

NON-STATE ACTORS UNDER PUBLIC INTERNATIONAL LAW- A DIFFERENT PERSPECTIVE

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INTRODUCTION

NON-STATE ACTORS (NSA) are entities with sufficient power to influence and cause a change even though they do not belong to any established institution of a state. They participate in the international relations. The admission of non-state actors into international relations theory rebukes the assumptions of realism and other black box theories of international relations, which argue that interactions between states are the main relationships of interest in studying international events.

We have made our minds according to the stereo type thinking which prevails that international law is only about the state and its established bodies. But now we need to break these chains of stereo type thinking and need to see international law not only in terms of obligations of the governments but also those of non-state actors³⁰⁸. To those who say that international law is traditionally about the relationship between States, and human rights law is traditionally about the relationship between the individual and the State, should also know that traditions change and it is time to change these traditional assumptions as they no longer reflect what is actually happening, nor what ought to happen. It is time to engage in a radical rethink so that international law is reconceived in ways whereby it can fulfil its promise of ensuring justice and protecting human dignity, whether the threats emanate from States or non-state actors³⁰⁹.

The paper covers some important aspects and recent development with respect to the Non-state actors. It also shows some Non-state actors which have influenced the worldwide decisions and made considerable changes.

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³⁰⁸ www.roiters.com

³⁰⁹ www.academia.edu

Any discussion on non state actors will not be complete without looking at the various types of non state actors. While common notion is that non state actors are predominantly NGO's this is not quite true. Among these non state actors fall various organizations like Transnational companies, business communities, diverse interest groups, sub state actors and minorities of each region , among other actors. A detailed insight is provided to some of these actors;

SUB STATE ACTORS

Sub-state actors are groups of people or individuals with similar interests not beyond the states that are able to affect the state's foreign policy. They are also known as

Domestic actors. An example of sub-state actors is the automobile industry and the tobacco industry in America. These industries have unmistakable and vested interests in the American foreign economic policy so that these industries are able to sell their produce abroad and reduce imports of competing products made abroad. They are politically assembled to influence policies through interest groups, lobbying, donating to political candidates or parties, mobilising public opinion on certain issues, and by some other means³¹⁰. Some examples of sub-state actors are the trade unions. Trade union is an organization of workers who have mobilized themselves to achieve common goals such as protecting the integrity of its trade, achieving proportionate remuneration, expanding workforce by lobbying for better recruitments, and better and safer working conditions³¹¹. They work towards influencing their government, by mobilizing support, to legislate in their favour and in lieu of protection of their members.

INTER GOVERNMENTAL ORGANISATION

Intergovernmental Organizations (IGOs) are one of the International Organizations (IOs). IGOs are organizations whose members consist of three or more nations-states. IGOs are created by states to resolve common problems and to achieve shared goals, which give them authority to make collective decisions to affect their global agenda. In these organizations, the states' representatives gather to discuss issues that are of mutual interests to the member states. There are two main types of IGOs, the global IGOs and the regional IGOs. Global IGOs are organizations having universal

³¹⁰ Yale Law Journal

³¹¹ Woldr-governance.org

or nearly universal membership which means every state is a member like the United Nations (UN), World Trade Organization (WTO), International Monetary Fund (IMF) and many more. Regional IGOs are a subset of states as the members are based on geographical factors, such as the Association of Southeast Asian Nations (ASEAN), European Union (EU), or based on shared agenda or objective like the BRICS and G8 countries³¹².

According to liberal institutionalism, states form IGOs because it is in their interest to do so. With IGOs, certain issues can be resolved in a more effective and cost efficient manner. Liberal institutionalism particularly focuses on collective problems, such as the security dilemma, the appeal to execute competitive tariffs, and the difficulty in agreeing to protect the environment³¹³. States need to correspond with each other and oversee other states to ensure that they are honour their commitments to acknowledge many of the problems. As an example, in the case of free trade, the World Trade Organization (WTO) was formed to coordinate the negotiation of tariffs and to provide a mechanism for resolving disputes. Some of these tasks might be more complicated and expensive to execute without the IGOs³¹⁴.

There are times where IGOs are not only created to solve problems but to provide a platform for debate and discussion. The UN General Assembly has no predetermined agenda but provides a forum for states to discuss and debate issues that surface. Similarly, one of WTO's goals is to organize meetings at which states will negotiate to solve problems.

