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***BELKHEIRI Omar***

## **Study outline**

# ***The role of non-state actors in public policy making***

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# General Index

## **introduction**

The role of Non-State Actors is one of the most discussed issues within scientific debates over the globalization phenomenon. Literature on the theme from international law, political science, sociological and economical perspectives has significantly increased since the turn of the millennium.

In international law the participation of Non-State Actors in evolving the legal system is no new phenomenon.

The Red Cross Movement's influence on humanitarian international law or the American Peace Movement's impact on the first drafts for the Covenant of the League of Nations are only two very famous historic examples of a successful lobbying in international politics by Non-State Actors. The recourse to expertise from private actors within the framework of organized intergovernmental tasks has a long tradition, as well. Already international administrative unions in the 19th century, the precursors of today's international organizations, experimented with forms of integrating private expertise into supranational regulating activities.

Nonetheless, it is justified to presume that processes of economic, political and cultural globalization have had a dynamic impact on the further development and change of the Non-State Actors' role in shaping politics and law. Literature, with a view to their increased importance, partly refers to an end of state sovereignty due to the process of globalization.

Therefore the intensive scientific debate at the same time always deals with the influence of government policy on sectorial societal processes, that seem, to a large extent, to have withdrawn from the sphere of influence of individual states due to an internationalization. Thus, the theme Non-State Actors conflates at least three discourse strands that can be differentiated:

- First, the technical issue, in how far the current integration of NGOs in international law has had an influence on the general legal status of Non-State Actors, and has called into question the conventional teaching from subjects of international law.
- Secondly, within the framework of the governance debate the often raised functional need for an expertise of Non-State Actors in classical intergovernmental institutions and other regulation entities, as e.g. in so-called „Global Public Private Partnerships“ or informal coordination mechanisms.

Within this context, it is about new forms of an integration and participation of Non-State Actors in the internationalised law-making and development of policy with the aim of increasing the institutions' efficiency.

- A third discussion strand relates to the issue of democratic governance beyond the classical nation-state. The shift of political decision centers from a sovereign individual state to intergovernmental and supranational institutions has put the issue of legitimacy on the scientific agenda. The more intensive participation of Non-State Actors in these institutions is being evaluated differently in terms of legitimacy. It can be understood as a democratization and necessary pluralization of the international law-making process. At the same time such a tendency can as well be regarded as depriving democratically legitimate governments of their power.

This study circumscribes the issue of the role of Non-State Actors as follows: first, large parts of the study merely focus on activities of non-governmental organizations (NGOs), i.e. on non-profit private actors as a subgroup of the category Non-State Actors. Furthermore, it focuses significantly on law-making activities within the United Nations (UN). This area, limited due to organization matters, and illustrated by an example from real life, however, aims to create a cross section of the above-mentioned debated three

question fields (legal status, functional involvement of private expertise/issue of democracy).

**The study divides into two chapters :**

- ❖ the first chapter there's a definition of public policy and non-State Actors, their classification and how they are illustrated according to schools , plus their Functions, Strategies and Agendas ,
- ❖ the second chapter examines the concept of non-governmental organizations, their participation in law-making process and whether it is legitimate or not , and finally the role of non-state actors in regulation .

➤ **The importance of this study**

With the occurrence of structural changes in public policies and international relations, the need arose to expand the analytical view that previously recognized that states are the only actors in public policy making , and that concepts such as force and conflict rule the course of relations between states, and these advanced international situations required looking at The world as a system of interactions in which other non-state actors play an important role in new political, economic, media, social and humanitarian issues. We go beyond the level of official governmental interactions, and transcend borders and sovereignty. Among these non-state actors are intergovernmental organizations, international non-governmental organizations, and companies. Multinational groups, and some armed groups and organizations, in addition to organized crime groups and the international mafia, and others.

This research examines the role of a non-state actor in public policy, after a careful reading of what was stated in the field of international “schools and

theories” about the role of non-state actors in public policy, and then examines the role of international non-governmental organizations as one of the most prominent actors. Non-governmental organizations in the international arena, especially after their numbers have increased dramatically locally and internationally, and considering these organizations are established through private initiatives and non-governmental endeavors, it is necessary to search for relations their true role, then their desired role in contemporary public policy , and to know the extent of their contribution to encouraging and ending international cooperation, and their ability To assist intergovernmental organizations in performing the tasks assigned to them. All these points and others are trying to clarify, analyze and uncover the ambiguities around them, in order to know the true role of non-governmental actors at the level of public policy, the extent of the effectiveness of international non-governmental organizations at the international level, and their impact on inter-state relations, its negatives and positives.

### ➤ **The Objectives of the study**

The study tries to collect a number of purposes, starting with the definition of non-state actors in public policy, and clarifying what was stated in the theories of international relations and their schools about the role of non-state actors in the level of public policy, then moving to study one of the non-governmental actors, which is international organizations Non-governmental organizations, by defining them and stating the foundations on which they are based, the areas and mechanisms of their work, and their effects on the level of public policy , then identifying the real goals of these Organizations, and is it really that their activities are mostly confined to the humanitarian field, or do they have political goals that are not apparent and unannounced, but they are the main motivation and motivation for their work? Hence, the objectives of the study are limited to the following points :



- 1- Defining and classifying non-governmental actors, then reading what was mentioned in the theories and schools of international relations about these actors
- 2- Introducing international non-governmental organizations, and finding scientific approaches to understand this phenomenon, with multiple readings that can contribute to analyzing it in depth.
- 3- Explaining the importance of international non-governmental organizations, and the foundations on which they are based.
- 4- Highlighting the extent of its effectiveness and its place in the international system, and its role on the level of public policy making .
- 5- mentioning some examples of international non-governmental organizations, an applied study, learning about their principles and working mechanisms, then evaluating their performance and its reflection on the relationship with states and intergovernmental organizations, and then analyzing the negatives and positives of this relationship.

➤ **The problem of the study**

The study of the phenomenon of non-governmental actors and their role in public policy is a very difficult and delicate process. It is easy to research states or intergovernmental organizations, as they are clearly defined and specific actors on the stage of public policy, but trying to determine the sources from which relations emerge, and follow their course in order to We get to know the entire network of transnational relations, which is a more complex issue that is fraught with many difficulties, and then by moving to the study of one of the non-governmental actors, which is international non-governmental organizations, the problem of studying this phenomenon emerges as a result of the diversity of its activities in various fields, and it is dominated

by work in the field of protecting human rights. It is also part of civil society, with the ambiguity and ambiguity surrounding this concept. Hence, defining its role in public policy, the extent of its cooperation with intergovernmental organizations, and then analyzing its relationship with states and the extent of their impact on their sovereignty, is a very difficult issue. Another problem lies in determining the real goals of the work of these organizations, and knowing the extent to which they are subject to political tensions between states, and whether their activities and fields of work at the international level and The field of protecting human rights for the sake of the human being himself without any compensation, or does it have political goals that lead the researcher to doubt and doubt not in its performance and behavior, but rather in its principles, ideas and mechanisms of action. And if international non-governmental organizations had a role in public policy, and with a significant increase in the international community, then was that role positive or negative? If this role is positive, what are the benefits to the international community from the presence of these organizations? And if it was negative, what would compel the international community to accept its presence and activity in the territories of states, if only negatives would be gained from its presence? All this caused a debate about the usefulness of these organizations - which is one of the non-governmental actors - between supporters and opponents, hence this problem was a topic suitable for the most intense discussions in scientific, social and political circles, international conferences and seminars, and studies of researchers .

➤ **Study questions**

Based on what has been presented above, this study raises to the researcher a number of questions, foremost of which are:

- 1- What are international non-governmental organizations? How did it develop? Its legitimacy has been derived?
- 2- What is the relationship of international non-governmental organizations with states and intergovernmental organizations?
- 3- What is the role and impact of international non-governmental organizations on the international community in today's world?
- 4- Are international non-governmental organizations affected by international changes? Are its activities and work in the humanitarian field voluntary and free of charge, or does it have political goals that it seeks to achieve?
- 5- What is the work strategy of international non-governmental organizations, and what are the most prominent tools that these organizations use in achieving their goals?

➤ **Study hypotheses**

In light of the importance, objectives, and problematic of the study presented, the researcher puts forward the following hypotheses:

- 1- Non-state actors have a role in public policy that is almost no less than, but sometimes, more than the light of sovereign nation-states.
- 2- Whenever international non-governmental organizations have strong tools in international relations, this will be reflected in the role of the state and its national sovereignty
- 3- Whenever states are accustomed to national sovereignty in its traditional sense, this has a negative impact on the work of

international non-governmental organizations, and this in one way or another limited their activities.

4- The less politicized the work of international non-governmental organizations, the greater the achievement of these organizations on a humanitarian level.

5- International non-governmental organizations have a role at the international level that does not completely conflict with the role of Intergovernmental organizations

### ➤ **Study methodology**

Since the aim of this research is to study the role of non-governmental actors in international relations, non-governmental organizations, as a model, and to test the effectiveness of this role, this study relies mainly on the descriptive and analytical approach, using the comparative approach .

The researcher will use the descriptive and analytical approach to study the role of non-governmental actors in international relations and non-governmental organizations as a model, so that this approach is used to clarify the characteristics of the phenomenon of the existence of non-governmental actors, and a quantitative study that clarifies the size of this phenomenon, its changes and the degrees of its association with governmental actors. The use of this approach in the study is graded in three levels: the first is summarized by identifying the facts and their occurrence, and the second is concerned with studying the link between the presence of non-governmental actors and the presence of governmental actors, and the third of which is very close to the procedures followed in the experimental approach, so that two groups of organizations are tested. One of them is experimental and the second is control

## General Introduction

As for the comparative approach, the researcher will employ it at the outset on more than one level related to a time-based comparison between the developments of the role of NGOs in international relations to identify the extent of the effectiveness of this role, and to identify aspects of change and continuity in the nature of the role of these organizations, and another level related to the comparison between The positions of these NGOs.

*Chapter One*  
**Non-State Actors in public  
policy**

## **1 - The concept of public policy and non-state actors and their classifications**

The role of Non-State Actors is one of the most discussed issues within scientific debates over the globalisation phenomenon. Literature on the theme from international law, political science, sociological and economical perspectives has significantly increased since the turn of the millennium.

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Nonetheless, it is justified to presume that processes of economic, political and cultural globalisation have had a dynamic impact on the further development and change of the Non-State Actors' role in shaping politics and law. Literature, with a view to their increased importance, partly refers to an end of state sovereignty due to the process of globalisation.

Therefore the intensive scientific debate at the same time always deals with the influence of government policy on sectoral societal processes, that seem, to a large extent, to have withdrawn from the sphere of influence of individual states due to an internationalisation.

## 1-1 The concept of public policy :

Public policy is the means by which a government maintains order or addresses the needs of its citizens through actions defined by its constitution. If this definition sounds vague or confusing, it's likely because a public policy is generally not a tangible thing but rather is a term used to describe a collection of laws, mandates, or regulations established through a political process.

In the United States, for example, there have been recent changes to the health care system that now require every citizen to have health insurance. After a series of debates, evaluations, and analysis, the federal government arrived at the conclusion that this would be in the best interest of citizens and began crafting bills, insurance mandates, and other pieces of legislation to establish a system for how Americans receive health care treatment. Through this legal and political process, they have created a new public policy, which contains several different parts in order for it to serve its purpose.

If you're a visual learner, imagine a jigsaw puzzle that contains 250 pieces. Now pretend that each of those 250 puzzle pieces represents a law, Congressional act, or federal mandate related to health care in the United States. When you put all the pieces together properly, you arrive at your complete picture, which, in the case of this metaphor, would be the public policy.

### 1-1-1 Types of Public Policy

Because public policies are in place to address the needs of people, they are often broken down into different categories as they relate to society. Looking at some examples of these categories should give you an idea of how public policy fits into each area of society.

**A-Health policy:** for example, covers not only the insurance mandates discussed above, but refers to all policies related to the health of a particular



group. When the AIDS epidemic emerged in the early 1980s, governments around the world had to craft new policies around how the disease would be treated, what steps they would take to educate the public, and so on.

Another important type of public policy in a society is its legal policy.

**B- Legal policy:** covers the laws used to determine, among other things, what will be considered a crime, how that crime will be punished, and who will be responsible for handing out the punishment. For example, in most cases, the act of murder is a crime that is often punished with a lengthy prison sentence or even the death penalty. The classification of murder as a crime and the common punishment for the crime are both examples of how a government responds to a problem using public policy.

## 1-2 The concept of non-state actors in public policy

With the development of the current international community, and the emergence of new international people alongside states, a problem has arisen facing students of international relations, which is defining who are the non-governmental actors? Or who can be considered like so? Some consider the state to be the only international person, and the only and possible actor in the field of international relations, and that governments are the only agencies entrusted with establishing relations with other agencies,<sup>1</sup> While others reject this proposition and assert that the state no longer has the sole voice heard in the international community, and the international theater is no longer its sole monopoly, but besides it there are international people who are distinguished for their work and performance and influence in primary life. And there is a kind of general agreement regarding this last opinion with a difference in the detailed jurisprudence.

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<sup>1</sup> - مارسيل ميرل: سوسيولوجيا العلاقات الدولية، ترجمة: حسن نافعة، القاهرة: دار المستقبل العربي، 1986.

In the beginning, the difference was limited to the nomenclature of these international people, as some called them the members of the international community, and others called them the "parties to the international game," and some called them international representatives or international actors ... etc., but then moved on to researching their effectiveness and classifying them. Faced with this group of nomenclature, it is necessary to define and distinguish this term, as the naming of international actors "is the best designation that can be in line with the science of international relations, and this is what many researchers in the field of primary relations have used to do." Or a body, group, or even a person capable of playing a role on the international stage, and playing this role may require taking a decision, taking some action, or even simply, exerting an influence on those who hold the decision-making power or who hold the reins of material power .<sup>1</sup>

And if there is some kind of agreement on defining the international actors, namely the states first, then the bodies formed and supported by states, which are intergovernmental organizations again, the researcher finds disagreement once again about another group of non-governmental forces that carry out functions or exert influence, large or Small, depending on the decisions of international actors, these forces form a broad sector that is unclear and undefined, formed by individual initiatives, and they are called transnational forces "or other names previously mentioned, and they have been called non-state actors.

Despite the theoretical disagreement about the nature of these forces, so that the researcher hardly finds a comprehensive definition or a clear classification, there is almost unanimity on the rise of these forces, and the increase in their

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<sup>1</sup> - مارسيل ميرل: سوسيولوجيا العلاقات الدولية ، مرجع سابق. ص 313.

influence on the international arena, and Iran will have a set of definitions for non-governmental actors, and finally an attempt to develop a definition Comprehensive covers all these non-governmental forces on the international stage.<sup>1</sup>

Marcel Merle calls the transnational forces on non-state actors, which are a number of flows that emerge, to one degree or another, or even completely flee from the control or oversight of government agencies, and define them: the solidarity movements and currents emanating from the private initiative, which is trying to establish its foundations. Across borders, and aims to promote or give preference to its viewpoint in the international system. (1) “Merle explains the extent of the complexity and richness that these transnational flows show or add to the global arena, when compared to the range of traditional relationships and interactions that occur between states and organizations.

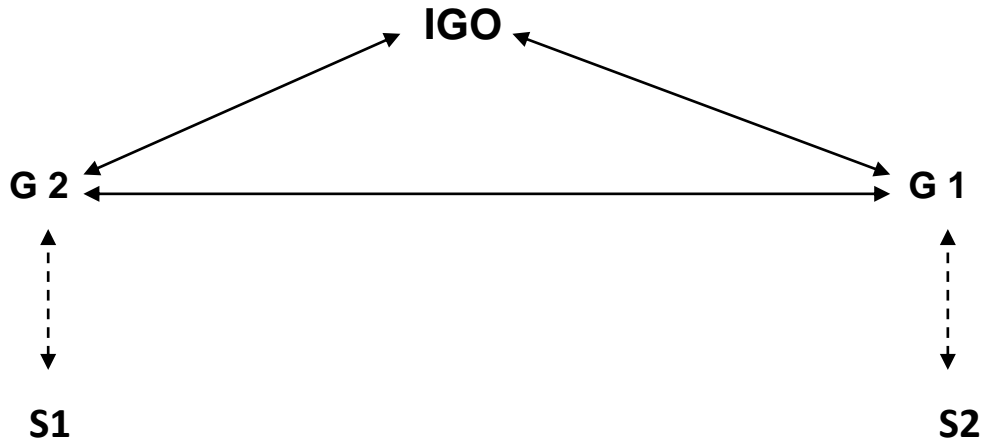
Intergovernmental intergovernmental organization, and for that form two figures [1] - [2] showing the degree of interlocking and pivotal interaction

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<sup>1</sup> - مارسيل ميرل: سوسيولوجيا العلاقات الدولية ، مرجع سابق. ص 379-378.

