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Potential Impacts on Individuals Caused by the Invasion of NGOs into International Politics

Zhao Li, Haibin Qi

ABSTRACT: In the contemporary world, NGOs are playing significant roles in international cooperation and globalization. This actively promotes the formation of a global society. Accompanying that, NGOs also have an increased international political influence. Against this background, some scholars believe the rise of NGOs will create an era of individuals' emancipation from the sovereign states, while others consider that the golden age of autonomy has passed. This paper studies the essence of the association dominated by NGOs and how this association affects individuals in international politics. This paper suggests that the ideal subject for NGOs is one with clearly defined and precise goals and is isolated or compatible with other subjects lest drawing governments' hostility. The idealized NGOs predominating over all fields may create enterprise association and also help to contribute to a closed international society. The voice of individuals will be silenced in enterprise association and closed society. Therefore, NGOs should function objectively as subsidiary subjects of civil association. If NGOs intrude into the international political field, they will harm individuals.

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The Rise of International Organizations in the Contemporary World

International organizations have proliferated rapidly during the last century. According to the database, Yearbook of International Organizations, in 1909 there were only thirty-seven intergovernmental organizations (IGOs) and 176 nongovernmental organizations (NGOs).¹ These numbers grew to 4,565 for IGOs and 23,635 for NGOs by 1991.² By the year 2013, there were already 7,756 IGOs and 59,383 NGOs globally.³ Approximately 1,200 new organizations are added each year.⁴

Robert Jordan, who was a distinguished professor of strategy and policy at the U.S. Naval War College and once served as director of research for the U.N. Institute for Training and Research, concluded that “concomitant with their growth, IGOs and INGOs have become increasingly significant actors in world politics”.⁵ Though it is too far to claim that the state is no longer the primary component in contemporary international politics, we cannot ignore the “alternative and possibly competitive foci of power and influence”⁶ caused by international organizations. Hiner Hanggi, Ralf Roloff, and Jurgen Ruland distinguished the five levels of international policy-making: global, inter/trans-regional, macro-regional, trans-border institutions at a sub-regional level, and bilateral state to state.⁷ International organizations have played critical roles in the first four levels.⁸ It is safe for us to conclude that the international political system now consists of three levels of subjects: nation-states through making bilateral treaties,⁹ IGOs, and NGOs.¹⁰

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1. THE UNION OF INT’L ASS’N, YEARBOOK OF INT’L ORG. 2013-2014, Vol. 4, fig. 2.9 (2015).
 2. *Id.*
 3. *Id.*
 4. *Id.*
 5. ROBERT JORDAN ET AL., INTERNATIONAL ORGANIZATIONS: A COMPARATIVE APPROACH TO THE MANAGEMENT OF COOPERATION 20 (4th ed. 2001).
 6. *Id.* at 39.
 7. HINER HÄGGI ET AL., INTERREGIONALISM AND INTERNATIONAL RELATIONS (Jurgen Ruland ed., Routledge 2006).
 8. *Id.*

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Though having much in common, IGOs and NGOs present diverse trends of development. From 1981 to 1991, the number of IGOs had increased over threefold, while NGOs increased nearly 80%. Despite the tremendous growth of both, IGOs still had a much higher growth rate in the 1980s.¹¹ The 1990s saw a slowdown of IGOs, the growth rate of which fell to only 48%.¹² While in the year 2001, the number of NGOs amounted to nearly double compared to that of 1991, meaning the growth rate of NGOs keeps increasing and surpassing that of IGOs.¹³ Though the growth in the international organization has leveled off from 2001 to 2014, the rate of NGOs (26%) is still higher than IGOs (15%).¹⁴ Comparing the bilateral and multilateral treaties that played the most significant role in international politics after the Second World War, IGOs and NGOs were most active in the 1980s. More specifically, the period after the Cold War witnessed the prosperity of NGOs. We can easily revise Macdougall's assertion back in 1966 that the Nineteenth Century is characterized as the era of the nation-state and the Twentieth Century is considered the era of the intergovernmental organization, while posterity may characterize our period as one of NGOs.¹⁵