TRANSNATIONAL ACTORS

Transnational actors are actors that function below the state but across the state borders. There are two types of transnational actors which are the transnational corporations (TNCs) or multinational corporations (MNCs) and the Non Governmental Organizations (NGOs).

Transnational Corporations (TNCs) / Multinational Corporations (MNCs) are companies that have headquarters in one state but invest and operate extensively in other states.

³¹² Frontline magazine

³¹³ The Hindu

³¹⁴ Newstatesmen.com

MNCs are based in one state but have branches or subsidiaries operating in other states.

In other words, an MNC is a large corporation operating on a worldwide basis in many countries at the same time, with fixed facilities and employees in each.

There are different types of MNCs viz ;

- Industrial corporations which make goods in factories in many countries and sell them to business houses and consumers in various countries. The largest MNCs are automobile, oil, and electronic industries. Almost all of the MNCs are based in the G7 states. Examples of some MNCs are Sony, Honda, Toyota, PETRONAS³¹⁵ and more.
- Financial corporations such as banks. They operate multinational with more restrictions than on industrial corporations. Examples are Overseas-Chinese Banking Corporation Limited (OCBC Bank), HSBC³¹⁶ and Dutch National Bank among many others.
- Services such as McDonald's fast food chains, international airlines like British Airways, Asiana Airlines and more, Hilton Hotels & Resorts and many others.

MNCs are increasingly powerful as independent actors. Many of the industrial MNCs have annual sales of tens of billions of dollars each (hundreds of billions of dollars for top corporations such as Wal-Mart). MNCs are able to match to most international organizations (IOs) in size and financial resources. The largest IGO (UN) has about 2 billion dollars a year in revenue, compared to more than 250 billion dollars for the largest MNC³¹⁷. The largest state (United States) has government revenues of 2 trillion dollars. Therefore this shows that the power of MNCs does not rival the largest states but exceeds many poorer states and many IOs. MNCs are viewed as citizens of the world tied to no government. Head of Dow Chemical once dreamed to buy an island to build Dow's headquarters. In such view, MNCs act globally in the interests of their (international) stockholders and owe no loyalty to any state and are driven by the need to maximize profits.

MNCs' operations support a global business infrastructure connecting a transnational community of business people. An example is that a U.S. manager arriving in Seoul, South Korea, does not find a bewildering scene of unfamiliar languages, locations, and customs. Rather, he/she will be

³¹⁵ The week

³¹⁶ The Economic times

³¹⁷ Journal of international business studies

able to move through a familiar sequence of airport lounges, telephone calls and faxes, international hotels, business conference rooms, and CNN broadcasts – most likely hearing English spoken in all. MNCs also contribute to their host country's development. As MNCs operate in other states, it will provide job opportunities for the locals in that state and thus, help to stabilize the economy in that state.

NONGOVERNMENTAL ORGANIZATIONS (NGOs)

In today's world many people found that by joining nongovernmental organizations (NGOs), they could participate in the global system and lobby to influence international organizations. Most have joined as members of one or more NGOs, which have about almost thirty thousand now in the worldwide. NGOs are private international actors whose members are not states, but are volunteers from populations of 2 or more states who have formed organizations to promote their shared interests and ideals in order to influence the policies of state governments and intergovernmental organizations (IGOs). NGOs tackle many global problems and seek changes in the world for causes such as disarmament, environmental protection, human rights and many more. Most pursue objectives that are highly respected and constructive, and therefore do not provoke any controversy or arouse much opposition.

NGOs interact with states, sub-state actors, MNCs, and other NGOs. NGOs are increasingly being recognized in the UN and other forums, as legitimate actors along with states but are not equal to them. Some of the groups have a political purpose, some a humanitarian one, some an economic or a technical one. There are times where NGOs combine efforts through transnational advocacy networks. By joining NGOs, many people found that they could participate in the global system and lobby to influence international organisation.

Not all the Non State Actors are want to make good difference in the international law. Violent Non State Actors (VNSA) as they are popularly call. VNSA is an “old-new” phenomenon. It refers to an existing constellation of terrorist, insurgent, guerrilla, extremist political or religious, resistance, and organized crime structural units (such as quasi-states, movements, organizations, parties, groups, even the empowered individuals)³¹⁸, operating worldwide. What makes them

³¹⁸ Stabilityjournal.com

different from the Cold War-era is almost complete disappearance of “patron – proxy” relationships with the states. VNSA became independent actors in global politico-military settings. Below is a selected empirical evidence, driven from disparate geopolitical regions and conflict settings that provide some understanding of the physical capabilities and strategic outreach of certain actors from VNSA domain vis-à-vis the nation-states.