On the internal and external relations of states, and then compared to transnational relations or relations

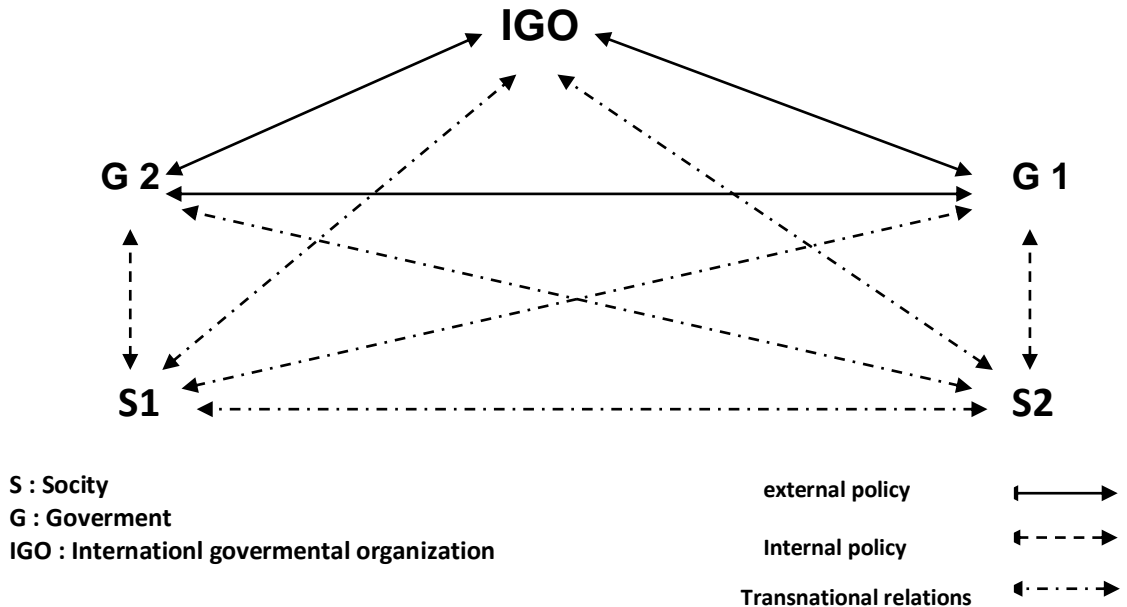
Figure 1: the model of the interaction revolving around the state



Source: مارسيل ميرل: سوسيولوجيا العلاقات الدولية، مرجع سابق، ص 381

external policy ———  
Internal policy - - -

Figure 2: Transnational relations



James Rosenau defines non-state actors: the actors outside the Actors (ie the actors), international NGOs, sovereignty-free, multinational corporations, civil associations, media organizations that transcend the national framework, which made geographical borders Nationalism is completely penetrating, as this trend has crystallized thanks to information technologies that have not limits.<sup>1</sup>

State Actors As for Martina Fischer, she defines the term non-NSAs as including all actors at the international level who do not belong to the government. She adds that this term in international relations theory includes both international non-governmental organizations and companies. Especially multinational corporations, international media, and organized international crime, and actors Similar to the Mafia, and criminal and terrorist military groups at the international level.<sup>2</sup>

While Mahmoud Khalaf calls "non-state actors among transnational forces", and he defines them: the social forces of non-states that carry out their activities outside the borders of states, but carry out their tasks protected from them or convinced and hidden behind them, and these forces or these international persons, some of them overtly their actions, and some The other has hidden actions, some of them have a strong, direct and lasting influence on international life, and others have a strong but occasional influence (that is, for a limited period of time and for a specific goal). Intergovernmental organizations, especially international ones as a "consultative status, as these organizations ostensibly use them to consult and benefit from their expertise in their field of specialization. They usually carry various names such as associations, federations, unions, bodies, organizations, agencies, foundations, companies ... etc., They are only international people for three main reasons

<sup>1</sup> -James Rosenau: Turbulence in World Politics: A Theory of Change and Continuity (New Jersey: Princeton University Press, 1990), p 36

<sup>2</sup> -مارتينا فيشر: "المجتمع المدني ومعالجة النزاعات : التجاذبات والإمكانيات والتحديات", ترجمة: يوسف حجازي (برلين :مركز بحوث برغوهف للإدارة البناءة للنزاعات، ط1، ص4.

**First:** The role it exercises materially and intellectually across the borders of the states established on its land.

**Second:** The enormity of their number, which has now exceeded thousands, which indicates that these forces include several millions of individuals from several countries, who share homogeneous interests and concerns, and common goals and principles, which they seek by various means to achieve them.

**Third:** Its specializations are divided, as it includes various aspects of life, including scientific, educational, cultural, tourism, legal, technical, health, sports, religious, social, financial, ... etc. <sup>1</sup>

Both Bertrand Paddy and Marie-Claude Smuts refer to non-state actors, through their definition of transnational flows, or transnational relations by saying: It is a relationship that arises in the global sphere, By a conscious will or an intended purpose, outside the framework of the nation-state, that is achieved by at least partial escape from the control of states or their mediating influence. <sup>2</sup>

As for Hassan Nafaa, he refers to the phenomenon of non-state actors, through his definition of the concept of international actors, by saying that these international entities: are all units whose activities contribute to influencing aspects of international life, whether they are natural or moral persons, belonging to the public or private sector And it exercises its primary roles in its individual or collective capacity.<sup>3</sup>

Based on the foregoing, it can be said that the concept of non-state actors in the international arena is not easy to define precisely, but this does not prevent a conceptualization of it, so it is possible to define two non-governmental actors: the parties and entities that work diligently on the will of states, Membership

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<sup>1</sup> - محمود خلف: مدخل إلى علم العلاقات الدولية (عمان: دار زهران للنشر، ط1، 1997، ص 259، 257).  
<sup>2</sup> - بيرتران بادى و ماري-كلود سموتس: انقلاب العالم-سوسولوجيا المسرح الدولي، ترجمة: سوزان خليل(القاهرة: دار العالم الثالث للطباعة والنشر، ط1، ص140).  
<sup>3</sup> - حسن نافعة: مقدمة في علم السياسة: الدولة والعلاقات الدولية، الجزء2، القاهرة: جامعة القاهرة، كلية الاقتصاد والعلوم السياسية، 2002، ص269.

and activity, so that the issues of concern to them vary according to the nature of the work of those bodies and their objectives, some of them aim to provide goods and services, voluntarily and not for profit, such as international non-governmental organizations that work within the space of social development issues and humanitarian relief activities, in addition to issues of development, environment and human rights . . . Others have expansionary profit goals, such as multinational companies, and others that have social dimensions or national demands and may be linked to political interests. These parties have an impact on various national and international policies. It operates at international or global levels within the framework of a Czech linking it to the local and national levels. It operates at the level of countries around the world through its branches.

### **1-3 Classification of non-state actors**

Although most of the literature on international relations still looks at non-state actors from the state's perspective as approaching and moving away, and their effects are geared within the orbit of the nation-state, the effects of the growing number of these actors on the international arena, the diversity of issues that support their legitimacy, and the increase The processes of cross-border entanglement between them, and the multiplicity of its methods and tools such as religion, violence, mass media, capital, immigration ... etc., prompted some thinkers to argue that international relations should be viewed as more Complicated and intertwined by the mere state, these new actors must be seen as the natural evolution of the movement of human societies.

However, since the phenomenon of non-state actors is incomplete first and is still being formed, it is difficult to define non-state actors exclusively on the one hand, and it is not possible to predict in advance the size of the role that any transnational actor could reach in the international arena on the one hand. Other,

hence the difference between researchers in identifying actors crossing the border first, then classifying them into groups and under many names according to the goals and fields in which any transnational actor works again, and then studying their effects and lights on the international arena, and some classifications will be given to a number of Then, the researcher extracts the non-state actors' university classification

Marcel Merle classifies “non-governmental actors or transnational forces” into two groups :

1 - Non-profit organizations, namely the international non-governmental organizations (NGOS).

2- Organizations whose aim is to generate profit, namely, multinational companies.<sup>1</sup>

As for Martina Fisher, “it considers that the non-governmental actors are international non-governmental organizations, multinational companies, the international media, organized international crime, mafia-style actors, criminal and terrorist military groups at the international level, in addition to a wide range of non-governmental actors concerned. In terms of development, whose participation in the cooperation between African, Caribbean and Pacific countries and the European Union has been officially recognized, and according to Article 6 of the Cotonou Agreement “signed between the European Union, the African, Caribbean and Pacific countries”, the term “non-governmental actors” includes civil society in all its diversity by consensus With national characteristics, economic and social partners, including trade union organizations, and the private sector. ”In order to join the partnership, non-governmental actors must respond to social needs, possess competencies for

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<sup>1</sup> - مارسيل ميرل :سوسيولوجيا العلاقات الدولية، مرجع سابق، ص380-379



development, and an organizational structure that is transparent and democratic (European Commission 2006).<sup>1</sup>

Whereas, Paul Wilkinson describes “non-state actors in seven groups, namely :

1- Religions.

2- Nationalism.

3- The main images of the national movements, and two images of them are mentioned: (cultural-linguistic nationalism and anti-colonial nationalism in the Third World).

4- Multinational companies.

5- Armed gangs and rebels.

6- Terrorist groups and networks.

7- Human rights organizations.<sup>2</sup>

As for "Bertrand Buddy and Mary - Claude Smuts" and James Rosenau, they divide the international system into two worlds :

1- The world of the state: it is a possessed world that has its own rituals, and it consists of a limited number of players. 2- A multi-centered world: it consists of an unlimited number of players and participants, who have the ability to conduct international action, in one way or another, independent of the countries they are supposed to follow. In the second polycentric world, “it is possible to talk about transnational flows, and these flows have multiple models. They are either flows resulting from international non-governmental organizations beyond the control of states, or flows arising from the influence that are multiple individual actions, and they are related to the first category and include the majority of Religious

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<sup>1</sup> - مارتينا فيشر: المجتمع المدني ومعالجة النزاعات : التجاذبات والإمكانيات والتحديات , مرجع سابق , ص4  
<sup>2</sup> - بول ويلكنسون: العلاقات الدولية : مقدمة قصيرة جدا , ترجمة: لبنى عماد تركي, القاهرة : مؤسسة هنداوي للتعليم والثقافة , ط1, 2013, ص 59-73.

flows, for example: what is organized by churches, cultural associations, sects, or a group of preachers. The second category includes demographic differences, which consist of the integration of individual efforts.

Formation An endless number of mini-strategies, for example, the massive flight of capital that It is doing enterprises and multinational companies.<sup>1</sup>

A number of researchers,<sup>2</sup> divide non-state actors into many types and levels, in terms of the level of actors 'activity: it is possible to distinguish between non-state actors and local actors, that is, those whose activities are restricted to one country only, such as political parties. And those whose activities transcend the borders of one state, such as: Al-Qaeda and multinational companies. As for the nature of the relationship with the state: there are traditional non-state actors: such as international non-governmental organizations, Intergovernmental organizations and multinational companies. And the new non-state actors: "They are the groups or organizations that enjoy a number of characteristics, which are completely or to a large extent independent from financing the central government that operates on its territory, and has its own resources that guarantee them to exercise some influence on the political outcomes within one or more countries, Or in the international environment, and has a distinct identity, and a foreign policy independent of the policies of the country to which it belongs.

The difference between these two generations of actors lies in the nature of the relationship with the state, and the nature of the size of the role and influence

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<sup>1</sup> - برتران بادى و ماري-كلود سموتس: انقلاب العالم-سوسيولوجيا المسرح الدولي, مرجع سابق, ص.141-139  
<sup>2</sup> - إيمان رجب: "اللاعبون الجدد: أنماط وأدوار الفاعلين من غير الدول في الثورات العربية", مجلة السياسة الدولية(القاهرة: مؤسسة الأهرام للدراسات السياسية والاستراتيجية, العدد 187, 2012, ص38

that plays in international relations. On the one hand, the emergence of traditional actors was linked to the nation-state, and in some cases they even turned into levers for implementing the foreign policies of their countries, and their continued existence is linked to the state's continued existence, its continued ability to maintain its cohesion and power, and to impose laws. For example, international oil companies such as the British "BP" company cannot carry out their activities in a country that suffers internal freedom, or if there is no stable infrastructure, political and security situation.

Based On the other hand, some of the new actors have grown up in countries that have not yet fully developed, such as the Hamas movement in the Palestinian territories, or they are suffering from a degree of weakness, and we may witness a disagreement over the election of a president of the republic, such as the case of Hezbollah in Lebanon, or they were subjected to a complete collapse because The invasion, as is the case for the Mahdi Army in Iraq, or its weakness until it reached the stage of collapse, as in the case of the Islamic Courts in Somalia. Western literature has dealt with the study of this generation of actors under the name “Armed Non-State Actors (ANSA) and Non-State Actors” (ANSA), Actors Violent or Terrorist Groups<sup>1</sup> or Islamist movements<sup>2</sup>. Or “Religious Subjects, or Individuals with a Distinguished Identity”

Moussa Al-Zoubi considers that the non-international actors are: international organizations, multinational companies, international non-governmental organizations, and individuals, as well as the Davos Economic Summit, then the media, and illegal actors such as the mafia.<sup>3</sup>

<sup>1</sup> -Phill Williams: "Violent Non-State Actors and National and International Security" (Switzerland:International Relations and Security Network, 2008), p.18.

<sup>2</sup> -Katerina Dalacoura: "Islamist Movements as Non-state Actors and their Relevance to International Relations" Ed in: Daphn Josselin and William Wallace: Non State Actors in World Politic (NewYork: Palgrave, 2001), p. 53

<sup>3</sup> -موسى الزعبي : الجيو سياسية والعلاقات الدولية، أبحاث في الجيو سياسية Geopolitique وفي الشؤون والعلاقات الدولية المتنوعة، دمشق، منشورات وزارة الثقافة، 2004، ص113-128

As for "Mahmoud Khalaf", it divides the forces that carry out their activities outside the framework of the borders of the countries into two ranks. The first rank: It includes the international powers with wind or economic goals, whose names differed, but the absent agreement is the term for multinational companies, and they are characterized by three characteristics

- . They are companies of a national character that are subject to one state or another, depending on the location of their headquarters.
- . They are companies of a multinational character of their social capital
- . They are transnational corporations in their line of business.

The second rank: It includes all the international powers that do not have profit-making goals, that is, those that do not seek to gain

And the practice of calling them international non-governmental organizations.

Khalid Al-Shaqran classifies non-state international actors into five groups:

Multinational companies.<sup>1</sup>

2- Subnational forces: they mean interest groups and local authorities (states, provinces, or regions), in addition to political parties, professional unions, or active political groups, national liberation movements, and others.

3- Transnational actors: A transnational actor means: "a group that includes individuals or groups from different countries, joined together by a single organizational framework in order to carry out joint action, and this actor may take the form of bodies (political, religious, scientific, professional or social), Or the form of trade unions, which often include pre-existing local unions, or the

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<sup>1</sup> - محمود خلف: مدخل إلى علم العلاقات الدولية، مرجع سابق، ص 259.

form of companies that coordinate their economic activities within several countries.

4- International non-governmental organizations.

5- Intergovernmental organizations: they refer to traditional governmental organizations at the global and regional levels, and their activities range from political, military and economic cooperation to organizing the various interactions between governments, whether political, economic, social or cultural.<sup>1</sup>

As for Bazegh Abdel Samad, he describes the actors in international relations in two groups, namely

The traditional actors: the main actor is the state, international organizations, and national liberation movements

New actors or transnational forces: they are international NGOs, and multiple companies, Nationalities, lobby, and international public opinion.<sup>2</sup> From the foregoing, it can be said that the term non-state actors applies to all powers or organizations that enjoy complete independence, or to a large degree, from financing the central government that operates on its territory, and that has its own resources that guarantee it to exercise some influence on the outputs. Political affairs within one or more countries, or in the international environment, which have a distinct identity, and a foreign policy that is independent from the policy of the state to which it belongs, but each of these forces has certain characteristics that differ according to the purpose of the organization or dimensions

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<sup>1</sup> - خالد الشقران "تأثير العولمة وتكنولوجيا الاتصال والإعلام في العلاقات الدولية" موقع الكتروني: مركز الرأي للدراسات، 2006-06-11، 2006/11  
[http://www.alraicenter.com/index.php?option=com\\_content&view=article&id=177:201011&Itemid=4-58-16-03-11-06&catid=14:2010-55-10](http://www.alraicenter.com/index.php?option=com_content&view=article&id=177:201011&Itemid=4-58-16-03-11-06&catid=14:2010-55-10)

<sup>2</sup> - بازغ عبد الصمد "بنية الفاعلين بعد الحرب الباردة، موقع الكتروني: نالحوار المتمدن، العدد. 12\5\2012، 3725  
<http://www.ahewar.org/debat/show.art.asp?aid=307332>

Its activities, and the degree of availability of these features varies from case to case.

Consequently, the term non-state actors includes all the actors, organizations and powers influencing various national and international policies that the state does not establish, and the government is not a party to, and without specifying them exclusively, and this term includes all traditional and new non-governmental actors. In the international arena, starting with international non-governmental organizations, institutions or multinational companies, then the media and international opinion, and all associations, unions, trade unions, bodies and agencies that have an impact on international life, and out of the control of governments, and all other actors and forces that have recently emerged as a result of the development of communication and information systems. Such as global social networks, as well as non-governmental actors, international religious movements and parties, and research centers Scientific, illegal actors such as the international mafia, and terrorist groups, then the end of the individual actor as a new phenomenon that is being studied among the forces and non-governmental parties.