According to this trend, there are increasingly more people who believe that, with the assistance of NGOs, "the individual appears to occupy the central stage of international law."¹⁶ "Never before, in the history of human kind, have people possessed so many rights and freedoms opposable to sovereign states."¹⁷ Therefore, one could conclude that the contemporary world is experiencing "the renaissance of the individual."¹⁸

9. The number of multilateral treaties, though, was only 10 percent of that of bilateral treaties, following the increasing trend. However, it's always hard to distinguish the simple multilateral treaties and international organizations. THE UNION OF INT'L ASS'N, *supra* note 1.

10. THE UNION OF INT'L ASS'N, *supra* note 1.

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.*

15. EDUARDO SZAIZI, *NGOS: LEGITIMATE SUBJECTS OF INTERNATIONAL LAW* 271 (Leiden Univ. Press 2012).

16. *Id.*

17. *Id.*

18. M.McDougal et al., *The World Constitutive Process of Authoritative Decision*, in R.FALK, *THE FUTURE OF INT'L LEGAL ORDER* 94 (PUP Princeton 1969).

Compared to sovereign states, NGOs have brought about a different kind of association that leads to the arising of new ways of governance in international politics—governance without a state, which marks the fading of modern statehood.¹⁹ Considering that “the tension between states’ rights and individual rights has become particularly difficult to solve in recent times,”²⁰ the decline of modern statehood may lead the emancipation of individuals.²¹ In other words, the golden age of democracy may be coming to an end. There are still some people that have an opposite position. For example, Richard Tuck, a professor at Harvard University, claims the golden age, which existed in the Seventeenth Century, has passed for good, which, though seemingly strange and ill-timed, perhaps still makes sense.²²

This paper will first briefly review the themes, discussions, and theories in international politics back to the Seventeenth and Nineteenth Century in order to present a historical prospect of international cooperation on the basic of this particular subject. Tracing this back will reveal how the areas and discussions are different between international politics based on states system in the past and NGOs in the contemporary world. The distinct areas and discussions leading to different cooperation of individuals will be explained later. Through the analysis of the field and subject of NGOs, this paper takes a process of ascending from empirical data to concepts. The ascension here has two purposes. First, it means to convert the analysis of empirical data to that of an ideal type. Second, it will analyze, the concrete established institution of NGOs to the pattern of governance they bring up. We assert that an NGO is a special medium of governance technique, which is still latent in contemporary international politics, and is already prepared to conquer this field actively. Finally, we will see how this kind of governing is perverse to a healthy civil society open to individuals.

Before we dive into analysis, there are still several preliminary comments that need to be clarified. This paper seeks to unfold the

19. THOMAS. RISSE, GOVERNANCE WITHOUT A STATE?: POLICIES AND POL. IN AREAS OF LIMITED STATEHOOD 276 (Columbia Univ. 2011).

20. DOMINIK ZAUM, LEGITIMATING INT’L ORG. 40 (Oxford Scholarship Online Jan. 2013, 2014).

21. *Id.*

22. *Id.*

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prospect of international politics influenced by NGOs from the perspective of political philosophy. Some concrete NGOs are not the objects of this paper. This paper has an emphasis on international NGOs and politics but it also refers to domestic NGOs and politics. However, the conclusion can be applied to them as well. If so, why does this paper deliberately focus on international NGOs? When analyzing justice of a man, Socrates, in Plato's work *The Republic*, turned to discuss with his friends about justice in the city-state.²³ Because there would be more justice in the larger and it would be easier to observe closely.²⁴ Socrates takes it as considering the issues of the larger as a way to address the issues of the smaller.²⁵ Similarly, the situation of INGOs to international politics is very similar to the situation of NGOs in domestic politics. Also in the international area, states are "larger" than the "smaller" individuals; therefore, stating a comparison of the individual to the state is a better reference when discussing NGOs. Besides, there is a moderate analysis of IGOs, but IGOs are not the issue of this paper. IGOs are introduced into this study as a transitional type between the state and NGO.²⁶ By making a comparative analysis between IGOs and NGOs, the nature of NGOs becomes clearer. When the instrumental functions of IGOs are fully examined then the discussion on it will gradually disappear from the paper.