POLITICAL GROUPS THAT ADVOCATE VIOLENCE (TERRORISTS)

Terrorists’ or rather political groups that advocate violence, cannot be called NGOs, but they operate in the same manner by interacting both with states and with relevant population and institutions through violence and planning attacks.

These groups held great power and are able to influence the international relations between states. A group that is currently active is the Al-Qaeda. The incidence of the spectacularly destructive attack of September 11, 2001 by members of Al-Qaeda, has demonstrated the increasing power that technology gives terrorists as non-state actors³¹⁹.

Other than that the Al Qaeda also placed suicide bombers in U.S. cities, coordinate their operations and finances through Internet and global banking system, and reach a global audience with the videotaped exhortations of Osama bin laden.

INTERNATIONAL CRIMINAL GROUPS

These actors are considered as transnational actors but they act in an illegitimate manner. Most of these groups have a great capacity of financial resources and thus, are able to influence the state’s policies.

Some of them are even capable of threatening the state’s security. Most operated secretly which makes it hard for the authorities to track them down. Most of these groups are involved in drugs, prostitution, human trafficking, and firearms among other crimes³²⁰. Some examples of international criminal groups would be the Yakuza in Japan, the Sicilian Mafia in Italy and also Triads in Hong Kong, Macau, Taiwan and also in countries with significant Chinese population.

³¹⁹ BBC Reporters

³²⁰ Times of india

HOW NON STATE ACTORS AFFECT PUBLIC POLICY

Talking about international law and politics, even though inter-governmental ties are significant and sacrosanct, it is important to analyze the role of non state actors to fully comprehend the dynamics of international relations. Among these non state actors fall various organizations like Transnational companies, business communities, diverse interest groups, and minorities of each region , among other actors. These aforesaid institutions play a crucial role in strengthening, diversifying and widening the links between countries or states. An important factor that has led these non state actors to occupy centre stage in world politics and decision making is globalization³²¹. The revolution in the means of communication has brought the world closer, paving way for the creation of a global village. As a result the non state actors, emanating from the civil society and completely autonomous from the state have been able to play a significant role in establishing transnational relations by providing their own ideas and initiatives and by taking part in public debate and discussion. This context has also contributed to an increase in the participation of non-state actors in issues of global governance and they have been able to exercise influence in the elaboration and implementation of state foreign policies.

The study of non state actors, in this paper will focus mainly in the areas of global governance and on how they promote certain values and norms. We can cite the examples of non-government organizations (NGOs) that promote policies to ameliorate the effects of climate change, or of NGOs participating alongside governmental organizations (IGOs) to tackle international problems such as poverty and HIV, among others; or NGOs working with business communities and workers to promote fair trade and workers rights³²².

CASE ANALYSIS

To further analyze the role played by non state actors in international politics let us consider the role played by these non state actors in promoting links between the gulf and Latin America by delving into various levels of participation of the above said institutions, in view of the relative degree of autonomy exercised by these non state actors in relation to said cause. The increase in trade between the two countries over the last five years could be partly because of governmental

³²¹ Idebate.org

³²² Human rights law network report

policies and also the active role played by the private sector and the non state actors. However the different types of political systems in the two countries have been a decisive factor when considering the varying levels of autonomy and participation of the private sector and non state actors in the above cause. Two main causes conducive to forging such relations are, expansion of trade and business and the role of minority communities.