The individual international reactor: represents a new phenomenon that is still under formation. Its housing is for a person or individual from the community to become active at the international level, whether with the national community, that is, at the level of one country or international sellers, that is, at the level of relations between states, and that is as a result of having this A person has significant financial, economic, or media periods that enable him to influence the course of events, not only within his country but also in the regional or international scale. The traditional view of international relations does not consider individuals as international actors because they are not subjects of international laws, but nevertheless it is difficult to ignore the importance. Some of the leaders of the countries who have awakened themselves to historical anchors, and I want to see Saraqib and their opinions are urgent international decisions, and for some religious ranks the Pope, such as positions of important dimensions in international politics, and the same is true for the owners of major economic projects who also play this role, for example the American of Hungarian origin George Soros, where George Soros "in the nineties of the last century was an example of the individual who could play a role on the international level. A against the pound sterling in 1992, forcing the British government to devalue the pound sterling. Rupert Murdoch was able to build a media empire, whose budgets and profits exceeded the budgets of many countries, which gave him an influence and influence in international politics. News Corporation spread, which reached 800 news and media organizations, not only in Britain and the United States of America, but in Australia, Italy and 52 Another country turned to four continents around the world. Murdoch owns more than (175) famous newspapers. Al-Satellite TV owns (12) television stations in the states and also in the field of Fox, the twentieth cinema company, and many large international publishing houses, Harry Coulter, and through that he was able Murdoch, the Sunnis in many international political issues and influencing

global public opinion, as they used these great media capabilities to support politicians who serve his interests, and to breathe all those who oppose him, regardless of any professional or moral standards.



## 2- Non-state actors from the perspective of schools and theories

### 2 – 1 The liberal school

Liberalism is a word derived from Latin origin, which means a free person, "or it means individual freedom." <sup>1</sup> Liberalism is an ideology whose central concern is the freedom of the individual, and considers freedom the principle and the end, The motive and the goal, the origin and the result in human life, and liberals see the establishment of the state as a response to the need to protect freedom, whether from the aggressions of individuals or from other countries, and the government must always be a government serving the collective will, and democratic institutions are the means that guarantee this.

The idealists (utopians) are the heirs of the liberal optimistic visions that believed in international peace, which prevailed in the late eighteenth century, up to the Wilsonian idealism in the early twentieth century, as idealists believed in the possibility of eradicating the roots of evil represented by) selfishness, monarchy, power, power, and national interest. Secret diplomacy ... etc.). The idealists have tried to build an international order consistent with the principles, values and ideals they advocated, based on the rule of law and moral submission to the authority of international regulation in everything related to managing the affairs of societies through the implementation of the principle of violence and aggression, and calling for The rise of authority , International organization, and resolving international disputes by peaceful means.<sup>2</sup> The liberal school looked at state relations from the perspective of their relationship to their context (social and transnational), especially after the emergence of a number of non-governmental actors on the international scene, such as multinational companies and international non-governmental organizations, and the societal nature of the

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<sup>1</sup> - برتراند رسل. حكمة الغرب، ترجمة: فؤاد زكريا ( الكويت: سلسلة عالم المعرفة، 1983،)، ص149.  
<sup>2</sup> - على العقابي: العلاقات الدولية: دراسة تحليلية في الأصول والنشأة والتاريخ والنظريات، ( بغداد : دار الرواد للطباعة والنشر ، 2000 )، ص 17.

actors in the international system has embodied According to the liberal theory, through a set of hypotheses, which are summarized in the following points:

1- Individuals and organizations, along with states, are the main actors in international politics, as the needs of individuals are treated as causes driving interests that contribute to determining the behavior of states, and the liberals assert that individuals of different social levels contribute through effective institutions within states in drawing their foreign policies. Thus, the extent of the consistency and harmony of interests between individuals and groups within society contributes to avoiding disputes within the state, and in determining the nature of its behavior within the international community.

2- The state is an institution that is subject to supervision and construction by the various social actors within it, meaning that individuals and groups contribute to influencing the policies of states, so that the official representatives of the state abide by following the objectives formulated by the active institutions within the state through foreign policy

3- The foreign policy of states is a result of their behavior in the international system. Consequently, each state seeks to realize its options based on cooperation or conflict in light of the obstacles it faces, and based on The nature of the behaviors adopted by other countries and there is no doubt that the outbreak of the First World War, and the woes and disasters it left behind, prompted many intellectuals and politicians to adopt international programs aimed at ending the use of war as a means of settling disputes between countries. <sup>1</sup>The followers of the liberal school tried Promoting these assumptions through the collective security system based on deterring aggression regardless of its sources and whatever the forces within which it moves, while punishing

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<sup>1</sup> - فتحة النبراوي ومحمد نصر مهنا: أصول العلاقات السياسية الدولية (الاسكندرية: منشأة المعارف، 1985)، ص31.

any country that resorts to the unlawful use of force in its international relations.<sup>1</sup>

These theses were embodied by the establishment of the League of Nations as an international organization in which the international community fully bears the responsibility for the security of each of its members<sup>2</sup> However, the League was formed according to the will of the victorious party in the First World War, and the role of the American President Woodrow Wilson cannot be denied, who emphasized that peace It stems from values and principles that cannot be compromised or divided, with the necessity that the constitution and charter of the League be an integral part of peace treaties.<sup>3</sup>

Despite this, the United States of America did not join the League, and Germany withdrew from it after the Nazi party came to power in 1934, while the Soviet Union was expelled from it in 1939. And with the inability of the League to address the political problems it faced, and its failure to prevent the Japanese aggression against China in 1931 And the Italian aggression against Abyssinia in 1935, and its inability to prevent Germany from occupying Czechoslovakia in 1937, it can be said that all of these factors contributed to the outbreak of World War II, and thus the assumptions of international peace put forward by the liberal school became almost absent<sup>4</sup> And based on the fact that liberalism believes that individuals are the focus of society, and that society and its institutions exist to advance their goals regardless of their social levels, it stresses the social contract embodiment of John Locke "d sa Thomas Hobbs" Jacque Rousseau, And other sociologists, which is the contract by which citizens set laws and agree to abide by them, and we also stress the rule of law and encourage liberal democracy. However, early Enlightenment thinkers confronted

<sup>1</sup> - إسماعيل مقلد : العلاقات السياسية الدولية: دراسة في الأصول والنظريات ( الكويت: منشورات ذات السلاسل، ط5، 1987)، ص293.

<sup>2</sup> - طه محمد بدوي: مدخل إلى علم العلاقات الدولية( القاهرة: دار النهضة العربية، 1986) ص 241.

<sup>3</sup> - عيد الحميد البطريق: التيارات السياسية المعاصرة ( القاهرة: دار النهضة العربية للطباعة والنشر، 1974 ) ، ص 209.

<sup>4</sup> - حسن نافعة : الأمم المتحدة في نص قرن ( الكويت: المجلس الوطني للثقافة والفنون والآداب ، 1995 ) ، ص26.

the authoritarian liberalism of the old “Mercantilism” systems (feudalism, the Roman Catholic Church, then Populus) Some radical philosophers have their ideas in the context of the French Revolution and throughout the nineteenth century liberalism pitted itself against socialism and communism, although some contemporary European liberal parties have mostly formed alliances with social democratic parties, and in the twentieth century liberalism defined itself in the framework of opposing totalitarianism and populism .

After World War II, and in most countries of the West, the liberal parties fell between conservative pressure on the one hand and workers from the social democratic parties on the other hand. For example, the British Liberal Party became a small party, and this happened in a number of other countries, where democratic parties occupied Socialism has the role of leading the "left", and conservative parties that encourage trade occupied the leadership position of the right. "After the 1970s, the liberal thought once again directed towards focusing on new actors in the international system within the framework of what is known as paradigm.) The old period after World War I returned again in the period before the end of the Cold War, and liberalism has had a profound influence in contemporary political thought and in the field of international relations, and this effect can be monitored in the contributions of liberal, republican, commercial, institutional and sociological trends, as most of these theories are Liberalism places the relations of society and the state at the center of global politics (relationshipCountries with their internal social context and transnationalism). This vision represents most of the trends of liberal thought such as liberal idealism, commercial liberalism, republican liberalism, institutional liberalism or liberal theory.

- **Ideational Liberalism :**

It believes that the harmony of the form of internal social identities and values is the main determinant of state choices and thus conflict and cooperation between states, and it relies on the liberal tradition of political philosophy that goes back to " Giuseppe Mazzini , John Stuart Mill , Woodrow Wilson, which reached its climax in the interwar period," Except that the collapse of the League of Nations set an end to the era of idealism, then, liberalism adopted a more pragmatic language (after 1945.<sup>1</sup> )

Emeric Cruce was the first to declare that the main example of international relations is not only the state but also individuals, and they are aware that their personal interests and selfishness must motivate them. Towards trade instead of war, and proposes the idea of a global organization based in a neutral country, in which ambassadors of all countries meet (meaning Europeans in a general assembly to find solutions to various conflicts. <sup>2</sup>

As for Immanuel Kant, he was optimistic and turned away from the mechanical vision of the balance of powers that classical realism says, and he firmly believed that reason leads people to peace. He included his ideas in his book *A Project for Eternal Peace* (1795), stressing that international politics An interstate policy is only apparent, and in reality it must be viewed as a bio-national policy between individual states. <sup>3</sup>

In simple terms, it can be said: idealism is considered more than any other root of the roots and trends of liberal theory, which tried to create an international order by analogy with the internal representation system, an idea that was exploited by the advocates of realist thought, chief among them, Hallet

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<sup>1</sup> Tim Dunne : Liberalism & C.Schmidt : Realism ,op.cit , P 191 .

<sup>2</sup> - اكرافية غيروم : العلاقات الدولية، ترجمة قاسم المقداد ( بيروت: دار الكتاب العربي، 2001 ) ص 38.

<sup>3</sup> المرجع السابق، ص 36-39.

Carr, in their attack on the double moral standards of the League's supporters, accusing them of them. By trying to create a system that suits the interests of the victorious powers in the war.

- **Commercial liberalism :**

The liberal commercial theory tries to search for an explanation of the individual and collective behavior of states based on models of market incentives in the face of internal and transnational economic actors, and it is based on functional arguments to a large extent, as the shifts in the structure of the internal and international economy change the costs and gains of exchanges. Transnational economic, the problem of certain pressures on governments to facilitate or impede such exchanges through appropriate foreign economic and security policies, yet liberal trade theory does not believe that economic incentives automatically produce free trade and global peace.<sup>1</sup>

Adam Smith was one of the prominent liberal faces of the Enlightenment, and he emphasized that individuals, by pursuing their own interests, are serving the common good, and the mechanism of overlap between the motivations of individuals and the goals of society, which is what Smith referred to as the "invisible hand." Invisible hand despite his belief that the natural harmony between individuals and the state does not extend to harmony between states, and this is precisely what was emphasized by mid-nineteenth century thinkers such as Richard Golden, who was against controlling practices carried out by governments across the world, believing that The development of freedom depends mainly on preserving peace, expanding trade, and spreading education, and Goyden's belief that "free trade will create a peaceful world order that

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<sup>1</sup> - Tim Dunne : Liberalism & C .Schmidt : Realism ,op.cit , P 171.

formed the core of liberal thought at the time. As free trade creates mutual benefits for all players, regardless of their size or the nature of their economies.<sup>1</sup>

According to commercial liberalism, trade is less costly to acquire wealth than wars, sanctions, or any other coercive means, and this idea formed the core of the theory of interdependence that was put forward strongly at the end of the Cold War, especially in the works of John O'Neill, and Bruce Ross Rosato based their work on the fact that many forms of international conflicts find their source in the lack or weakness of economic and trade ties between the parties and the various international powers, and that the promotion of peace requires creating mutual dependence between countries, and strengthening economic ties is sufficient to make countries prefer trade rather than to invade.<sup>2</sup>

- **Republican liberalism :**

It is noticed that while the ideal and the commercial theories focus respectively on the needs resulting from certain models of societal identities and economic interests, the liberal theory focuses on the ways through which the internal institutions combine these demands and needs, transforming them into an official state policy, and thus the variable Fundamental to republican liberalism is the pattern of internal political representation that limits those societal options that favor it institutionally.<sup>3</sup>

peace and the so-called liberal republic constitutes the theory of "democratic peace, the pillar of liberal thought." Although its essence is old and goes back to the 18th century with the writings of "Kant and Jeremy Bentham", the idea was reintroduced in the eighties of the nineteenth century, a period that witnessed the

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<sup>1</sup> - Ibid , P 190.

<sup>2</sup> - Benny Miller : The Rise and Decline of offensive liberalism , Paper prepared for the annual meeting of the International Studies Association , ( Montreal Canada : March , 2004) , P9.

<sup>3</sup> - Andrew Moravcsik : "Taking Preferences Seriously : A Liberal Theory of International Politics " ( International Organization : Vol 51 , No .4 , Autumn 1997 ) P 530.

so-called B. The third wave of democracy, which was mixed with Michael Doyle's resurrection of the peaceful behavior of democratic states, and which supports the belief that war has become obsolete between the great powers.<sup>1</sup>

Kant believed that “liberal states are peaceful in their relations with other liberal states, and this was reaffirmed in the 1980s, as Michael Doyle (1986) believes that liberal states always seek to create a separate peace .<sup>2</sup>

Bruce Russett suggests that with a sufficient number of democracies in the world it is possible to remove the realistic principles (anarchy, the security dilemma) that have dominated international relations since the 17th century. ”And confirming the close link between the form of government and external international outcomes, Fukuyama wrote: If a democracy fought another, "and this relationship, according to Jack Levy, is the closest thing to the study of international relations.<sup>3</sup> Create an international system based on Peace.

- **Neoliberalism (institutional liberal):**

Neoliberalism is an academic term referring to new institutional liberalism, and in political life, neoliberalism is defined in the context of promoting capitalism and Western democratic values and institutions. Institutional liberalism is one of the trends in international institutional theory, which includes three trends in the field of international relations, all of which share the use of institutions as a central conception, which are collective security theory, critical theory, and institutional liberalism<sup>4</sup>. In the seventies of the twentieth century, the likes of Robert Keohane and Joseph Nye represented the main

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<sup>1</sup> - Kenneth N.Waltz : Structural Realism After the Cold War ( International Security , Vol .25,No.1 Summer 2000) , p6.

<sup>2</sup> - Benjamin Solomn : Kant’s Perpetual peace : A new Look at this Centuries – Old Quest , The Online Journal of peace and conflict Resolution, 5.1 , Summer : 106-126 (2003) , p 106.

<sup>3</sup> - Kenneth N .Waltz : Structural Realism After the Cold War , op.cit. pp (6.9) .

<sup>4</sup> - John Mearsheiler : The False Promise of International Institutions (International Security , Vol .19,No.3 Winter 1994) , p8.



challenge to realism, and shared with it the dominance of contemporary international relations studies.

**Definition of institutions:** There is no agreed definition of institutions in the literature of international relations, and John Mearsheimer believes, “one of the most prominent opponents of institutionalization is that this concept is sometimes defined very broadly to include all international relations, so it is not bored with that important analytical value, and the word institution is usually used to refer to an organization. Or an existing agency usually associated with the government, but the term is used to denote many meanings today.

Stephen Ball defines institutions as: a path or a set of processes that create behavior, or it is those laws, norms, and practices that are institutionalized. As for Stephen Ball, Stephen believes that it is: a fixed and coherent set of rules and practices that challenge The actors 'dimensions, activities and their restriction, and their intentions, which may include organizations, bureaucracies, treaties and agreements, and informal practices that states accept as binding standards<sup>1</sup>, John Mearsheimer defines them as ”rules that define the ways in which states must cooperate and compete with Some of them are within their framework, they describe acceptable forms of state behavior, prohibit unacceptable types, and they are the rules that states negotiate about, and include common consensus around higher standards, which are the standards of states defined in the framework of rights and duties. <sup>2</sup>

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<sup>1</sup> - Steven Lamy : Contemporary Mainstream Approaches : Neo-realism and Neo-Liberalism, in : John Baylis & Steve smith : The Globalization of World Politics , ( London : Oxford University Press, 2 edition,2008),p214.

<sup>2</sup> - John Mearsheimer : The False Promise of International Institutions,Op.cit . p8.

## 2-2 The realist school

The analysis trends of international politics during the post-World War I phase came as a direct result of the exacerbation of international conflicts and the tendency of some major powers to create centers of power by their own movement and influence, praising an international reality that harmonizes with their interests and achieves them superiority over their opponents, whatever the complications that this king leaves on the balance and stability of the international system. And with the failure of the liberal theses to deal with the justifications that contributed to the outbreak of the Second World War, the ideas of Thucydides, Machiavelli, and Clausewitz's obsession were re-published again in what was called the realist school of international relations.

The realist perspective, of course, is not a single theory but rather includes a set of approaches within what is known as "traditional classical realism, and structural, systemic or new realism. It dealt with the framework of interpreting reality in international politics through a set of perceptions surrounding the problem of the centralization of the state in international relations as a major tool or unit of analysis.

Michael Doyle describes the attitudes of the early pioneers of realism into four: Complex Realism of Thucydides, Fundamentalist Machiavellian Realism, Structuralist Realism of Hobbes, and Constitutionalist Realism of Rousseau<sup>1</sup>, These names can be considered as founding fathers for what can be called the roots of the vision of the realistic epistemological model of the world of politics, and the intellectual background of the most important conceptual elements that, in turn, based on theoretical assumptions focusing on power relations and conflict on power and national interest, and the outlines of the most important explanatory rules presented by the realistic model For international politics, and

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<sup>1</sup> - Michael W . Doyle : Ways of War and Peace ( New York : W.W Norton & Company, 1997 ), p 44.

the most prominent issues that control the preferences of states in their foreign policies. The realist school embodies international interactions by expressing its complexities according to the concepts of interest and power that came to express the analytical pillars of ideas, founder of the realist theory, Hans Morgenthau, as interest is defined through it in the framework of power that in turn is drawn in the scope of influence or control in the sense of the size and the extent of the relative influence that is It is practiced by states in their mutual relations, which makes the national interest the central focus driving the foreign policies of states.<sup>1</sup>

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<sup>1</sup> - إسماعيل مقلد : العلاقات السياسية الدولية : دراسة في الأصول والنظريات . مرجع سابق ،ص 18.