International Politics Before the Twentieth Century.

Richard Tuck concluded with slight pessimism at the end of his book, *The Right of War and Peace*, stating that "it is important that we are clear about what autonomy meant in the days when it became the central virtue, so that we can also be clear about what we may be losing in our own time."²⁷ Tuck attempted to guide his readers back to the Seventeenth Century after the Peace Treaty of Westphalia was

23. PLATO, *THE REPUBLIC* 147 (T. E. Page et al. eds., Paul Shorey trans., Harvard Univ. Press rev. ed. 1937) (c. 380 B.C.E.).

24. *Id.* at 149.

25. *Id.* at 147-49.

26. THE UNION OF INT'L ASS'N, *supra* note 1.

27. RICHARD TUCK, *THE RIGHT OF WAR AND PEACE: POLITICAL THOUGHT AND THE INTERNATIONAL ORDER FROM GROTIUS TO KANT* 234 (Oxford Univ. Press 1999).

signed in 1648.²⁸ In the Westphalian system, the state is regarded as an organization that has the highest level of power or is the sovereign in its territory.²⁹ This basic principle of autonomy helps form an independent political community.³⁰ Due to economic interference, though extremely limited, and international norms, though weak, the ideal autonomy never existed during the Westphalian period. However, as the states only “accepted very few international obligations in either conventional or customary law”, the states, as Mark Zacher mentioned, “maintained a high degree of policy autonomy by not enmeshing themselves in a large number of international regimes and especially not in a regime that restricted their ability to use military force.”³¹

Natural right theorists conceive that sovereign states are subjects which behave like individuals. Tuck pointed out that this kind of metaphor for the international arena is a near-perfect example of the operation of the fundamental principles of the natural right theorists.³² Among them, Thomas Hobbes presented the most profound explanation. Hobbes, whose experience was colored by the British civil war in the 1640s, followed by his successors,³³ proposed the concept of the state of nature, meant individuals lived close by without any kind of state sovereignty existing to explain the pre-civil world of humans.³⁴ State of nature, though presumed to explain the relationship between individual men, acts as a metaphor to state of international relationship, and as Rousseau announced, “the Hobbesian ‘man’ was really a state all along, displaying characteristics that were usually encountered only in state, such as a constant and unforgiving striving for power.”³⁵

28. GOVERNANCE WITHOUT GOVERNMENT: ORDER AND CHANGE IN WORLD POLITICS 59 (James N. Rosenau & Ernst-Otto Czemprel eds., Cambridge Univ. Press 1992) [hereinafter GOVERNANCE WITHOUT GOVERNMENT].

29. *Id.*

30. *Id.*

31. *Id.* at 60.

32. Tuck, *supra* note 27, at 9.

33. *Id.* at 135.

34. *Id.* at 140.

35. *Id.* at 230.

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This concept, according to Charles Beitz, is assumed to be constructed by individuals without social connection.³⁶ Similarly, international relations, to a certain extent, are an autonomous agent without any effective relationships.³⁷ The autonomy of the state in the Seventeenth Century lacked the sense of global civil society; therefore, the sovereign state in the Seventeenth Century is the best paradigm for individuals lacking necessary social connection.³⁸ In the state of nature, there is no public agreement about good and evil, which implies a lack of justice in law.³⁹ The concept of states' autonomy was not understood as taking action following desires and interests of states, but rather by policies and strategies in international affairs as they saw fit in a political environment that was similar to Israel in the period of Judges.⁴⁰ Finally, because of competition, diffidence, and glory, there is war of everyone against everyone⁴¹ in the state of nature. Of course, this ideal concept, due to its highly abstract style, failed to meet every situation and experience, but it is still applicable to explaining the international arena. Hobbes asserts that though this typical state of nature never existed in history, stating, "yet in all times, kings and persons of sovereign authority, because of their Independency, are in continually . . . a posture of war."⁴²

For Hobbes, the war in state of nature is hard to bear — just think about this famous depiction in *Leviathan*:

[T]here is no place for industry; because the fruit thereof is uncertain; and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be import-

36. CHARLES R. BEITZ, *POLITICAL THEORY AND INTERNATIONAL RELATIONS* 42 (Princeton Univ. Press 1999).

37. *Id.* at 8.