Expansion of trade and business

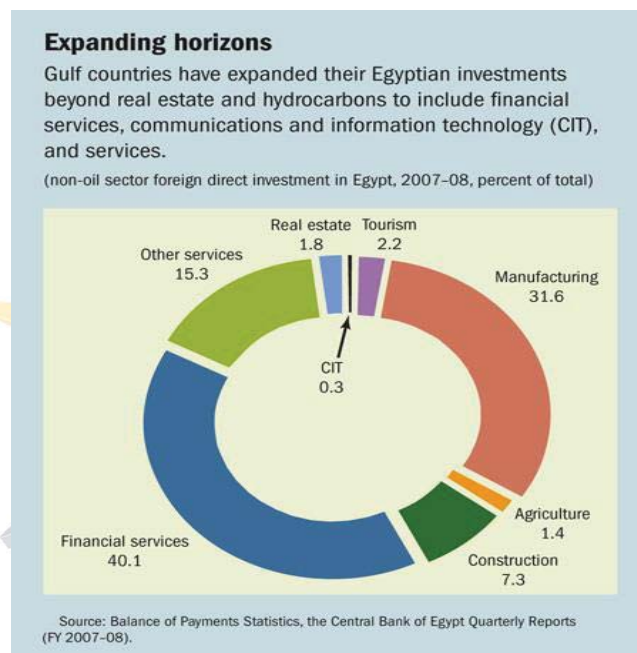
In the Latin America the cooperation between the state and the private sector exists at different levels owing to the waves of liberalization that the region has been exposed to since the eighties, which plays a commendable role in shaping the decision making process of the country. In contrast, in the Gulf a centralized decision-making process prevails. . However, in the last ten years, Gulf countries have experienced certain big time reforms namely , in the economic sector, the accession of some countries to the World Trade Organization³²³, changes in the policies for trade and investment; and at the political level, there is a growing participation in elections and the public appearance of political/religious groups that are allowing for a greater representation of their rights and interests.

As stated earlier the term non state actors should be conceived in a broad sense. It includes organizations like transnational companies, business communities, diverse interest groups, Non Governmental Organizations (NGO's) and the minorities of each region. The primary way in which international relations are forged is through active business and economic collaborations between regions or countries. As a result, it is important to elucidate the nature of participation of business firms and to evaluate the results of their policies in fostering trade and exchanges between the Gulf and Latin America³²⁴. One contributing factor was the fortunate coincidence of plans of the governments in both the countries to expand and diversify their trade policies, strengthen the role of the private sector and a general shift toward foreign investment as well as attracting investments. This can be very well seen from the investment pattern of both these countries in the past five years and the levels of growth achieved.

³²³ The business magazine

³²⁴ Economic plans forum

A small example would be the investment of the gulf countries in the Egyptian economy. It has been reported that prior to this policy paradigm shift affected in the past five to seven years , investments in Egypt by middle east was mainly concentrated on real estate and hydrocarbons. This can be clearly seen from this pie chart released by the CENTRAL BANK OF EGYPT'S quarterly reports³²⁵.



This trend in both the countries can be clearly seen from the businessmen forums that were held as part of the Arab-South American Countries Summits that took place in 2005, 2009 and 2012. In general terms, the economies of the two regions are complementary, since most South American countries produce and export primary products but need oil, gas and refined oil related products; on the other hand, the Gulf region possesses large reserves of oil and an important petrochemical sector, as well significant amounts of money to invest in foreign assets through sovereign funds, but they need food products and alternative places to Europe or United States to diversify their investments. This is how the business houses play an active role as non state actors in forging international relations and policies.

³²⁵ Balance of payments statistics, central bank of Egypt quarterly reports

Role of minority communities

Another significant non state actor would be the minority communities in both the countries. It is interesting to note that both the Arab and Muslims communities in South America and the Latino communities in the Gulf have contributed to strengthening relations between the two sides, either through lobbying their host governments or their countries of origin. The concentrated efforts of the Latin American community in lobbying against the invasion of Iraq in 2003 were much appreciated by the gulf countries. there are cases where the Arab minorities are well organized and can influence a country's approach towards the Middle East and the Gulf, as for example in the case of Chile and its Palestinian community which lobbies the Chilean government relations on relations with the Gulf countries. Regarding Muslim communities in Latin America, they too could be a factor that can promote linkages across the two regions³²⁶.

It is also important to consider the role that Latino communities in the Gulf countries play to advance knowledge about Latin America in their host societies. Thus by complementing each other in their host country and country of origin these non state actors have helped in the active amalgamation of international ties between various countries.

CONCLUSION

From the aforesaid facts it can be inferred that, the international relations as we perceive today is not only the result of governmental initiatives or policy decisions, but also due to the influence of non state actors. They, by influencing governmental decisions and moulding foreign policy have a huge say in the way a government runs. It would not be wrong to say that, the intricate patterns of international relations and co-ordinations today are a brainchild of various non state actors and interest groups of present times. These non state actors include multinational corporations, NGO's, minority communities of different regions, international organizations and other violent non state actors(in a way). These actors by pushing for their requirements and needs move the government

³²⁶ . wilsoncentre.org

into decisions which would affect their foreign policies at large. Hence it is quite clear the role played by non state actors in affecting international law at large.