### 2-3 Marxist radical theory and theories of international organization

The Marxist doctrine, based on the ideas put forward by Karl Marx, Vladimir Ilyich Ulyanov, Friedrich Engels, boils down to the fact that human history from the beginning until now is a history of conflict between the ruling classes in society, and that the material factor determining this struggle is the mode of production.<sup>1</sup>

On the basis of this Marxist understanding, it can be said that international relations are relations based on class struggle that drive socio-economic relations between political forces in society, which indicates that the nature of relationships within societies determines the framework of relations between states, as Marxist theory highlighted the role of political forces, organizations and movements stemming from the social revolutions that interact in the international community

And since the developments in the reality of international relations are reflected in the field of theorizing, this matter was evident in the movement to revise the theorizing efforts that developed within the field, especially the revision movement that took place at the hands of the Marxist model, which presented a vision different from the prevailing visions of world politics. The trend is of great importance as it opened the way to pluralism in the field of international relations, as it was a source from which many modern theories, their vision and trends, were inspired by them, and among the most prominent of them was a number of new approaches known as the radical theory in the field of international relations.<sup>2</sup>

<sup>1</sup> - جيمس دورتي ، روبرت بالاستغراف : النظريات المتضاربة في العلاقات الدولية، ترجمة : وليد عبد الحي ( الكويت : كاظمة للنشر والتوزيع 1985 ) ، ص 95-96.

<sup>2</sup> - مروة محمود فكري : أثر التحولات العالمية على الدولة القومية خلال التسعينات ، دراسة نظرية ، رسالة ماجستير مقدمة إلى كلية الاقتصاد والعلوم السياسية بجامعة القاهرة، 2004، ص 153.

This theory focuses on the issue of the relationship between East and West, Berri, which this relationship took, and confirms that it took the form of a relationship based on strength, with varying degrees of complex hegemony,<sup>1</sup> and focuses on research in history to reveal the true roots and dimensions of the reality of poverty and backwardness prevailing in the South. And confirms that capitalist expansion is what created this developmental rift in the global system, which first took the form of direct colonialism and later embodied in the form of indirect economic .<sup>2</sup>

A number of intellectual dialogues took place between the direction of liberal reformist Raoul Prebisch, And the direction of Gonder Frank Marxist “G. Frank, and the trend of world order theory” Emmanuel Wallerstein , that resulted in a kind of disagreement between these trends that support the theories of dependency, and many and multiple theses and views of the concept of dependency<sup>3</sup> appeared on the cognitive scene so much that It seems as if the number of theoretical trends in the school of dependency exceeds the number of theorists and contributors to discussions about the reality of dependency.

<sup>1</sup> - إدوارد سعيد : الإستشراق : المعرفة – السلطة – الإنشاء،ترجمة : كمال أبو ديب ( بيروت ، مؤسسة الأبحاث العربية ، 1984 ). ص 41.

<sup>2</sup> - عبد الخالق عبد الله : العالم المعاصر والصراعات الدولية ( الكويت : عالم المعرفة، 1986 ) ، ص 174.

<sup>3</sup> - Vincent Ferraro : Dependency Theory : An Introduction July, 1996 at :  
[Http://www.mtholyoke.edu/acad/intrel/feros-pg.html](http://www.mtholyoke.edu/acad/intrel/feros-pg.html).

### 2-3-1 The world system theory as part of the radical theory

The radical theory starts from saying that there is a single global system that is characterized by its structural division into two types of social formations: the first is made up of developed capitalist states, which are called the center states of the international system, and the second is the countries of the periphery or peripheral formations in the global system, and this unified system is called “the system. The global capitalist”, which assumes the existence of an organic and Niue link between the countries of the Center and the countries of the periphery.<sup>1</sup> Accordingly, the radical theory considers that the basic unit of analysis is the global system, and not the sovereign nation-state on which Arab theories and international law of Western orientation relied. The bourgeois theory refers the developments, changes and internal crises to the basic laws governing the course of the global capitalist system, although it does not repeat the importance of internal factors in the development of societies, but it considers that external determinants remain the central starting point in the interpretation.<sup>2</sup>

States: The theory of dependency describes states into three sections: “The Center, the Periphery, and the Periphery and Semi Periphery. These concepts are mainly related to the concept of the global center, where each refers to a unit of the global system, and each performs its specific function in the context of the capitalist system. The global, the center and the periphery are closely related and not necessarily separate geographically, because they can exist in one square mile. And the states of peripheral things are those countries that contain within

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<sup>1</sup> - عبد الخالق عبد الله : التبعية والتبعية السياسية، بيروت : المؤسسة الجامعية، 1986 ، ص 52.  
<sup>2</sup> - أحمد محمد ثابت : مدرسة التبعية ودور الدولة في العالم الثالث : دراسة الحالة المصرية 1961-1981 ، رسالة دكتوراه مقدمة إلى كلية الاقتصاد والعلوم السياسية بجامعة القاهرة ، 1990، ص98.

their borders a mixture of a quasi-center on the one hand, and activities of a peripheral economy on the other hand.<sup>1</sup>

Radicals argue that the modern state has never been a completely independent political entity. States have evolved and formed as indivisible parts of an interstate system, a set of rules within which states must operate, and a set of legitimizing processes that states cannot survive without. Of course, no rules of order were imposed between states by consent or accord, and always with the willingness and ability of the stronger countries to impose these restrictions on the weaker states and on each other. From here D. Santos sees that each party-state that performs a specific economic function in the global capitalist system and in the global division of labor. This function is adapted to the needs and interests of the economies of the central countries.<sup>2</sup>

### **2-3-2 Non-state actors from a radical knowledge perspective (multinational companies)**

The radical theory almost does not recognize non-multinational companies as a non-governmental actor with a role at the global level, and believes that the most important basic aspect of it is not its huge size and the high growth rate of its activity, but its view of the world as a single unit, and the view of its role as a profound change in the system The nation-state that represented the basic political unit in the contemporary world<sup>3</sup>, The rise of its political role and the power that governs it economically in the contemporary world is a natural reflection of the rise of imperialism and its control over the overall relations and commercial ties in the world. In this regard, Paul Sweezy says: The multinational corporations are a product and a necessary condition for the way

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<sup>1</sup> - Immanuel Wallerstein : " The Inter State Structure of the Modern World System " , in : Steve Smith , Ken Booth and Marysia Zalewski ( Ed ) : Positivism and beyond ( Cambridge : C.U.P. 1996 ) , pp 88-91.

<sup>2</sup> - عبد الخالق عبد الله : التبعية والتبعية السياسية ، مرجع سابق، ص52،

<sup>3</sup> - حورية مجاهد : الاستعمار كظاهرة عالمية : حول الاستعمار والامبريالية والتبعية ( القاهرة : عالم الكتب، 1985 )، ص 164،

imperialism has developed in the contemporary historical stage. These companies are basically an American tool that aims to consolidate the hegemony of the United States over the capitalist countries in the center, as well as on Satellite colonies located at the edges of the global economic system.

The role of these companies is not limited to unifying the interests of the capitalist classes in backward countries, but rather tends to unify these classes themselves, lift the barriers that impede their movement and fusion, and create symbols of <sup>1</sup> the common social strength and a pattern of national movement for the components of these classes. To the extent that these companies offer the mother country, they take from developing countries, as the unequal competition between a giant company and a developing country makes it more likely that that country will overrule in every contract it concludes with one of these companies, and the latter's strategy does not necessarily coincide with the development strategy in Any developing country. Therefore, developing countries do not benefit from the projects adopted by these companies well. What increases the strength of this phenomenon is the race by developing countries to deal with it,<sup>2</sup> especially with the expansion of these companies' activities during Recent decades in the field of reformulating the international division of labor through internationalization of production and resettlement of industrial, service, financial and the informative activities on the global level, by resettling labor-intensive industries in the countries of the South as one of the mechanisms used <sup>3</sup>. For example, most of the investments that these companies make in developing countries go to the extraction and agricultural sectors, and a small portion of them are employed in the manufacturing industries associated with the industry of the developed capitalist countries or in the services and

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<sup>1</sup> - محمد السيد سعيد : الشركات عابرة القومية ومستقبل الظاهرة القومية ( الكويت : المجلس الوطني للثقافة والفنون والآداب، 1986، ص 311،

<sup>2</sup> - إسماعيل صبري عبد الله : نحو نظام اقتصادي عالمي جديد ( القاهرة : الهيئة المصرية العامة للكتاب ، 1977 ) ، ص 121.

<sup>3</sup> - إبراهيم سعد الدين ومحمود عبد الفضيل : التنمية العربية ( بيروت : مركز دراسات الوحدة العربية، 1989)، ص 201،



tourism sectors.<sup>1</sup> However, the prevailing view of these companies remains that they are falsifying peoples' awareness and creating consumer demands, needs and values that exceed the energy and capabilities of the people of the developing world, (and this is mainly concentrated in consumer goods, which in the eyes of the non-Western world are a civilized tool.

### 2-3-3 Theories of international organization

At the end of the Second World War, many regional and international organizations were formed, which contributed to the emergence of a number of theories that occupied a prominent position in all treatments that seek to find effective, radical solutions to the problem of international conflict through procedures and measures of regional and international cooperation to reach international integration. The United Nations came as an alternative to the League to affirm the principle of equality in sovereignty, settle international disputes by peaceful means, non-interference in the internal affairs of member states, and member states refrain from using force or threatening it in international relations, and the Security Council was also entrusted with the responsibility of maintaining peace And international security, and to achieve the general principles of the United Nations, additional councils were created by the Economic and Social Council.

Regional organizations are considered a new aspect of the activity of international political relations as a means of rapprochement and cooperation between peoples and geographically neighboring states that share common interests or are linked by the unity of origin, language or religion. The regional grouping has become one of the distinctive features of the contemporary international community, especially after the emergence of institutions and

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<sup>1</sup> - نجاح ولكيم : العالم الثالث والثورة ( بيروت : معهد الإنماء العربي ، 1982 )، ص 117،

bodies expressing organizations Regionalism aimed at achieving regional unity and interests of the members of these organizations.

International integration: Integration differs from mere mediating cooperation, which means preserving the independence of the participating countries, and does not lead in any way to the transfer of decision-making power to institutions outside the control of national governments. As for international integration, it is: “a process that results in a supranational emergence that transfers responsibility for the performance of the functional mandates that were borne by national governments, and this new and expanded entity becomes the central nucleus that attracts the various loyalties, expectations and political activities of the national parties that created it and participated in its creation.<sup>1</sup> International integration is more than the international organization, the latter working to create and create international institutions that move between countries, while international integration places such institutions above nation-states

The forms of international integration are: economic, social, security and political integration. In economic integration, the common economic markets aim to enhance the economic energies available to the states parties to these integration processes by using tools and means to implement these projects, such as unifying tax and customs legislation, and removing barriers that prevent the flow of Goods and the flow of labor and capital. There are hypotheses that help to establish this kind of integration, especially the utilitarian one for all parties. Providing benefits to the largest possible number of the main and subsidiary units participating in the union is an important factor for its success, and the distribution of these benefits contributes to the expansion of the circle of

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<sup>1</sup> - جيمس جورتي وروبرت بالاستغراف : النظريات المتصاربة في العلاقات الدولية ، مرجع سابق ، ص 279.

support, as the parties have acquired benefits that contribute to hardening their position When the union faces any crises. <sup>1</sup>

As for social integration, it means the transfer of national loyalties to a political community greater than the state, and the development of supra-national trends, or the so-called “supranational awareness, in which the forces of monotheism associated with social identity emerge, represented by the rituals, slogans and values that prevail in society. These unifying forces are subject to the elite. Within society, which is the main defender of the system, not the external elite.<sup>2</sup>

As for political integration, its success requires the availability of two factors: “The first is the compatibility of basic values and the pluralism, constitutionalism and parliamentarianism they contain, and the other: mutual responsiveness, which means realizing shared autonomy and a sense of common interest, which means the willingness to abandon the traditional independence of the state and transfer some of its powers and competencies to an intergovernmental body to undertake unifying policies, reconcile differences and gradually reduce the idea of sovereignty, until this body turns into a supreme authority that practices policy-making and decision-making in states Which owes her dependency and is a body over the states.

As for security integration, it means that the states parties agree to collective security arrangements, regardless of their varying power resources, to take decisions related to their joint security by means of planning, implementation and joint leadership. Karl Deutsch defines several conditions for the security integration paradigm that lie in common harmony in the main values, a distinct lifestyle, and the expectation of mutual benefit, provided that this is before

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<sup>1</sup> - جيمس جورتي وروبرت بالاستغراف : النظريات المتصاربية في العلاقات الدولية ، مرجع سابق ، ص 283.  
<sup>2</sup> - أحمد عبد البديع : العلاقات الدولية أصولها وقضاياها المعاصرة ، القاهرة، مكتبة عين الشمس، 1988، ص 271.

imposing the burdens of integration or unification, and a tangible increase in administrative and political capabilities, at least for some Participating units .. Other factors play an important role in building the security model, such as economic factors, social communication circles, the expansion of the political elite base, the multiplicity of aspects of communication and interaction between parties and individuals.

1-A problem that follows from studying the differences between individuals, and the level of loyalty to the political community.

2- The problem of achieving the formal and objective foundations of an agreement within the political system.<sup>1</sup>

#### **2-3-4 The theory of global government:**

Clark and Suhn say that global government "is: an effective system of forced international law." the application of which is limited to that field related to war prevention<sup>2</sup>, "war" and based on this, the legal jurisdiction should be limited, and the military capacity of states should be reduced to the extent that they are subject to effective global control in the field of war prevention, and this is precisely the central nerve of the global government project .

The theory of "global government is based on the premise that there are central global institutions that have the power and power to enable them to manage international relations in a direction that prevents international wars from occurring." . This requires giving these global central institutions the legal authority through which they can enact laws and legislations that guarantee the achievement of this goal, and be able to put them into practice.

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<sup>1</sup>- إسماعيل مقلد : نظريات السياسة الدولية ، دراسة تحليلية مقارنة ( الكويت : منشورات ذات السلاسل، 1987 ) ، ص 380.  
<sup>2</sup> - فريد هالبيدي : ساعتان هزتا العالم : 11 أيلول 2001 الأسباب والنتائج ، ( بيروت ، دار الساقى ، 2002 ) ، ص 119.

Also, this theory requires limiting the sovereignty of states and their competences in the issue of the use of force by transferring this legal jurisdiction to responsible international bodies.

This theory has been subjected to many criticisms that it has exceeded the capabilities of the existing international situation. The disarmament of states is associated with the establishment of a central international authority through which states subjugate their decisions and surrender to them the most important powers of national sovereignty, and such a requirement cannot be met in light of the division of states into conflicting blocs and alliances, It is also not possible to compare the power exercised by the governments of the states over their citizens with the power of the world government over the states, and it is also difficult to envision how this world government will take its decisions, just as the global government project completely ignores the dynamics of the international conflict produced by the various international contradictions, in addition to these The theory may clash with opposing opinions related to very important reasons, some of which relate to peoples' attachment to the governments of their democratic countries on the one hand, and that is, establishing a world government may appear to be an issue of global hegemony simplified by others on the other hand.<sup>1</sup>

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<sup>1</sup>- المرجع السابق نفسة ، ص 133.

### 3 - Functions, Strategies and Agendas of Non-State Actors

The phenomenon, “Global Governance“, understood as the proliferation of international and supranational regulation institutes, has opened to Non-State Actors new ways of acting<sup>1</sup>. Two reasons can be mentioned here: first, the concomitant increase in a functional requirement for private expertise and acceptance due to the emergence of new international and supranational regulation structures; secondly, a more and more clearly articulated counter-reaction from civil society to certain supranational regulation structures, the economic and social consequences of which are being branded by a number of Non-State Actors as “unjust”. The heterogeneous group of Non-State Actors in so far makes a double profit from new governance structures. In a hitherto unknown way, it participates in many intergovernmental and supranational law-making processes, and at the same time organizes a political resistance against certain more and more intervening regional and global regulation structures.

#### 3-1 The functional need for an expertise and acceptance of Non-State Actors in international institutions

New regulation forms have increased the need to involve Non-State Actors. So-called “Global Public Policy-Networks“, as the „Global Commission on Dams“, the „Global Fund to Fight Aids“, or also the „UN –Global Compact“, are institutions that from the very beginning involve Non-State Actors besides state actors with at least equal rights in the structure. What these regulation forms have in common is that they refrain from an international foundation statute, thereby withdrawing from state organs the sole rule over the institute’s

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<sup>1</sup> - See G.F. Schuppert, “The Changing Role of the State Reflected in the Growing Importance of Non-State Actors”, in: G.F. Schuppert (Hrsg.), *Global Governance and the Role of Non-State Actors*, 2006, 203-239, (211).

basic structure.<sup>1</sup> International Sports- and Employers' Associations are another example for Non-State Actors with their own substantial

Associations are another example for Non-State Actors with their own substantial transnational power of regulation. These are forms of self-regulation through internally defined standards, as for example in combating doping or international treaty and accounting standards, developing without the state's influence. Often national law takes up these standards due to a lack of one's own norms, and gives them a sovereign power of enforcement.<sup>2</sup>

The need for a specific sectorial expertise becomes especially clear in the various manifestations of "self-regulation"<sup>3</sup>

This functional need for the involvement of Non-State Actors can also be seen in classical international organizations, that have an international foundation statute. This requirement is nothing new. The first technical administrative unions of the 19th century, that are regarded as the predecessors of today's international organizations, depended on integrating experts into drawing up standards.<sup>4</sup> Since regulation issues within environmental law, economic law and new technologies have become more complex, the private actor's involvement into these areas has also further intensified.