38. Though it does not mean that Hobbes ignores any social cooperation as Charles Beitz has claimed. Noel Malcolm has clarified, "The general picture that emerges here is of cooperation and interaction between states, and between the subjects of states, taking place at many levels. . . Hobbes's account contains many of the ingredients of what modern theorists describe as an international society. . ." NOEL MALCOLM, *ASPECT OF HOBBS* 452 (Oxford Univ. Press 2002).

39. PATRICK DEVLIN, *Morals and the Criminal Law, in THE ENFORCEMENT OF MORALS*, 181 (Oxford Univ. Press 1965).

40. Nir Kedar, *Democracy and Judicial Autonomy in Israel's Early Years*, 15 *ISRAEL STUDIES* 25-46 (2010).

41. THOMAS HOBBS, *LEVIATHAN* 88 (Richard Ruck ed., 1651).

42. *Id.* at 90.

ed by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continual fear, and danger of violent death; And the life of man, solitary, poor, nasty, brutish and short.⁴³

Human beings would end either in self-destruction or escape to another sovereign state.⁴⁴ Since neither of these happened in the Seventeenth Century, Hobbes succeeded in setting up the presumption at the beginning, and failed at the end.⁴⁵ Why does this happen? Professor Tuck quoted the opinion of Max Weber, who saw that overseas expansions was the certain unique and never repeating precondition of freedom and democracy,⁴⁶ to imply the answer. Though vaguely asserted, Tuck's answer could reasonably be speculated to imply, that the sustainability of supplies from new continents by overseas expansions make the state of nature not extremely insupportable in a system of international politics based on autonomy of state.⁴⁷

In the Nineteenth Century, along with the fading of providing new continents and the resources, the western world gradually organized a balanced system ruled by limited international law.⁴⁸ The system of autonomy came under threat in Europe by Napoleon's war of conquest and broke down into unbridled anarchy in the first few years in the Eighteenth Century.⁴⁹ The arena of international politics is closer to the state of nature described by Hobbes. It was far from bearable, so that a new system might be worked out to evolve.⁵⁰ Un-

43. *Id.* at 89.

44. *Id.* at 89-90.

45. Todd Calder, *Hobbes' Moral and Political Philosophy*, THE STANFORD ENCYCLOPEDIA OF PHIL. (Feb. 25, 2014), <http://www.plato.stanford.edu/entries/hobbes-moral/>.

46. TUCK, *supra* note 27, at 15.

47. *Id.*

48. *Congress of Vienna: the Forerunner of Multilateral Diplomacy*, THE EXAMINER (Aug. 7, 2010).

<http://www.examiner.com/article/congress-of-vienna-the-forerunner-of-multilateral-diplomacy> [hereinafter *Congress of Vienna*].

49. *Id.*

50. Christoph Neusiedl, *The Concept of Human Nature in International Relations-A Case Study of Realism and Liberalism*, ACADEMIA.EDU 2-3 (2015), http://www.academia.edu/The_concept_of_human_nature_in_International_Relations_a_case_study_of_realism_and_liberalism.

