Declaration, the EU promised to cut back on agricultural subsidies, but it has failed to do so. In 2002, the Farm Bill was passed by the US Congress, which increased subsidies for farmers. This ruling during the Doha Round severely hampered attempts to level the playing field for all states. Before the meeting in Cancun, the EU and the US worked together to draft a joint document on agriculture. South Africa, Brazil, India, and China formed the G-20 coalition before the Cancun meeting to ensure that developing nations would have fair conditions in the agricultural sector and to achieve the goals set out in the Doha Rounds. This was crucial because, prior to the meeting, developing nations did not have enough leverage to negotiate.

Consequently, there has been no major shift in India's agricultural sector. Prioritising the feeding of the poor, the country has also asked for specific flexibilities to ensure development, food security, and protection for the vulnerable. The political agendas shaping these issues and the powerful agricultural lobby have kept this position alive. In a nation like India, where farmers hold a lot of sway, a major shift in the policies that govern agriculture could cause political unrest.

Intellectual Property Rights and the Pharmaceutical industry

When the Uruguay Round was in its early stages, India was a TRIPS agreement sceptic. The country's influence stemmed from its rapidly developing pharmaceutical industries in the 1970s and 1980s, which largely caused this situation.

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[8] Bodin, J., 1992. *"On Sovereignty: Four Chapters from the Six Books of the Commonwealth"*, Cambridge: Cambridge University Press.

By 1989, the world was starting to notice that India had changed its ideology. Many thought this was mostly because wealthy countries, especially the US, were threatening to intervene in trade. There was a lot of back-and-forth in the pharmaceutical industry's lobby in the 1990s, with some established companies pushing to support TRIPS (Trade Related Intellectual Property Rights) and newer companies fighting against it. In 1994, India ratified the TRIPS agreement after its opponents were able to reduce their opposition.

By 2005, India was supposed to have revised its framework for intellectual property rights (IPR) per the agreement. At the time, societal pressures were quickly building up. The widespread fear that drug and medication prices could rise and have a negative effect on public health led to this development. While participating in the 2001 Doha Rounds, India made an effort to draw attention to the poor public health standards in developing countries. Due to the fact that other nations recognised the situation, specific flexibilities were put in place to enable developing nations to authorise compulsory licensing.

In terms of intellectual property, India has asked for the expansion of "geographical indication" protection to encompass more types of beverages than just wine and spirits. They also asked for limits on using traditional knowledge and biological and genetic resources inappropriately. It is clear from these requirements that India is serious about its intellectual property rights laws.

Textile Industry

The textile industry in India is large and growing. India has a leg up in the market because of its large and cheap workforce, its plentiful domestic fabric supply, and the sector's versatility in making a wide variety of goods. The abundance of raw materials in India allows the country to manufacture natural and synthetic fibres, which gives it a competitive edge.

Eleven percent of India's industrial output, fourteen percent of the manufacturing sector, four percent of GDP, and twelve percent of exports are attributed to the textile industry. At present, 35 million people are employed by the sector, making it the second biggest business sector in the world, after agriculture.

A total of $40 billion was lost by the textile industry in the 2015–2016 fiscal year, a decline of $1.1 billion. For this fiscal year, the government has allocated $47.5 billion. The PHD Chamber of Commerce predicts that India's GDP could grow by 8.0% in the current fiscal year, up from 7.6% in the previous year.

Critical review of WTO obligations on India

The changing dynamics of India's relationship with international institutions have been explained in this paper. When looking at India's position in history, it becomes clear that the government has tried to strike a balance between the needs of the local market and the responsibilities of the global market. Like other democracies, India has successfully built a network of allies and has continuously adapted to the changing needs of its people.

The World Trade Organisation (WTO) has, however, undergone a radical shift in its perspective. As a result of so many failed Rounds, the organisation is having trouble regulating trade. A major contributor to the persistent failures of member states may be the policies implemented by the World Trade Organisation (WTO).

One important aspect is the fact that it is heavily influenced by the World Trade Organisation (WTO), which is dominated by developed nations. Developed countries have advocated capitalist policies that benefit themselves, but these policies fail to address the needs of developing country populations to an adequate degree.

Claiming that India has not changed much since 1994 would be incorrect, given the country's ascent to the position of fourth largest global economy participant and its consistently impressive growth rates. Developed countries must change their policies to help developing countries so that everyone can live in fair conditions. Both the global economy and these countries' development would benefit greatly from this, as it would increase market participation.

Since its establishment in 1996 in Singapore, India has been an active participant in World Trade Organisation (WTO) negotiations. At the Seattle Round, when they discussed labour standards, India showed remarkable tenacity. India has been an active participant in the Doha Rounds since 2001, helping developed nations to comprehend the needs of developing members and to implement policies that safeguard their domestic stability.

The strategic communication approach that India used was successful in persuading developing nations to address their problems. The steadfast backing of advocacy groups within civil society has made this possible.

Conclusion

Based on the research presented above, it is clear that international organisations violate the sovereignty of their member states when they pass policies that do not take their needs into account. Because of the serious consequences for their foreign trade with member states, developing nations must make these policies a part of their domestic laws. Therefore, it is critical to acknowledge that different countries have different social climates. Global economic growth could be shared, rather than taken for granted by capitalist developed nations, if these elements were properly implemented by international institutions**.**