The Intergovernmental Panel on Climate Change, established by the United Nations Environment Programs and the World Meteorological Organization, this year's winner of the Nobel Peace Prize, is, for example, an institution

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<sup>1</sup> - W.H. Reinicke, *Global public policy. Governing without government?*, 1998; on governmental networks: A.-M. Slaughter, *A new world order*, 2004.

<sup>2</sup> - D. Lehmkuhl, "Der lange Schatten staatlichen Rechts. Verrechtlichung im transnationalen Sport", see *Verrechtlichung - Baustein für Global Governance?*, 2004, 179 - 197.

<sup>3</sup> - On private regulatory networks: J. v. Bernstorff, The Structural Limits of Network Governance, in: C. Joerges (Hrsg.), *Transnational governance and constitutionalism*, 2004, 257-281.

<sup>4</sup> - G. Jellinek, *Die Lehre von den Staatenverbindungen*, 1882, 158-172.

consisting of independent scientists. Their task is to summarize the worldwide accessible knowledge on global warming in politically utilizable reports.

International organizations, like the ILO or the OECD, also engage representatives of trade unions and Employers' Associations in their regulation activities.<sup>12</sup> NGOs with specific expertise also have an advisory status within the framework of the UNESCO Convention Concerning The Protection Of The World Cultural And Natural Heritage, and participate in the award of the World Heritage Status for a specific cultural heritage. The same applies to the Convention on International Trade in Endangered system, institutions with monitoring tasks are more and more dependent on the expertise and knowledge of a country from international and national NGOs.<sup>1</sup> Within the European area, the European Commission with the help of the so-called comitology procedure, keeps close working contacts with industrial associations, scientists and, on a larger scale, also with NGOs.<sup>2</sup>

In literature on political science, Haas has pointed out that around national and international institutions so-called „epistemic communities“ emerge<sup>3</sup>. These are networks that due to shared scientific and normative premises and in having parallel goals, have an effect on these institutions. An example for such an epistemic community are international experts in the field of bioethics. The UNESCO, for example, has established a Bioethics Committee, where medical experts, biologists, pharmacists and lawyers, who have been delegated by member states, who are, however, not bound by instructions, set up new standards for bioethical research, which are thereafter transformed into universal standards by the UNESCO. What it is mainly about is the expertise of Non-State

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<sup>1</sup> - E.H. Riedel, "The Development of International Law: Alternatives to Treaty Making? International Organisations and Non State Actors", in: R. Wolfrum / V. Röben (Hrsg.), *Developments of International Law in Treaty Making*, 2005, 304.

<sup>2</sup> - C. Joerges (Hrsg.), *EU Committees. Social Regulation, Law and Politics*, 1999.

<sup>3</sup> - P.M. Haas, "Introduction: Epistemic Communities and International Policy Coordination", *International Organisation* 46 (1992), 1-35.



Actors, but also increasingly, about raising the acceptance for regulation products among the decisive private actors.<sup>1</sup>

The involved actors, having a good network, often also participate in setting up standards within the framework of the Council of Europe or other international institutions dealing with bioethics. Afterwards they lobby national specialist bureaucracies to pass these new standards into binding national right.

In summary, it can be said that most global and regional regulation and norm-setting institutions have a strong functional requirement for integrating non-state actors.<sup>2</sup> At the same time, however, particularly NGOs, by differentiating themselves from, and by criticizing certain international institutions, as e.g. the WTO or the G8 summits, have gained more influence and sharpened their profile during the last decade. Species of Wild Fauna and Flora (CITES). Within the UN human rights protection.

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<sup>1</sup> - For general information see, H.H. Koh, "Transnational Legal Process", *Nebraska Law Review* 75 (1996), 181-207.

<sup>2</sup> - L. Dubin / R. Nogellou, "Public Participation in Global Administrative Organisations", *3rd Global Administrative Law Seminar* (June 15-16 2007).

### 3-2 Non-State Actors and the universal Justice Agenda

A second important factor for the increased influence of Non-State Actors within shaping national and international politics is the emergence of a common action program of civil society, in this paper called „universal justice agenda”. It focuses mainly on the protection of human rights and the protection of environment. The transition, that with the end of the Second World War had been vehemently started in international law, from a primarily transnational law to universally acknowledged individual rights with the therein embodied universal values,<sup>1</sup> has become more dynamic since the turn of the millennium. This process goes back to worldwide mobilizing tendencies from civil society, that are accompanied in many countries by traditional social forces, as e.g. Christian churches. National and transnational NonState Actors, gaining more and more influence, use new globalized means of

communication and transportation. The world has become smaller for them too, thanks to technical products and services being offered on globalized markets. The movement that has emerged, deals with issues like the protection of human rights and ecological sustainability, and has a more complex perspective on international law.

On the one hand, civil society organizes a resistance against institutionalized law, as for example in the case of the WTO or the OECD<sup>2</sup>; on the other hand, civil society claims as vehemently an expansion of institutionalized legal procedures and the implementation of existing obligations in the field of human rights and the protection of environment. For these Non-State Actors there are „good“ and „bad“ international institutions. Human rights and the principle of

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<sup>1</sup> - M. Zürn, Global Governance as an Emergent Political Order –The Role of Transnational Non-Governmental Organisations, in: G.F. Schuppert (Hrsg.), *Global governance and the role of non-state actors*, 2006, S. 31-42.

<sup>2</sup> - G. Metzges, *NGO-Kampagnen und ihr Einfluss auf internationale Verhandlungen. Das Multilateral Agreement on Investment (MAI) und die 1997 OECD Anti-Bribery Convention im Vergleich*, 2006.

sustainable development become a universal political benchmark for that movement. NGOs in this way depoliticize the international law discourse<sup>1</sup> International law thus does not anymore develop solely in exclusive, diplomatic negotiations, but on a large scale, in politics, is initiated outside intergovernmental forums.

Governments can not completely withdraw from the political dynamic of this global movement. Amnesty International's Secretary-General is being received worldwide by heads of state. The exchange between ministries and civil society has further intensified especially in Western States. No government in the world would today openly disclose that it deliberately violates human rights and promotes the destruction of the environment. International law-making changes through this process. NGOs meanwhile have become agenda-setters for the grand human issues and claim lawmaking activities from the states.

Various strategies of direct and indirect influence on political processes are being used by NGOs<sup>2</sup>, They comprise the classical lobbying of governments and members of parliament, as well as effective publicity campaigns, urgent actions in individual cases, conferences and big events, as e.g. demonstrations and counter summits. Since during multilateral negotiations often several governments face the same pressure coming from civil society, it is often simply a question of time until a state undertakes a diplomatic effort. To reject this concrete proposal on law-making, as a rule, seems to be very hard for other governments, that up until that moment tried to withstand the pressure coming from civil society.

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<sup>1</sup> - M. Zürn, Global Governance as an Emergent Political Order –The Role of Transnational Non-Governmental Organisations, in: G.F. Schuppert (Hrsg.), *Global governance and the role of non-state actors*, 2006, 41.

<sup>2</sup> - <sup>21</sup> See T. Brühl, *Nichtregierungsorganisationen als Akteure internationaler Umweltverhandlungen. Ein Erklärungsmodell auf der Basis der situationsspezifischen Ressourcennachfrage*, 2003, 76-82.

Institutions like the UN have tried to cushion such developments with the help of new participation and decision rights for non-governmental organizations and to use them for themselves. In global and regional institutions that regarded this as unnecessary, the claim for participation changed into a resistance partly taking on violent forms: “You are G8, we are 8 billions” protest groups scandalized in Genoa. The growing mobilization caused by civil society thus has disclosed a deeper rooted problem.

According to the view of many public interest actors, the classical intergovernmental structure of international policy making now only in a limited way is suited to serve the growing legitimacy claims to transnational regulation and the shaping of politics.

The growing regulation depth at international and regional institutions, that, as in the case of the world trade legislation and the European Union has a direct effect down to the local level, calls for a suitable democratic control and participation<sup>1</sup> In international law this issue of legitimacy had been handed over to the individual states. In what way the state domestically legitimates its participation actions in the transnational area, according to the classical international law, was left to the discretion of the state itself<sup>2</sup> Since foreign policy also in western democracies traditionally has been understood as a domain of the executive, parliamentary forms of participation or the participation of civil society, have often been only weakly developed in terms of determining national positions for international negotiations.<sup>3</sup>

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<sup>1</sup> - On the question of democracy: A.v. Bogdandy, “Globalization and Europe. How to square Democracy, Globalization, and International Law”, *European journal of international law* 15 (2004), 885-906.

<sup>2</sup> - L.F. Oppenheim, *International law. A treatise*, 1905, 403.

<sup>3</sup> - On the fewer possibilities for control by national parliaments: R.M. Kößler, Henning, *Chancen internationaler Zivilgesellschaft*, 1993, 211; on the German Bundestag’s participation in international law-making, demanded by the constitutional law, see C. Möllers, *Gewaltengliederung. Legitimation und Dogmatik im nationalen und internationalen Rechtsvergleich*, 2005, 422-423.

From the point of view of civil societies this created a double participation vacuum.

Both nationally and at the international level, institutional participation and decision rights for Non-State Actors with a „Universal Justice Agenda“ have only weakly developed. The situation was different in terms of scope for influence for commercial interests, that through specialized ministries already exerted a strong influence and had a privileged access to governments. NGOs have called for new participation forms at both levels in the last decades. And national parliaments, as well, have called for a direct participation in formulating regional and universal policies.

**Chapter Two**  
**NGOs, International Law**  
**and Democracy**

## **1 - Definition of terms and subjectivity in International Law**

### **1-1 the concept of international non-governmental organizations**

International non-governmental organizations are several entities that are still subject to ambiguity for theoretical, political and cultural reasons. On the theoretical level, these organizations, as a modern phenomenon, still need to be further defined due to the theoretical difficulties represented by the novelty of this phenomenon, the wide range of activities and the diversity of their organizational forms and ideological trends.

As for the political level, these organizations are the subject of controversy at the local and global levels, as there are those who view them positively as an expression of the will of citizens, a fundamental pillar of a democratic society, and a mechanism that cannot be ignored in order to achieve human development. On the other hand, there are those who view it as a product of globalization "in the negative sense of the word, and therefore it is one of the effects of the imperialist West. The proponents of this view seek to focus on the issue of foreign funding for the activities of these organizations as the material evidence of the employment of these organizations for the Western other, even if these are The money comes with the knowledge of the authorities according to international cooperation agreements.

The majority of these organizations, for them, are located in a gray area. They are neither positive nor negative. On the cultural level, there is great heterogeneity between these organizations, some of them express radical social trends, some of which reflect liberal tendencies, and many of them carry secular messages, Some of them carry ethical and religious messages, as their cultural and ideological references are numerous, and this is also the subject of widespread controversy.

Hence the importance of introducing these organizations objectively, after taking these theoretical, political and cultural dimensions into account. It is also important to present an image that these organizations do not underestimate their rights, and they should be neutral so as not to give these organizations an aura of sanctity, as if they are free from error. And rationality along the line, as these organizations remain part of the reality that they seek to fix and overcome, and therefore they often carry the diseases and problems of their reality. On the other hand, the criticism of these organizations must be based on objective knowledge and data, especially since they are always considered subject to subjective criticism from governments and their supporters. Because of its constant quest for independence, and revealing the regime's flaws on the political, social, economic and cultural levels.

## **1-2 NGO participation in international law-making processes – The UN as a trailblazer**

### **a) Overview and principles**

Subject to Art. 71 of the UN Charter, the ECOSOC may undertake appropriate actions with regard to consultations for nongovernmental organizations. On this basis, the ECOSOC has considerably intensified its practice of NGO participation. Appropriate rules are laid down in most of the UN special organizations' statutes. More than 1,500 NGOs have a consultative status at the UN, enabling them to have access to documents, and during special conferences, access to the UN building or respective



conference rooms<sup>1</sup> . NGOs are divided into three different categories by the UN, according to their specialization and representativeness. There is a general, special and so-called „Roster“ consultative status. The NGO's participation rights within the framework of the ECOSOC depend upon the categorization into one of these three categories. NGOs with a general consultative status may submit written statements, may give oral presentations during meetings on specific issues upon invitation of the respective UN bodies, and may propose items for the provisional agenda .<sup>2</sup>

Institutionally especially remarkable are various forms of participation at permanent UN organs in the field of human rights. In this way, NGOs had the possibility on behalf of victims to file complaints that appear to reveal a consistent pattern of gross and reliably attested violations of human rights at the Sub-Commission of the Commission on Human Rights. A comparable possibility for complaints exists at the UNESCO Committee on Conventions and Recommendations. NGO complaints meanwhile also have become acknowledged in the regional protection of human rights, as e.g. in the Additional Protocol to the European Social Charter, and pursuant to Art. 44 Inter-American Convention on Human Rights<sup>3</sup> .The introduction of these collective complaints has significantly spurred the dynamic of these mechanisms.

In environmental law, a progressive step has been made by the UN Economic Commission for Europe 2005 concerning the NGO participation.

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<sup>1</sup> -R. Wedgwood, "Legal personality and the role of non-governmental organisations and non-state political entities in the United Nations system", *Non-state actors as new subjects of international law*(1999), 21-36, (23).

<sup>2</sup> -ECOSOC-Res. 1996/31 dated 25. July 1996; see B. Simma / U. Nations (Hrsg.), *The Charter of the United Nations. A Commentary*, 1994, 905 ff.

<sup>3</sup> -G. Dahm / R. Wolfrum, *Völkerrecht*, 241-242.

The Commission, in its „Almaty-Guidelines“, has agreed to apply them with regard to NGO participation by promoting the principles of the Aarhus Convention. This Convention, that was developed under the aegis of the UN Economic Commission for Europe too, provides for extensive participation rights for NGOs in the field of protection of the environment, or for other in environmental issues interested persons from the public<sup>1</sup>. This encompasses a full and active provision of public information on the objects of negotiation via modern means of media to all interested NGOs and individuals.<sup>2</sup> Furthermore, NGOs due to the Almaty-Guidelines now always have free access to sessions and documents during all phases of the decision- making process in international forums on issues of environmental protection. States, in addition, agree to take into consideration the result of the - according to the guidelines as diversely as possible developed - NGO participation.<sup>3</sup>

These newer steps of self-obligation, within the framework of the UN, go back to developments at large UN Conferences on international policy developments in the 1990s. Pacesetters for an intensified participation of NGOs were the Conference on Environment and Development, Rio 1992; the World Conference on Human Rights, Vienna 1993; the World Summit for Social Development, Copenhagen 1995; and the World Conference on Women, Beijing 1995. These conferences raised a hitherto unknown interest in national and international NGOs<sup>4</sup>. More than 4,000 NGOs were represented

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<sup>1</sup> BGBl Volume 2006, Part II, Nr. 31, dated 15 December 2006.

<sup>2</sup> Almaty Guidelines (IV), UN-Dok. Nr. ECE/MP.PP/2005/2/Add.5

<sup>3</sup> Almaty Guidelines (V/ 37), UN document Nr. ECE/MP.PP/2005/2/Ad

<sup>4</sup> -F.W. Stoecker, NGOs und die UNO die Einbindung von Nichtregierungsorganisationen (NGOs) in die Strukturen der Vereinten Nationen, 2000, 188-194.

at the World Conference on Women in Beijing.<sup>1</sup> In the 1990s, the so-called counter summits or forums established. They constitute independent NGO events besides the actual intergovernmental conference. The events' goal is to monitor the representatives from governments, and to have an impact on national negotiation positions.<sup>2</sup> The international media's interest in the big event is used in order to point out the negotiation outcomes, which in the NGOs' view often remain deficient, to national publics. There is also a direct interaction between government representatives and participants in the counter forum through NGO representatives participating in plenary and committee sessions, as well as through invitations of government representatives to events at the counter conference.

The question of precise modalities of the NGO participation at intergovernmental negotiations up to date has been and will be negotiated anew at each UN consultation conference.<sup>3</sup> It is a question of physical participation in sessions, the access to documents, and the right to speak. At the World Conference on Human Rights in Vienna, in 1993, there were for example harsh political debates between a group of government representatives and NGOs.<sup>4</sup> Initiatives from states with the aim to fully exclude NGOs from intergovernmental negotiations failed. In summary it can be stated that NGOs with respect to their participation rights can count on bigger support from western states vis-à-vis from most countries of the global

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<sup>1</sup> -UN-Chronicle, December, No. 4, Vol 32, 1995, S. 29; see D. Otto, "Nongovernmental organisations in the United Nations system the emerging role of international civil society", *Human rights quarterly* 18 (1996), 107-141, 120.

<sup>2</sup> -F.W. Stoecker, *NGOs und die UNO die Einbindung von Nichtregierungsorganisationen (NGOs) in die Strukturen der Vereinten Nationen*, 2000, 187-188.