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like practicing the solution proposed by Hobbes, in which individuals are persuaded to institute a sovereignty, world politics in the Nineteenth Century were marked by the Congress of Vienna in 1814-1815 and the Hague Peace Conference in 1899, and have gradually evolved into a system constructed by laws of war, arbitration, and multilateral treaty.⁵¹

Stephen Neff, a professor at University of Edinburgh, concluded that the Nineteenth Century was “an age of great achievement in international law as in so many other walks of life.”⁵² The premise of the state of nature must be modified to fit because of the concern with the changes and development in international politics during that era.⁵³ The appropriate theory was nothing new in the Nineteenth Century, as it had already been proposed by Samuel Pufendorf during the same period as Hobbes.⁵⁴

Despite some acknowledged basic principles, there is profound distinction between Pufendorf and Hobbes’ explanations of the state of nature. The dividing consensus begs the question: could the state of nature be imagined as a human society? Contradictory to Hobbes, who argued the commonwealths “should still continue in a State of mutual war” by lacking any emotional and ethical connection, Pufendorf believed that the common sense of mankind was that “those Commonwealths, how distinct so ever” could be “allied by Friendship and by Leagues.”⁵⁵ Pufendorf’s theory on international affairs, especially the case in Germany “to reconstruct a decent and pacific life in Germany on the basis of precisely such alliances and leagues between states,”⁵⁶ could invalidate Hobbesian Theory.⁵⁷ In this kind of explanation, the state of nature “is so constituted that the race cannot be preserved without social life.”⁵⁸ Compared to the weak affiliation of friendship, common interest plays a foundational role in building up a global society.

51. *Congress of Vienna*, *supra* note 48.

52. STEPHEN C. NEFF, *JUSTICE AMONG NATIONS: A HISTORY OF INTERNATIONAL LAW* 218 (Harvard Univ. Press 2014).

53. SAMUEL PUFENDORF, *OF THE LAW OF NATURE AND NATIONS* 150 (London 1729).

54. *Id.*

55. *Id.*

56. TUCK, *supra* note 27, at 150.

57. *Id.*

58. SAMUEL PUFENDORF, *ON THE DUTY OF MAN AND CITIZEN* 36 (1682).

Since 1815, many has been suggested the idea of “a global community interest.”⁵⁹ In prophet-like tones, Pufendorf debated with Hobbes to defend a collective interest, “[a]lthough our moral language thus reflects our interests, it does not directly reflect our personal interests, as Hobbes had thought; instead, if used properly, it always refers to whatever will in some way advance a collective interest, or aid in the construction of patterns of social life.”⁶⁰ A framework of international law, which helps to regulate and form the collective interest, could find its counterpart in the Pufendorf’s theory of natural law. This framework does not work in the state of nature in Hobbes’ explanation. Though lacking the coercive power of the state to ensure the implementation, the law can still be “investigated by the light of reason”⁶¹.

Professor Tuck criticized the theory of Pufendorf stating that it “had lost the sense of autonomous agents constructing their ethical environment.”⁶² The same anxiety could be inspired in global politics in the Nineteenth Century that the autonomy of the state might be totally immersed by the new system.⁶³ Comparing that situation to contemporary global politics, Professor Tuck’s criticism is only partially correct. The operation of reason in theories of international law in the Nineteenth Century was restricted by a limited target: for peace among states in theory, to prevent any hegemony on the continent, and to avoid a pan-European war.⁶⁴ If peace is the main goal, reason in international politics of the Nineteenth Century is nothing less than ability for rational discourse. Diverse states are considered to be the foundation and the logical assumption of rational discourse in international politics, the system of international politics in the Nineteenth Century was also constituted by sovereign states.⁶⁵

This new system, established by the peacemakers from 1814-1815⁶⁶ and sharing characteristics similar to hierarchy and anarchy,

59. GOVERNANCE WITHOUT GOVERNMENT, *supra* note 28, at 56.

60. TUCK, *supra* note 27, at 149.

61. PUFENDORF, *supra* note 58, at 37.

62. TUCK, *supra* note 27, at 230.

63. *Id.*

64. GOVERNANCE WITHOUT GOVERNMENT, *supra* note 28, at 38.

65. *Id.* at 38.

66. *Id.* at 38.

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developed, changed, oscillated,⁶⁷ decayed, and ultimately collapsed at the breakout of World War I.⁶⁸ This still leaves a lot of legacy for contemporary international law.

A Comparative Analysis to State, IGO and NGO by Type.

The Nineteenth Century is still viewed as the era of the nation-state, even though there was an increase in international law.⁶⁹ In the Twentieth Century, the advancement of the international political system of nation-states was confined by a persistent increase in the number of international treaties. There were 6,351 bilateral treaties entered into force between 1945 and 1955.⁷⁰ After two decades the number doubled again, amounting to 14,061 between 1966 and 1975.⁷¹

Despite of the decay of the Westphalian system, the state is still “the primary political unit in the composition of the contemporary international system.”⁷² The system of nation-states, though saturated with a great variety of formal and informal international rules, is by no means removing its nucleus of autonomy or sovereignty. Realism theoretical paradigm, which presumed that the primary motive of the warring states in international affairs was to constantly compete for territorial, material, and human resources, always reiterated by scholars on the insight of this nucleus.⁷³ When international affairs get involved in intense state interests, the model of the state of nature proposed by Hobbes never fails in explaining the events.⁷⁴ As James Yunker suggested, “modern history also seems to suggest that the

67. *Id.* at 32.

68. NEFF, *supra* note 52, at 219.

69. To the point of Reinhard (2007), “Even in Europe, the birthplace of modern statehood, nation-state were only able to fully establish the monopoly over the use of force in Nineteenth Century.” RISSE, *supra* note 19, at 6

70. GOVERNANCE WITHOUT GOVERNMENT, *supra* note 28, at 66.

71. *Id.* (Database comes from PETER ROHN, ROHN’S WORLD TREATY INDEX: VOLUME I (1997), and MULTILATERAL TREATIES: INDEX AND CURRENT STATUS (Bowman & Harris eds., London: Butterworths 1984)).

72. GOVERNANCE WITHOUT GOVERNMENT, *supra* note 28, at 100.

73. César de Prado, *Global Multi-Level Governance: European and East Asian Leadership*, United Nations Univ. Press 219 (2007), http://archive.unu.edu/unupress/samplechapters/multilevel.Governance_dePrado_UNUPress_chapter.pdf.

74. TUCK, *supra* note 27.

sovereign nation-state system possess a strong propensity toward the generation of hostility, conflict and warfare among nations.⁷⁵

Though states could draft bilateral treaties to regular their behaviors, it still could not be a persuasive reason to reject Hobbes's theory, for Hobbes himself never denied the possibilities of the cooperation of states.⁷⁶ He even believed that there could be high levels of cooperation in international politics.⁷⁷ Hobbes's attitude on international trade and cooperation is the best example. "[I]nternational trade, in Hobbes's view, was essential for the well-being of a commonwealth ... He recognized that trade required a system of commercial law ... The general picture that emerges here is of cooperation and interaction between states."⁷⁸ Without a coercive force to enforce the obligations, the goals of treaties could only be reached by chance.⁷⁹ The goals always fail in vain by their weakness.⁸⁰ In the background of globalization, this system of the states is believed to be an obstacle to permanent and stable cooperation in international society. As D. Grewal argued, "[e]verything is being globalized except politics."⁸¹

Compared to the chaos brought about by the states, IGOs indicate the real systems that take supranational organizations as their center. These organizations have the capacity to interfere and regulate the states' actions in some specific aspects.⁸² In an idealistic IGO, states have the right to participate in policy-making, and their involvement within the IGO is limited.⁸³ The essential boundary of each state remains intact in this structure. In other words, states are integrated organically without being deprived of their nature.

75. James A. Yunker, *Beyond Global Governance: Prospects for Global Government*, INT'L J. ON WORLD PEACE, Vol. XXVI No.2, June 2009.

76. THOMAS HOBBS, ON THE CITIZENS 29 (Raymond Geuss & Quentin Skinner eds., 1998).

77. TUCK, *supra* note 27.

78. NOEL MALCOLM, ASPECT OF HOBBS 452 (Oxford Univ. Press 2002).

79. ON THE CITIZENS, *supra* note 76.

80. LEVIATHAN, *supra* note 41.

81. DAVID GREWAL, NETWORK POWER: THE SOCIAL DYNAMICS OF GLOBALIZATION 50 (Yale University Press 2008).

82. *International Government Organizations (IGOs)*, HARV. L. SCH. (2015), <http://hls.harvard.edu/dept/opia/what-is-public-interest-law/public-international-law/intergovernmental-organizations-igos/>.