<sup>3</sup> -Only accreditation since 1996 has become standardised (Res. 1996/31), *Ibid.* at 195.

<sup>4</sup> -F. Azzam, "Non-Governmental Organisations and the UN-World Conference on Human Rights", *The Review (The International Commission of Jurists)* 50 (1993), 89-100, (98).

South and Asia. In human rights issues, particularly China and many African states, have a critical attitude towards intensive forms of NGO participation. The EU sees itself as a pioneer in promoting participation rights for NGOs in the UN, and in the past has regularly committed itself to promoting participation of NGOs at intergovernmental negotiations within the framework of the UN.

The big UN consultation conferences mentioned above have significantly contributed to an emergence of transnational NGO networks. It is not by coincidence, that this development in terms of time has been accompanied by big progresses in the field of internet technology and falling flight prices. A global civil society, which can interact mainly in a spontaneous way, on certain occasions, however, also in an organized manner, is therefore itself a phenomenon of globalization. NGOs have, apart from the grand political consultative conferences, in the 1990s, increasingly engaged in the field of universal law-making. At the Anti-Landmine Conference in Ottawa in 1997 and during the negotiations on the International Criminal Court; Rome 1998, they did not only considerably contribute to the start of negotiations, but also influenced the concrete shaping of these international law treaties. The following example of the draft for a new UN Convention to be signed, at the beginning of 2007, on the rights of persons with disabilities shall demonstrate what forms the NGOs participation in international law-making can develop.

## **b) An example from practice: NGO participation in drafting the UN Convention**

On the Rights of Persons with Disabilities (2001-2006) This UN Convention on human rights does not only go back to an international political mobilization campaign from national and international non-governmental organizations, but from the very beginning one of the remarkable features of the UN negotiation process was the intensive participation of groups representing persons affected.<sup>1</sup> The responsible negotiation panel experimented with innovative forms of NGO participation, which are to be examined closer and evaluated below.

Through a resolution submitted by Mexico to the UN General Assembly<sup>2</sup>, in 2001, an open ad-hoc committee (AHC) in the format of the General Assembly was established as a negotiation panel for all member states and observers of the UN with the purpose to discuss proposals for an international convention. Altogether eight sessions were held in New York, for 2-3 weeks respectively. Already the drafting of the first official treaty blueprint clearly showed the AHC' preparedness to allow new forms of the civil society's involvement. A working group, installed by the AHC and consisting of 40 people, that was in charge of drafting the first blueprint, comprised 27 government representatives, 12 representatives from associations for disabled people, and other NGOs from the field of disability policy, as well as a representative from an independent national human rights organization. The NGOs, after an internal voting, could appoint respective representatives for

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<sup>1</sup> The author, as a representative of the Foreign Office was a member of the German government delegation at the negotiations to the Convention. Evaluations given here are the author's personal view.

<sup>2</sup> GA resolution 56/168, going back to a proposal from Mexico

the 12 seats allocated to them themselves. The civil society's representatives participating, most of them living themselves with a handicap, had the same speaking and voting rights as the government representatives. Furthermore, some states gave mandates to other representatives of the concerned civil society for the 27 government seats.

This, to a large extent, formal equalization of civil society representatives in working out the first official draft treaty had a considerable impact on its contents. The working group's progressive draft remained a central point of reference during the subsequent negotiation rounds at the AHC, that thereafter again took place in the General Assembly format. Government representatives presented there new proposals as amendments to the working group's draft. If no agreement over an amendment could be reached, the chair referred back to the working group's original draft.<sup>1</sup>

Also in the plenum of the AHC, NGOs' representatives during the whole course of negotiations retained an above-average high influence on the negotiations. Already at its first session, the AHC determined the general modalities concerning NGOs participating in its sessions at the General Assembly. According to them, the NGOs accredited for negotiations were hereby enabled to participate in all public sessions of the AHC and to submit statements. In addition, the provision stipulated that in cases of lack of time appointed speakers from civil society could make statements. In practice, during the AHC sessions, the finally more than 600 accredited NGOs often availed themselves of the opportunity. Almost always they also spoke with

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<sup>1</sup> The giving of additional reasons for every new text and every new amendment, after the first draft had been passed, lay with the state that applied for it. The obligation to give additional reasons, permanently increased with time, in so far as by defining the end of the negotiation, the pressure increases to only submit proposals which have a real perspective of being passed by consensus, and are of vital interest to the state applicant.

one voice concerning the contents. Mostly, the NGOs' statement was made by a representative who, due to a specific handicap had himself or herself in the past become a victim of violations. These recurrent voices of people affected or their representatives significantly marked the discourse climate within the AHC.

Concerning the summarized common position of the NGOs on individual articles, prevailing was the voice and final decision of those special associations, to whom the respective regulation was most pertinent. The interest of a specific group of disabled people (e.g. group of blind people, mentally handicapped people living in a disabled people's home ) hereby became the common cause of all non-governmental organizations. This internal accomplishment in terms of organization on the part of NGOs significantly increased their influence on individual regulations in the treaty text.

Obstinacy regarding governmental positions, that had met the resistance of the NGOs, aggregated in this way, ultimately meant that delegations were required to give more additional reasons. Since almost always some states concurred to the NGOs' position, the pressure to change one's position during the course of negotiations constantly increased.

The chair, furthermore, summarised the respective negotiation results on individual articles in the plenum only after not only the states had given their statements, but also, following them, the NGOs. The interim result stated thereafter by the chair, was, as a rule, a synthesis of the majority opinion of government delegations on the one hand, and NGOs on the other. The chair, mostly over night, on the basis of the interim result, set up a new draft version of the negotiated article. This practice significantly differed from other UN

bodies, where NGOs could raise their voice only after the operative conclusion of a respective round of negotiation, i.e. at a time when the respective negotiation result had already been decided upon.<sup>1</sup> The dialectically structured negotiation process and the cooperation on equal terms in working out the first overall draft enabled the chair to represent the view of the concerned much more in the treaty text, than it would have been possible otherwise. The negotiating diplomat is constantly coerced to take the view of the concerned into account. This view is then, although not fully, but to a greater extent than normally would be the case, included into national positions.

The negotiations, however, also revealed disagreements among NGOs, in which mostly those NGOs asserted themselves that were the strongest represented regarding financial and staff resources at their disposal. As a rule, these were NGOs from the West. The underrepresentation of NGOs from developing countries had significant ramifications. To cope with this issue, the UN, as in other conferences too, had created a fund, voluntarily financed by member states, covering the travel expenses for less financially strong non-governmental organizations. This insufficiently financed fund could only in a limited way even out the North-South asymmetry, though. All in all, during negotiations it became clear that charismatic single persons from partly small western special associations could influence the treaty text above-average. So, for example, for one treaty article it had the effect that a proposal to this article, on which consensus might be reached, explicitly stating the - by many NGOs - demanded prohibition for forcing medication on disabled persons,

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<sup>1</sup> For example in the old UN Human Rights Commission



finally completely failed due to the continuous opposition from a small maximize-orientated operating group of NGO representatives.

The UN General Secretariat was in charge of selecting and accrediting NGOs for the sessions, applying the ECOSOC criteria for accrediting NGOs overall very generously<sup>1</sup>. In order to be able to speak as a concerned person at the negotiations, the first requirement was a UN administrative decision referring to the respective NGO, against which, incidentally, there was no legal protection.

This example from practice shows how intensive the initiative and involvement of Non-State Actors by now have become in international law-making. We almost can not imagine multilateral practice in the field of human rights and environmental law without them anymore. The following part is to discuss abstractedly the issue of participation rights and legitimacy of participation in general. It examines both the already mentioned benefits of diplomats taking over the other part's view and issues of an asymmetric representation in the field of NGOs.

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<sup>1</sup> critical on the practice: Felix William Stoecker, *NGOs und die UNO*, Frankfurt 1999, 194-210; and general: Caroline E. Schwitter Marsiaj, *The Role of International NGOs in the Global Governance of Human Rights, Challenging the Democratic Deficit*, Schweizer Studien zum Internationalen Recht, Band 121, Genf 2004, § 14.

## 2 - Participation of NGO and issue of legitimacy

From a perspective of the theory of legitimacy, the involvement of NGOs is often regarded as a means of „democratizing“ international law-making processes.<sup>1</sup> The intensified participation of civil society actors leads to a higher transparency in international negotiation forums.<sup>2</sup> Literature in connection with the legitimacy issue, furthermore, looks into whether a right of participation can be derived from general norms in international law, and if this is the case, what the contents of such a right entails in detail. The following part discusses the issue of participation at these two levels: first, the question whether international law already knows a general right for NGOs to participate in international law-making processes in their specific field of activity; following this, the question shall be examined to what extent, from a democracy theory perspective, the NGO participation increases the legitimacy of international law-making.

### 2-1 Is there a general participation right for NGOs?

From a judicial point of view, the above-mentioned participation rights for non-governmental organizations at the UN Convention on the rights of persons with disabilities are internal rules of procedure of a temporary sub-organ of the UN General Assembly.<sup>3</sup> The unanimously adopted decision of the organ introduced innovative elements, but on the basis of the respective General

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<sup>1</sup> C.E. Schwitter Marsiaj, *The role of international NGOs in the global governance of human rights. Challenging the democratic deficit*, 2004, 270-272; F.W. Stoeker, *NGOs und die UNO. Die Einbindung von Nichtregierungsorganisationen (NGOs) in die Strukturen der Vereinten Nationen*, 2000, 99-121; on the EU with a vision of a participatory democracy: J. Cohen / C. Sabel, „Directly-Deliberative Polyarchy“, *European Law Journal* 3 (1997), 313-342.

<sup>2</sup> C.E. Schwitter Marsiaj, *The role of international NGOs in the global governance of human rights. Challenging the democratic deficit*, 2004, 281-282.

<sup>3</sup> The respective provision of the AHC clarifies that these rules do not touch upon other general UN provisions on NGO participation

Assembly's resolution, i.e. calling upon the AHC to include non-overnmental organizations into negotiations. Being special rules of a sub-organ of the UN General Assembly, these innovative rules of procedure can not be generalized perse. What can be taken into consideration is the right of peoples to self-determination as a general participation right. Since its introduction at the international level by Woodrow Wilson before World War I., it has a democratic, although diffuse, meaning and has been firmly laid down in the joint Art. 1 of both UN Human Rights Pacts dated 1966. The legal entity is not the state, but rather the entity of the "people" being independent thereof.<sup>1</sup> How the self or the people are to be precisely defined according to this right is not unambiguous. What is certain, however, is that the right to self-determination according to interpretations so far, does not include an individual self-determination component encompassing smaller private law organizations, as the NGOs discussed here.<sup>2</sup>

Another way for the derivation of a general participation right for NGOs in international law-making could arise from the guarantees of individual rights in the UN Human Rights Pacts. The right to freedom of expression, the right to freedom of information, assembly and association, as well as the right to equality and non-discrimination, are the legal basis for the establishment of a free civil society. Without a guarantee of these human rights NGOs can not operate. The prerequisite for an emergence of well-developed civil society structures are juridified individual possibilities for an expression of opinion

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<sup>1</sup> Heintze, in: K. Ipsen / E. Menzel, *Völkerrecht*, 2004, §§ 27 ff.

<sup>2</sup> If this, however, is assumed according to Volker Röben, the question arises how in conflicts between non-governmental organisations and government representatives of the same country the individual component and the collective element, which is exercised through representatives legitimised within the state, can be theoretically balanced off. Cf. V. Röben, "Proliferation of Actors", in: R. Wolfrum / V. Röben (Hrsg.), *Developments of international law in treaty making*, 2005, 524.

and self-organization. In the Human Rights Pacts, however, there are no special participation rights in international or national law-making granted to NGOs. Human Rights are primarily just the basis for individual rights for an emergence of civil society structures.

However, an exception from this rule at the universal level is the above-mentioned new Convention on the rights for disabled people. NGOs from the area of disabled people were not only intensively engaged in the negotiations, but laid down in the Convention, they were given the right to be involved in all measures of implementation by the state. For the first time, such a state obligation was enunciated under the general principles of a universal Human Rights Convention.<sup>1</sup> This progressive step towards a binding obligation to participate in international law can not yet be generalized. It shows, however, a tendency in universal human rights protection to involve representatives from marginalized groups of people in international and national law-making processes in increasingly juridified procedures.

Another example for granted participation rights is the above-discussed Aarhus Convention. Hence, recently, specific participation rights for NGOs, especially in the field of the protection of human rights and environmental law, have become an integral part of progressive international law instruments. Nevertheless, these tendencies hardly allow to derive a general right stipulated in international law for NGOs to participate in international law-making processes. The following part deals with the issue of legitimacy of these involvement tendencies from a democracy theoretical perspective.

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<sup>1</sup> Art. 3 of the Convention

## 2-2 Is the NGOs' participation legitimate?

The question of legitimacy goes far beyond the scope of the narrow jurisprudential canon of methods. It is not the question of justice and injustice, neither the question of lawfulness of a certain human behavior, but rather an extra-legal standard that is to be laid down according to the emergence and contents of law. According to Fritz Scharpf's legitimacy concept, that he introduced for the EU, legitimation consists of „Input-Legitimation“ and „Output-Legitimation“<sup>1</sup>. Input-Legitimation is to refer to the procedure during which, in a preparatory stage, decisions are being made within supranational institutions. They are to be assessed with the help of democracy theoretical standards. The term output legitimation, on the other hand, is to define the quality of results of supranational governance acts. It is more than doubtful whether due to the plurality of conflictive interests during practically all political decision-making processes at a global level, a scientific judgment of the „output“ quality or the products of supranational or global regulation can be reached at all.<sup>2</sup> If this is not the case, though, a connection to a legitimacy judgment seems to be problematic.

Due to the lack of a universally shared benchmark for evaluating results of supranational and global decisions, the issue of legitimacy is to be answered exclusively with a democracy theoretical benchmark (input legitimation).

Subject to the traditional model for a national democratic formation of an opinion, NGOs have an important function in the field of aggregation and articulation of interests and claims. They broaden the plurality of represented

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<sup>1</sup> F.W. Scharpf, *Regieren in Europa - effektiv und demokratisch?*, 1999

<sup>2</sup> On jurisprudential criticism: C. Möllers, *Gewaltengliederung. Legitimation und Dogmatik im nationalen und internationalen Rechtsvergleich*, 2005, 37-38.

interests in the outer area of the political system.<sup>1</sup> The periphery, consisting of associations, parties and NGOs, washes round the center of political decision-making processes with claims, that are sometimes supported with the help of media. In the internal area, those interests and claims are smuggled in through parties into the parliamentary process, where then, in the form of new legal acts, collectively binding decisions are taken.

Sociological research of the 1970s and 1980s has critically examined this model and evolved it.<sup>2</sup> According to this model, law-making processes are often initiated from and prepared by the political system's center, i.e. from the governments and administrations themselves. The external area can then only react to these developments. According to that model NGOs only act reactively. Their influence on the themes and the shaping of collectively binding decisions is less vis-à-vis the first model. Luhmann takes these findings as a basis and assumes a power cycle between political decision-makers, the administration and the public. The public influences political programs, elected politicians take binding decisions, which are then implemented by the administration and are binding for the public.

Habermas acknowledges the role of the political center in preparing a decision, at the same time he stresses, however, the irreplaceable function of civil society in agenda-setting. The civil society periphery possesses a greater sensitivity versus the political centers in relation to the perception and identification of problematic situations in society.

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<sup>1</sup> B. Peters, *Die Integration moderner Gesellschaften*, 1993, p322-340.

<sup>2</sup> See G. Gremmelspacher, *NGOs und Staaten. Die Partizipation transnationalen nichtstaatlicher Organisationen an staatlichen Entscheidungsprozessen*, 2005, p88-94.

This concerns particularly the grand ecological and social themes, as e.g. the continuing pauperization of the Third World and problems of the international economic system<sup>1</sup> Almost none of these themes has been first addressed by experts of the state apparatus, of big organizations or societal functional systems. Instead they are raised by intellectuals, persons affected, radical professionals, self-appointed advocates etc.

From this outermost periphery the themes penetrate journals, interested associations, clubs, professional associations, academies, universities etc., and find forums, citizen's initiatives and other platforms, before, if necessary, they become the focal point of social movements and subcultures in an aggregated form. They, in turn, can dramatize contributions and stage them so effectively, that the mass media takes it up.

Only through controversially being addresses in the media, such themes reach the broader public and are put on the „public agenda.

Habermas evaluates this influence of civil society on the political system positively.

Civil society is the basis for a liberal public, that can feed-back the political center and can prevent the public's becoming independent.<sup>2</sup> Public, for Habermas, is conceived of as an intermediary structure, mediating between the political system, on the one hand, and private sectors from the Lebenswelt

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<sup>1</sup> This can be proved with the grand themes of recent decades— let us think of the nuclear arms race spiral, of the risks with regard to a peaceful use of nuclear energy, to other industrial facilities or to scientific experiments as genetic research ; let us think of ecological threats caused by an exhausted ecosystem (dying of the forests, water pollution, extinction of species etc.), of the dramatically continuing Third World's pauperization and problems of the international economic system; let us think of feminism issues, of the increasing immigration with its resultant problems with regard to a changed ethnic and cultural composition of the population etc.“; (analogous translation; remarks from the translator) cited from: J. Habermas, *Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaats*, 1992, 461.

<sup>2</sup> Ibid., 462-463.