83. *Id.*

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The Yearbook of International Organizations has distinguished fifteen different types of international organizations applying to both IGOs and NGOs:

A. federations of international organizations; B. universal membership organizations; C. intercontinental membership organizations; D. regionally oriented membership organizations; E. organizations emanating from places, persons, and bodies; F. organizations of special form, G. internationally oriented national organizations; H. dissolved or apparently inactive organizations; J. recently reported bodies – not yet confirmed; K. subsidiary and internal bodies; N. national organizations; R. religious orders and secular institutes; S. autonomous conference series; T. multilateral treaties and intergovernmental agreements; and U. currently inactive nonconventional bodies.⁸⁴

Unsurprisingly, in the Twentieth Century, T type IGOs, 2,172 out of 3,865,⁸⁵ are the largest classification of currently active IGOs.⁸⁶ This phenomenon had not changed by 2013, during which time 2,406 T type IGOs existed out⁸⁷ of 5,002 IGOs.⁸⁸ In all the types of IGOs, multilateral treaties and intergovernmental agreements, which can never exist as a real type of NGOs, are most closely related to bilateral treaties, which could only be regarded as the typical international cooperation among sovereign states.⁸⁹ In this sense, although the multilateral treaties and intergovernmental agreements cannot be identified with the bilateral treaties, the structure of IGOs did not move too far from the system of the sovereign state.

84. THE UNION OF INT'L ASS'N, *Types of International Organization*, UNION OF INTERNATIONAL ORGANIZATIONS, <http://www.uia.org/archive/types-organization/toy> (last visited Oct. 8, 2015).

85. The number “3865” comes from total number of IGOs in 20th Century (5725) by deducing the number of type H (639) and U (1221). THE UNION OF INT'L ASS'N, *supra* note 1, fig. 2.9.

86. *Id.*

87. The number “5002” comes from total number of IGOs by the year 2013 (7756) by deducing the number of type H (801) and U (1953) *Id.*

88. *Id.*

89. Thomas Miles & Erica Posner, *Which States Enter Into Treaties and Why?*, UNIV. OF CHI. L. SCH. (2008), <http://www.law.uchicago.edu/files/files/420.pdf>.

Due to the new global crisis and problems, new types of actors are nurtured to give response to them.⁹⁰ Global environmental issues have “provided new opportunities for civil society actors to address problems which the geographically delimited states may be inadequate to address.”⁹¹ As Thomas Davies concluded “the inability of states effectively to deal with transnational environment problems may have led to the development of an alternative world civic politics to deal with these issues that may bypass state institutions altogether.”⁹² Similarly to environment, other areas are on the attack of globalization.⁹³ As a result, there is a strong need for new kind of actors in international human society to overcome the boundaries of the states. If as generally suggested, international organizations have presented the trend of gradually growing of “the broadening power and influence of international actors extending beyond the sovereign state system,”⁹⁴ then NGO is the culmination in bypassing states’ boundaries.⁹⁵

According to the *Yearbook*, NGOs in type G (internationally oriented national organizations) account for 98.14% of all international organizations in this type, the ratio of which is at the peak among all types.⁹⁶ However, two types are excluded, national organizations and religious orders and secular institutes, which account for 99.94% and 100% respectively. These two types contradict the nature and definition of IGOs, which makes the comparative study invalid and is much higher than the average.⁹⁷ All international organizations in Type G have an international origination.⁹⁸ If an organization can ignore the national elements in its origination, it is more independent from