(life worlds) and funktionale Handlungssysteme (functional action systems), on the other hand.<sup>1</sup> NGOs, according to this model, are communicative mediators within the medium public between the periphery and the center of the political system. Without this accomplishment of mediation through a strong liberal public there is no legitimate right according to Habermas' understanding of democracy.

Even authors like Niklas Luhmann, having a more critical attitude towards civil society groups as a whole than Habermas, do not negate the functional importance of the civil society periphery for the political center of a representative democracy. As state organizations and other political organizations, particularly political parties, permanently coordinate themselves, and as there is a constant change of staff between them, strongly confining the „agenda setting“ and thereby political themes, the necessity for another periphery develops, that sets itself apart from this elaborated centre of the corporative state“ by higher fragility, but also by greater openness in terms of addressing ostensibly neglected themes“.<sup>2</sup>

In summary, at the national level a correspondence between the system theoretical and the discourse theoretical approach can be noted in so far as NGOs, from a functional perspective, are needed as agenda-setters. Through their cooperation with the media they can broach from the political center neglected issues in society. The controversial public debates triggered off by this can be taken up by the political center through parties and parliaments, and can be transformed into political decisions.

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<sup>1</sup> Ibid., 451-452.

<sup>2</sup> N. Luhmann, Die Politik der Gesellschaft, 2000, p315.



The periphery, in turn, can react on the implementation of the decision by the administration. Hence, it is about making visible neglected or, in the political center deliberately ignored themes.<sup>1</sup> This assertion is not a normative appraisal of these themes and claims articulated from outside. NGOs prevent that the political system's center completely seals off and severs connections to private worlds of life. NGOs thus can help to bring dispelled social problems into the focus of the political decision-making process. In this functional sense their activities can have an abstract legitimacy. This weak, and in separate cases refutable, general assumption of legitimacy can even then be subscribed to, if the central role for a legitimation of the right, that Habermas ascribes to civil society, is being regarded as normatively overrated.

The presumed legitimacy of NGOs activities in this study refers to their essential role as part of a liberal public in democratic societies. Subject to the assessment made here, the existence of such a strong public is to be preferred instead of its non-existence. As examined above, international law and a big number of national legal systems legalize and stipulate this function of NGOs orientated towards the public by guarantees of human rights freedoms.<sup>2</sup>

In acknowledging this function as a legitimate action within a national framework, no decision has been made so far concerning the issue addressed in the following part, whether NGO participation leads or can lead to a democratization“ of international law-making processes in the sense of theories of „deliberative“ democracy beyond the nation-state.

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<sup>1</sup> U. Beck, *Die Erfindung des Politischen*, 1993, 158; G. Gremmelspacher, *NGOs und Staaten. Die Partizipation transnationalen nichtstaatlicher Organisationen an staatlichen Entscheidungsprozessen*, 2005, 91-94.

<sup>2</sup> See above under II. 3 a).

### **2-3 International level: simulated global democracy through NGO participation**

At the international law-making level, the problem of legitimacy of NGO activities is sharper than at the national level. On the one hand, in link with a participation great hopes are attached to a „democratization“ of international and supranational law-making instances; on the other hand, NGOs become competitors of state representatives who, at least partly, legitimize themselves through a democratically elected government, and whose influence on the negotiation outcome now is not only offset by other state representatives, but also by the NGOs representatives' influence.

The first step therefore shall be to address the question whether the above-examined forms of NGO involvement have the capacity to „democratize“ the international law-making process on their own.

If that were the case, a possible concomitant loss of power of state representatives would be of no consequence anymore. It would be, to a certain extent, replaced by the new, genuine supranational form of democracy.

The most often represented model for democratic policy and law-making outside the nation-state are concepts for a „deliberative“ democracy through a participation of people affected and their representatives in international and supranational law-making activities.<sup>1</sup> It is not about establishing a world state with a world government and world parliament, where NGOs and individuals could play a role akin to the national level, but about forms of a decentralized

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<sup>1</sup> J. Cohen / C. Sabel, „Directly-Deliberative Polyarchy“, *European Law Journal* 3 (1997), 313-342; M. Dorf / F. Sabel, „A Constitution of Democratic Constitutionalism“, *Columbia Law Review* 98 (1998), 267-273; B. Schmalz, „Deliberativer Supranationalismus. Demokratisches Regieren jenseits des Nationalstaates“, *Zeitschrift für Int. Beziehungen* 6 (1999), 185-244.

institutionalization of participatory forums as a replacement for the loss of importance of national parliaments in shaping supranational and global policies and law. Deliberation is understood as a public exchange of reasonable arguments at an international level with national and international civil servants and public interest actors on specific political and legal issues. The decentralized and problem orientated deliberation process started by this is to give the decision-makers ideas and is to democratically legitimize the decisions that are to be made in these bodies.<sup>1</sup> According to advocates of that model of transnational democracy in this way technocratic rule is replaced by the casual force of the better argument“.<sup>2</sup>

According to such models, intensive forms of NGO participation could democratize supra- and international law-making processes. A partial disempowerment of state representatives caused by this therefore could be get over, since direct deliberative processes become a separate legitimation basis for governance outside the bounds of the nation-state. The examined above intensive participation of public interest actors during drafting the UN Convention on the rights of persons with disabilities could on the face of it serve as an example of such deliberative democratic law-making at a universal level. What speaks in favor of it is that the communication through the perspective introduced by the NGOs has become enriched and more profound. More subtle practices of state violations in homes for disabled persons and other life situations, that often were not known to the diplomats, were suddenly broached. As a matter of fact, during the negotiations

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<sup>1</sup> M. Dorf / F. Sabel, "A Constitution of Democratic Constitutionalism", Columbia Law Review 98 (1998), 267-273;

<sup>2</sup> For critical reference on this see Alexander Somek, Demokratie als Verwaltung - Wider die deliberativ halbierte Demokratie, Sonderband Soziale Welt, im Erscheinen

happened, what is claimed by representatives of deliberative democracy models, namely, that perspectives were taken over individually and mutually.

Nonetheless, doubts remain. The example of the UN Convention demonstrates that despite the successful experiment of the involvement of representatives of affected groups there is no reason to overrate the NGO participation in democracy theory.

What can first be noted is, that within the group of NGOs there were clear asymmetries in power that led to a different weight in negotiations. Certain representatives due to its expertise or their argumentative skills prevailed with their positions, and thereby silenced other voices during the negotiation process. During some phases both the communication between NGOs and state representatives, as well as within either of the heterogeneous groups, had rather the character of a strategic struggle for power than that of a mutual will to persuade one another through better arguments.

Problems voiced by critics of deliberative democracy models also show in practice.<sup>1</sup> It is mainly the problem of disguised power differentials between participants and the lack of democratic responsibility on the part of NGO representatives. In practice, that is because the choice and participation of admitted NGO representatives always needs to remain selective, and a clear

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<sup>1</sup> W.E. Scheuermann, "Democratic Experimentalism or Capitalist Synchronisation? Critical Reflections on Directly-Deliberative Polyarchy", *Canadian Journal of Law and Jurisprudence* 17 (2004), 101-127; Alexander Somek, *Demokratie als Verwaltung - Wider die deliberativ halbierte Demokratie*, not yet published manuscript dated 2007

dominance of the West due to a higher financial power can not be eliminated. Whether and in how far the majority of disabled people was really represented by the present NGOs, can simply not be ascertained. You become a representative of concerned people mostly by way of self-appointment. Although, therefore some of the praised advantages of deliberative forums became obvious in the negotiation process, one could hardly speak of a “democratization” of the whole process. Moreover, so far one can only assume a weak „world public“, onto which NGOs have an impact at global level, and by which they are at the same time kept in check. Such a world public, according to Brunkhorst and Habermas becomes visible by a global accord of moral indignation, for example when grave violations of human rights were committed and when there is evidence for a violation of the prohibition of military attacks. It is limited however to individual political themes, stressed by media.<sup>1</sup> For the breadth of economical, technical and social issues of globalization, such a world public exists only with respect to certain points. This, however, means for the legitimacy issue that at the global level for many political themes there is still no world public that completely replaces national publics.<sup>2</sup> NGO participation in international law-making processes alone – as an interim result – does not lead to a supranational or global democracy. Their involvement in international law-making processes can not be legitimized only through participatory democracy models. The next part herefore refers back to the national level, where we shall have a closer look at the consequences of NGOs’ international participation on national publics.

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<sup>1</sup> H. Brunkhorst, “Globalizing Democracy without a State”, *Millenium, Journal of International Studies* 31 (2002), 675-690; J. Habermas, *Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaats*, 1992, 139-140

<sup>2</sup> M. Kettner / M.L. Schneider, “Öffentlichkeit und entgrenzter politischer Handlungsraum: Der Traum von der “Weltöffentlichkeit” und die Lehren des europäischen Publizitätsproblems”, in: H. Brunkhorst / M. Kettner (Hrsg.), *Globalisierung und Demokratie. Wirtschaft, Recht, Medien*, 2000, 369-411.

The question, that usually is not anymore raised in literature, is to be addressed, whether legitimacy of international involvements can be explained from ramifications of those involvements on the national public.

### **3- The role of non-state actors in regulation**

#### **3-1 Analytical Frameworks: Non-state actors and regulatory roles**

This section will set out some basic distinctions to work with. The distinctions are analytical and heuristic and are used here to facilitate discussion of sources of regulation which are autonomous and independent from the state. In mapping out the variety of non-state actors it is useful to distinguish between the state, the economy and civil society.<sup>1</sup>

The economic sphere includes, for example, markets and a broad range of profit motivated organizations and activities embracing, for example, finance and industry. The civil sphere comprises non-governmental organizations (NGOs), charities, trusts, foundations, advocacy groups and national and international non-state associations (Hutter and O'Mahony, 2004: 2; Anheier, 2002; Bruyn, 1999). This paper will use concepts from Hood et al's work on risk regulation regimes to guide the analysis. They define risk regulation regimes as '...the complex of institutional geography, rules, practices, and animating ideas that are associated with the regulation of a particular risk or hazard' (2001:9). This is a flexible definition which refers primarily to public policy risk responses. It allows for varying scales of operation, from the local to international, varying levels of integration or fragmentation and differing

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<sup>1</sup> There are complicated definitional issues surrounding this topic (see Bruyn, 1999, for a good discussion of these). Some refer to 'three sectors' but objections arise because the use of the terms first, second and third is taken by some commentators to refer to a hierarchical ordering.

levels of formality and practice. Risk regulation regimes are regarded as control systems of related parts which are relatively bounded. This potentially allows sufficient flexibility to permit analysis of situations where the state co-opts other parties into its regulatory regimes. Also the concept could be extended to take into account more independent non-state regulatory actors, most especially those who may avert the need for state regulation. Arguably any investigation of government responses to risk needs to take account of this possibility.

A further distinction drawn by Hood et al is between the context and content of regulation – the former refers to ‘the backdrop of regulation’ and the latter to ‘regulatory objectives, the way regulatory responsibilities are organized, and operating styles’ (2001: 28). The interest in this paper is the content of regulation, in particular, its structure and on this subject Hood et al (2001: 31) do note the importance of considering the extent to which regulation involves a mix of private and public sector actors. It is notable in the context of this paper that some of the non-state actors discussed may have moved from being part of the context of regulation, where they influenced state regulatory policy, to being part of the context of a more broadly defined risk regulation system.

For the purposes of this paper I want to focus on three regulatory roles drawn from Hood et al’s (2001) work on regulatory regimes, namely the three control components of information gathering, standard setting and behaviour modification. Information gathering involves the collation and provision of information about policy issues and problem areas, standard setting refers to the process of setting goals through standards and targets, and behaviour modification to changing individual or organizational behaviour, for example,

through compliance, deterrence or hybrid enforcement approaches (Hood et al, 2001).

Thus we can consider the role of non-state actors in regulation according to a 3 x 2 table:

/	<b>Regulatory Role</b>		
	<b>Information gathering</b>	<b>Standard setting</b>	<b>Behaviour modification</b>
<b>Economic actors</b>	/		
<b>Civic actors</b>			

Let us now consider in more detail some examples of non-state actors inhabiting economic and civil space and examine the different kinds of regulatory roles they undertake.

### 3-2 Substantive Discussion of Roles

There are three main sources of regulation in the economic sector, namely industry or trade organizations, companies themselves and those whose business is selling regulatory and risk management advice or cover to companies.

Regulation by the industry or company is referred to under the heading of self-regulation. This is a broad concept which covers a wide range of arrangements (Ogus, 1994). This paper will concentrate on self-regulation as the decision of an individual firm, industry or market to set its own standards and enforce them.

Self-regulation is a prominent regulatory form although its popularity varies considerably across nations and between domains. Gunningham and Rees (1997) cite many contemporary examples of business self-regulation



across a variety of countries and domains, ranging from self-regulation in financial futures markets in the USA through to self-regulation amongst the fishers of Alanya in Turkey. Often self-regulation is mediated through trade associations,<sup>1</sup> a prominent global example of this being Responsible Care, which is a chemical industry initiative adopted by the voluntary trade associations of chemical manufacturers in 37 countries since the mid-1980s (Rees, 1997). The scheme aims to control their collective action so as to reduce chemical accidents, increase industry credibility and involve the community in decision-making through the establishment of codes of practice and a commitment to community participation and consultation. The scheme was created in response to declining public opinion of the chemicals industry following the Bhopal incident in the mid 1980s (King and Lennox, 2000).

Opinions about the success of Responsible Care are divided. For some the widespread global adoption of this scheme is a glowing example of the possibilities offered by industry self-regulation (Rees, 1997). For others it demonstrates the difficulties associated with self-regulatory regimes (see below). Gunningham (1995) argues that the scheme favours the interests of large industry players to the extent that they are better able to cope with the weaknesses of the scheme, most notably the divergence in the interests and regulatory capacities of transnational corporations and small and medium sized companies.<sup>2</sup>

The Institute of Nuclear Power Operations (INPO) is a prominent and arguably rare example of successful industry self-regulation. The case, which

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<sup>1</sup> Trade associations are classified as economic actors to the extent that they operate as meso level business associations which are non-state and not civil sector in nature (Doner and Schneider, 2000).

<sup>2</sup> Other studies note the role played by trade associations in raising environmental standards. See Nash, 2002

is discussed at length in Rees' book *Hostages of Each Other* (1994), is of the US nuclear industry in the wake of the Three Mile Island accident in 1979. Directly following the disaster, executives of the nuclear power industry in the US created INPO as a private industry regulator funded by the industry and with a remit to develop standards, conduct inspections and investigate accidents. Rees argues that INPO has led to the development of a 'new responsibility-centred industrial culture' and he attributes its success to its ability to develop a system of communitarian regulation. But an important observation is that this took several years to develop. Rees (1979: 515) explains how INPO gradually gained credibility and co-operation and how this was facilitated by peer pressure and the communication of both praise and shame through the industry. Interestingly, one of the vital ingredients of success pinpointed by Rees was the background presence of the state regulator who could be called upon for supports and intervention. Other work suggests that national and cultural differences may be worth investigating. Schaede (2000) for example, documents how Japanese trade associations have long assumed an important regulatory role independent of government.

There are important hybrid forms of self-regulation, for example enforced self-regulation which involves a mix of state and corporate regulatory efforts. The government lays down broad standards which companies are then expected to meet (Braithwaite, 1982; Hutter, 2001). This involves companies in developing risk management systems and rules to secure and monitor compliance. Where compliance is not being achieved then companies are expected to have procedures in place to deal with non-compliance. Regulatory officials oversee this process. They undertake monitoring themselves and can impose public sanctions for non-compliance.

Moreover the state co-opts other sources and methods of regulation, notably in this case the regulatory capacity of the company. Ayres and Braithwaite (1992: 6, 103) describe this as a middle path between self-regulation and command and control regulation.

One feature of trade associations and regimes of enforced self-regulation is that they tend to be dominated by or favour larger businesses. Typically SMEs do not belong to trade associations and neither do they tend to cope well with systems of enforced self-regulation. SMEs do have some lobbying organizations acting on their behalf, but these are part of the context rather than the content of regulation so are therefore not considered to have a regulatory role.

Insurance companies are held to have a regulatory role in two important respects. First, according to Erikson et al (2003), insurance is a technology of governance beyond the state. They argue that the insurance industry shares similar goals to the state, employs similar methodologies and is subject to many of the same social forces.

In these respects insurance is involved in two of the three aspects of regulation identified by Hood et al (2001). The first of these is information gathering, especially through risk surveillance based on probability statistics. Indeed, insurance companies are regarded by some as the original risk experts, producing information which is both used by the industry itself and is also a source of exploitation by governments (Freeman and Kunreuther, 1997). The second aspect is behaviour modification.

Insurance acts as a control and seeks to influence behaviour by calibrating premiums according to desirable/undesirable characteristics. For example, higher premiums are charged to smokers; those without home security

systems such as burglar devices and window locks; and those driving high performance cars. Indeed, in a very real sense insurance companies link standard setting with behaviour modification through pricing mechanisms. The other important respect in which the insurance sector may be regarded as a regulator is in its role as third party enforcers. Insurance companies may be drawn into a third party role in a variety of ways, for example, through a state obligation that regulated entities hold liability insurance (Grabosky, 1995). Here insurers may play a gatekeeping role by only agreeing to issue policies once certain conditions have been met or by adjusting premiums accordingly. Jweeping et al (1998) discuss another form of third party activity, namely a scheme adopted by the Environmental Protection Agency in the US to use third-party inspectors employed by insurance companies and to formally recognise and accredit them as inspectors, thus incorporating them into legitimate regulatory space and using them to monitor activities and check for compliance.

Auditors are another popular source of third party delegation. One argument is that there is a growing tendency for countries to require external auditors to report deficiencies they uncover in the course of their routine audits of corporate finances to both the bank's management and the supervisory authorities. Indeed this has been a European Union requirement since 1995. In some cases this is in lieu of direct supervisory monitoring and in others, as in Australia, Chile and the EU, it is complementary to it. Kunreuther et al (2000) argue that the use of auditors in a wide range of contexts is accelerating, for example, their use to inspect pressure vessels, approve mechanical devices, handle radioactive substances and in the prevention of major chemical accidents. These are in fact roles which insurance regimes may also be asked to undertake. Often closely linked to

auditing and accountancy are consultancies. These are private sector organizations which sell their declared expertise in business management. There is actually very little work on consultants despite their quite spectacular growth over the past 20 years. One of the most thorough studies is Denis Saint-Martin's analysis of the growth of management consultants in *Building the Managerialist State* (2000). In this book he identifies three characteristics of management consultancy: 1. they are independent from those who employ their services; 2. their work is advisory; 3. they are knowledge based organizations where the production of management ideas is key, indeed they may act as the 'conduit' of business school ideas to the business world (Saint-Martin, 2000: 48). The origins of management consultancy lie in engineering and accountancy and Saint-Martin tells the story of the tensions between these two professions and the ways in which an influx of accountants in the 1960s led to a major expansion of management consultancy, especially in countries where accountants were permitted to offer consulting services to their auditing clients. The 1980s witnessed another major growth in management consulting and a concomitant concentration in the US which represents both the largest market for management consultancy and the major base for the large consultancy firms. The 1980s also saw the growing employment of management consultants by the public sector, the subject of Saint-Martin's work. This was part of the move to the managerialist state and the growth of non-state sources of responsibility and expertise. While management consultants still have lucrative markets in the public sector it is estimated that some 80 per cent of their revenues still come from private sector work (Saint-Martin, 2000: 37) and here risk management consultancy appears to be a growing sector. Management and other more specialist consultancies which are focused on selling risk management and regulatory compliance advice

cover a range of risk management domains. One of the risks identified by these consultants is the risk of non-compliance with state regulatory systems. Many such organizations exist, their trade being to sell advice which will assist businesses understand state regulations and guidance ensure that they have compliance systems in place and even offer advice on how businesses should relate to regulators, especially in registering their businesses with regulators, licensing processes, complaints procedures or legal actions. Often these companies are heavily reliant on regulatory websites and documentation. One wonders how reliant they are upon former regulatory employees, presumably there is a path from state regulators to consultancy firms. It is less likely that this is two-way traffic given that regulatory salaries are often below commercial rates, although it is likely that this varies between regulatory domains. Given the growth in consultancy firms selling compliance advice and risk management advice this sector represents quite a growth area in market sector provision around the implementation of state regulation, self regulation and risk management and one whose regulatory role demands to be properly researched. Management consultancies' main regulatory task is advisory and centers on the behavior modification component of regulation. Their status is interesting as they may even be a source of 'regulatory creep' by encouraging firms to go beyond compliance (BRTF: 2004). Management consultancies are part of the economic sector which specializes in the behavior modification aspects of regulation but as we can see from the following figure other economic actors do have the potential to cover all regulatory roles, this being especially the case with insurance companies and some cases of self-regulation. Before considering the potential of economic actors as regulators let us turn our attention to civil society sources of regulation.

### 3-3 Civil Society Sources of Regulation

The term civil society embraces a fairly broad range of actors and organizations. Accordingly the range of sources of regulation in the civil sector is diverse. Perhaps the best known regulatory sources in this sector are Non-Governmental Organizations (NGOs), a category which itself includes a diverse range of organizations. A useful definition is offered by Cohen (2003: 96) who regards NGOs as ‘...independent, non-profit, non-violent, voluntary organizations operating at the local, national, and/or transnational levels that are neither government nor businesses.’ NGOs represent a fast growing sector - for example, today’s Friends of the Earth International has groups in 68 countries compared to 4 in 1971 (Durbin and Welch, 2002:215), and over 100,000 NGOs are said to have emerged in Eastern Europe 1988-1995 (Cohen, 2003:95). This is a sector which works on a local, national and international level, embracing organizations of varying size, sophistication, and orientation (Hutter and O’Mahony, 2004).<sup>1</sup> Despite this variability civil society organizations (CSOs) contribute to all three of the control components of risk regulation regimes. Information gathering is an important activity for most NGOs. As Braithwaite and Drahos (2000) argue, at the most basic level they report ‘the facts’ and hope to influence, or to create opinion to accord with their own interpretation and ambitions, the conflicting interpretations they offer often, of course, being a source of conflict as they challenge more established views. They provide information about ‘popular’ views and perceptions and also advice about technical and strategic issues (Aldadeff, 2003: 101). NGOs also offer analysis and policy alternatives to state

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<sup>1</sup> Parts of this discussion are drawn from Hutter and O’Mahony, 2004.

regulators (Charnovitz, 1997; Grabosky, 1995) and companies (Enderle and Peters, 1998:5).

Another form of information gathering NGOs engage in is a monitoring or auditing role, for example, monitoring governmental policies and evaluating their effectiveness (Charnovitz, 1997; Grabosky, 1995). NGOs are increasingly involved in the standard-setting aspects of regulation, being involved in consultation processes with governments and business and often being formally co-opted to help shape standards. The World Bank, for example, 'is now requiring as a condition of debt relief that evidence is provided to show that poor communities are fully involved in new programmes'. And the European Union has increasingly made provision for NGOs to be part of formal decision-making processes (Dunkerly and Fudge, 2004; Hutter and O'Mahony, 2004:109). Indeed the European Commission's White Paper on Governance advocates the involvement of civil society organizations in European decision-making. Behavior modification is perhaps the regulatory activity NGOs are best known for, most especially their use of a variety of forms of civil action such as protests, press conferences, demonstrations, organizing petitions, and sometimes even arranging publicity stunts. The key objective here is to mobilize mass opinion, something which NGOs are particularly successful at doing in time of disaster, and in an era of mass communication. Braithwaite and Drahos (2000: 500) argue that NGOs do not necessarily need large budgets to be effective but 'they do have to be able to convince regulatory policy-makers that they might, if push comes to shove, be able to mobilize mass publics around their concerns'. They aim to 'frame' the issue at stake, an example being Greenpeace's role in framing the Brent Spar debate as a normative issue rather than a purely scientific one (see Jordan, 2001 and Holzer, 2002). To the extent that their activities aim to



influence state policies they are part of the regulatory context, to the extent that they influence business directly they may be regarded as regulatory content. Indeed NGOs may become involved in formal processes aimed at behavior modification.<sup>1</sup> For example, where CSOs find persistent non-compliance with regulations, they may become directly drawn into the formal legal system. A notable example of this is their involvement in private legal actions in pursuit of regulatory objectives (Boyer and Meidinger, 1985). They may also have quite sophisticated lobbying skills (Greenwood 2003: 56). Standards organizations are a more focused source of regulation. They are discussed extensively by Brunsson et al (2000) as a form of regulation and one which is largely located in the private sector. Standards organizations produce standards about product quality, quality assurance, and risk management. Examples of such organizations include the British Standards Institute (BSI) which ‘...is the National Standards Body of the UK, responsible for facilitating, drafting, publishing and marketing British Standards and other guidelines’

(<http://www.bsi-global.com/News/Information/index.xalter>).

The BSI has a long history. Its origins lie in the Engineering Standards Committee which first met in 1901. Over the years its remit expanded and formalized. In the 1930s it became the British Standards Institute and chemical standards were added to its remit and post Second World War it rapidly expanded. By 1998 it had become a global business which now also has an independent inspection, testing and analysis service. An interesting feature of BSI is the way in which its position and work were formally

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<sup>1</sup> Some commentators regard CSOs as a form of social control (Cable and Benson, 1993), and from a governmental perspective they are, of course, a cheap form of control.

embraced by the state in the form of a Royal Charter in 1929 and a renewing memorandum in 2001. During the twentieth century BSI became increasingly international in orientation, helping to found other transnational standards organizations such as the International Organization for Standardization (ISO) which is a non-governmental organization comprising ‘...a network of the national standards institutes of 146 countries...’ (<http://www.iso.org/iso/en/aboutiso/introduction/index.html#two>).

Another prominent international standards organization is the International Accounting Standards Board (IASB) which describes itself as ‘an independent, privately-funded accounting standard-setter based in London, UK’ which ...is committed to developing, in the public interest, a single set of high quality, understandable and enforceable global accounting standards that require transparent and comparable information in general purpose financial statements. In addition, the IASB co-operates with national accounting standard-setters to achieve convergence in accounting standards around the world. (<http://www.iasb.org/about/index.asp>). Professional organizations have long played a very important regulatory role in terms of regulating entry conditions to the professions and also in terms of laying down standards of conduct. Notable examples include law, medicine and accounting – the last are particularly interesting as they not only regulate the entry conditions and codes of conduct of members but also issue voluntary codes which try to set broader regulatory standards. A prominent example of this is the Turnbull Report, a voluntary code of corporate governance introduced by the Institute of Chartered Accountants England and Wales in 1999.

Some professional organizations combine representation and licensing functions whereas others just do licensing. UK professional organizations

which combine representation and licensing functions include the Law Society and the Pharmaceutical Society: the primary functions of the Law Society are to regulate and represent solicitors in England and Wales, and campaign for law reform in the public interest. Regulation is identified as a primary role – admission to the profession, continuing education and discipline.

<http://www.lawsociety.org.uk/aboutlawsociety/whoweare/abouthistory.law>)

The Royal Pharmaceutical Society of Great Britain (RPSGB) is the regulatory and professional body for pharmacists in England, Scotland and Wales. The primary objective of the RPSGB is to lead, regulate and develop the pharmacy profession. The Society has responsibility for a wide range of functions that combine to assure competence and fitness to practise. These include controlled entry into the profession, education, registration, setting and enforcing professional standards, promoting good practice, providing support for improvement, dealing with poor performance, dealing with misconduct and removal from the register. (<http://www.rpsgb.org.uk/>) Professional organizations which just engage in licensing include UK medical organizations such as the General Medical Council: The GMC is the regulator of the medical profession. Our purpose is to protect, promote and maintain the health and safety of the community by ensuring proper standards in the practice of medicine. (<http://www.gmc-uk.org/about/role/index.asp> )

The GMC has statutory authority under the Medical Act 1983. Its duties include registering doctors to practice medicine in the UK and issuing Licences to Practice and revalidation. The Nursing and Midwifery Council is the nursing equivalent of the GMC: The Nursing and Midwifery Council is an organisation set up by Parliament to protect the public by ensuring that nurses

and midwives provide high standards of care to their patients and clients. (<http://www.nmc-uk.org/aSection.aspx?SectionID=5>) Both doctors and nurses in the UK have their own representative organizations which serve their interests, namely the Royal Colleges of Nursing and Midwives and the British Medical Association.

Another highly relevant set of professional groupings has grown up around internal consultants – compliance officers, risk officers, environmental officers, health and safety officers – who have increasingly tried to enhance their status by professionalising. Examples of these organizations include The Association of Insurance and Risk Managers (AIRMIC) which described itself in 2004 as ‘...the UK's sole organization dedicated to the wide-ranging interests of all professionals practicing or responsible for insurance and risk management. AIRMIC was founded in 1963 as the Association of Insurance Managers in Industry and Commerce’.

(<http://www.airmic.com/>). Another example is the Institute of Risk Management: Established as a not-for-profit organization, the Institute is governed by practicing risk professionals and has strong links to leading universities and business schools across the world. .... IRM Associateship (AIRM) is recognized worldwide as the sign of a risk management professional and is achieved through examination: Fellowship (FIRM) follows through accredited practical experience. (<http://www.theirm.org/>) The Institute's three key objectives reflect well the hallmarks of professional organizations, namely education, provision of qualifications and the promotion of good practice.

The standard setting and behavior modification roles played by professional organizations relate to professionals who themselves may

represent a source of regulation within the organization for which they work (Hutter, 2005). So they take to the workplace their professional norms and expertise which they may then use to influence the risk management practices in the workplace. The tensions this can create are well illustrated with reference to risk officers (Power, 2005) and compliance officers (Weait, 1994), who are caught between the internal world of corporate management and external regulatory controls.

## General conclusion

The debate over the role, importance and legitimacy of Non-State Actors is a reaction to deeper rooted problems, closely linked to the migration of decisions from the state level to supra-, trans-, and internationally organized spaces. Within this context, various hopes in the field of law and policy are connected to the diagnosed increase in importance of Non-State Actors. On the one hand, an efficiency increase through private expertise for solving the great human kind issues as climate change, poverty, and human rights violations is hoped for. On the other hand, Non-State Actors are expected to offset the so-called „democracy deficit“ in international institutions.

After the analyses made here in light of selected fields of NGO participation in public policy making processes outside the bounds of nation-states, both approaches seem problematic. The lopsided stress on efficiency benefits through private expertise of Non-State Actors overlooks that expert consultancy and informal influence outside juridified processes can further aggravate the democracy problem instead of increasing the legitimation of international decision-making processes. The issue of a unilateral involvement and influence by private expertise is known from the national area. It aggravates at an international level, however, in so far as a bureaucracy one-sidedly „steered“ by way of a selective influence can not, at regular intervals, be corrected by a new, democratically elected government.

There is a tendency, however, that in terms of hope for forms of global democracy through NGO participation, the problems of power differentials, low representatively, lack of responsibility and hegemonial

structures within global civil societies themselves are underestimated . All in all, precisely mainly globally operating NGOs can not surmount the dizzy heights at which international bureaucracies often have to act . The value of NGO participation – that is the central argument - in supra- and international public policy making should rather be placed at the national level. The migration of decisions to transnational and supranational policy-making institutions must be followed by new participation forms from NGOs. Otherwise their valuable role as a backbone for vigorous national and local publics would be harmed. This public oriented role of NGOs by way of universal human rights to freedom can be regarded as laid down in international public policy making process .

## Abstract

One of the most notable trends in the study of international relations public politics is the resurgence of interest in international organizations, particularly those outside the United Nations. Regional international governmental organizations, multinational corporations, international labor unions, and transnational ethnic groups have become increasingly salient actors in world politics. OPEC, NATO, EEC, and PLO, for example, are all widely understood acronyms, and even a casual review of the crises in Iran and Afghanistan reveals the pervasive involvement of NATO, the European Community, the Islamic Conference, the International Olympic Committee, and more than one hundred other international governmental and non-governmental organizations. Although international organizations are not likely to replace nation-states as the primary actors in world politics, their growing involvement in global political and economic issues challenges the assumptions of the traditionalists' state-centric model, as well as those whose interests begin and end with the United Nations. This study goes beyond the traditional UN-focused studies of non-state actors to provide a comprehensive analytical survey of the many other organizations that help shape today's events. A common framework is used to examine what each non-state actor does, how it organizes to achieve its ends, and how it makes multilateral/international decisions. The degree of integration in many non-state actors is evaluated.

**keywords: international relation;politics; global political; governmental organizations.**

**ملخص :**

إن أحد أبرز الاتجاهات في دراسة العلاقات الدولية و السياسات العامة هو تجدد الاهتمام بالمنظمات الدولية ، ولا سيما تلك الموجودة خارج الأمم المتحدة. أصبحت المنظمات الحكومية الدولية الإقليمية ، والشركات متعددة الجنسيات ، والنقابات العمالية الدولية ، والجماعات العرقية عبر الوطنية جهات فاعلة بارزة على نحو متزايد في صنع السياسة العالمية. منظمة أوبك وحلف شمال الأطلسي



والجماعة الاقتصادية الأوروبية ومنظمة التحرير الفلسطينية ، على سبيل المثال ، كلها مصطلحات مفهومة على نطاق واسع ، وحتى المراجعة العرضية للأزمات في إيران وأفغانستان تكشف عن المشاركة المنتشرة لحلف شمال الأطلسي ، والمجتمع الأوروبي ، والمؤتمر الإسلامي ، واللجنة الأولمبية الدولية ، وأكثر من مائة منظمة دولية حكومية وغير حكومية. على الرغم من أنه من غير المحتمل أن تحل المنظمات غير الدولية محل الدول القومية باعتبارها الجهات الفاعلة الأساسية في السياسة العالمية ، إلا أن مشاركتها المتزايدة في القضايا السياسية والاقتصادية و صنع السياسة العالمية تتحدى افتراضات النموذج التقليدي المتمركز حول الدولة ، وكذلك أولئك الذين تبدأ مصالحهم وتنتهي بـ الأمم المتحدة.

تتجاوز هاته المذكرة الدراسات التقليدية التي تركز على الأمم المتحدة للجهات الفاعلة غير الحكومية للتعريف بالفاعلين غير الدوليين للحصول على تحليل شامل للعديد من المنظمات الأخرى التي تساعد في تشكيل أحداث اليوم. يتم استخدام إطار عمل مشترك لفحص ما يفعله كل فاعل من غير الدول ، وكيف ينظم لتحقيق أهدافه ، وكيف يتخذ قرارات متعددة الأطراف / دولية. يتم تقييم درجة التكامل في العديد من الجهات الفاعلة غير الحكومية .

**الكلمات المفتاحية: العلاقات الدولية ؛ السياسة؛ السياسات العالمية ، المنظمات الحكومية.**

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