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90. Michael Edwards, David Hulme, & Tina Wallace, *NGOs In a Global Future: Marrying Local Delivery to Worldwide Leverage*, GLOBAL DEV. RES. CENTER, <http://www.gdrc.org/ngo/g-future.html> (last visited Jan. 9, 2016).
91. THOMAS DAVIES, *NGOS: A NEW HISTORY OF TRANSNATIONAL SOCIETY* 177 (2014).
92. *Id.*
93. Edwards, Hulme, & Wallace, *supra* note 90.
94. ROBERT JORDAN, *INTERNATIONAL ORGANIZATIONS: A COMPARATIVE APPROACH TO THE MANAGEMENT OF COOPERATION* 20 (4th ed. 2001).
95. Samuel Worthington, *The Role of U.S. NGOs in Global Development and Humanitarian Work*, INTERACTION, http://www.interaction.org/files/FABB%202013_Sec01_PolicyPaper_RoleOfNGOs.pdf (last visited Jan. 9, 2016).
96. THE UNION OF INT’L ASS’N, *supra* note 1.
97. *Id.*
98. *Id.*

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states.⁹⁹ Therefore, compared with IGOs, NGOs are more independent and have a greater tendency in bypassing states' boundaries, which meets the inference from the nature of NGOs.

A Comparative Analysis of Distribution of NGOs, IGOs and States by Subjects.

Within its territory, a state can acquire its legitimate sovereign power. Through this power, people are organized and obliged to obey the rules legitimated by the government and keep their fidelity towards sovereignty.¹⁰⁰ However, NGOs, especially international NGOs, are not confined by the boundaries of the states and cannot be categorized as domestic agencies.¹⁰¹ The association created by NGOs is thoroughly different from civil association supported by states. Due to the special structure, NGO is not compatible with any kind of association. The NGO has a particular pattern of association. In fact, NGOs can be viewed as mediums of a specific association. The next problem is how can we reveal the characteristics of this association?

A. Where Our Analysis will Begin.

The first thing we need to understand is that the pattern of this association is very fragile and easily distorted and even covered by impacts of other kinds of association or force.¹⁰² However, there are some clues left through which the characteristics of the association can be brought to light. The most obvious clue is the areas that are easy for NGOs to thrive in or subjects they are prone to operate on mostly.¹⁰³ If relatively large amounts of NGOs gather in some specific areas, the technique of governance on these subjects may best fit

99. *Id.*

100. *Authority and Legitimacy*, ROUTLEDGE TAYLOR & FRANCIS GROUP, <http://cw.routledge.com/textbooks/alevelphilosophy/data/AS/WhyShouldIBeGoverned/Authorityandlegitimacy.pdf> (last visited Jan. 9, 2016).

101. Peter Willetts, *What is a Non-Governmental Organization?*, CITY UNIV., LONDON (<http://www.gdrc.org/ngo/peter-willetts.html> (last visited Jan. 9, 2016)).

102. DOROTHEA BAUR, NGOs AS LEGITIMATE PARTNERS OF CORPORATIONS: A POLITICAL CONCEPTUALIZATION 127 (2011).

103. *Id.*

the nature of NGOs.¹⁰⁴ The pattern of association is revealed through analyzing the technique of governance on these subjects.

There are two elements that contribute to forming the association: the subject people deal with and how the people deal with it.¹⁰⁵ For example, Cicero, the great politician in ancient Rome, defined a republic as “a numerous gathering brought together by legal consent and community of interest.”¹⁰⁶ Therefore, the main subject that the people pursue in a republic is common interest. People are defined as “being not every assemblage or mob.” Saint Augustine, Bishop of Hippo, concluded that the wealth of the people “exists only when it is well and justly governed.”¹⁰⁷ In this case, justice is the way the people must work with their subject in a republic.¹⁰⁸

While justice and governance are independent of each other, they always correspond.¹⁰⁹ For example, if a group of people wants to operate an enterprise, they need to work efficiently. While they strive for their common interests as a republic, they must do it justly.¹¹⁰ Even though how people govern has a closer relationship with the pattern of the association, the subjects they deal with are more easily discerned by empirical studies. Then it is more reasonable for us to examine the subject of NGOs. From the Seventeenth Century to the Nineteenth Century, war and peace remain the main subjects in international politics.¹¹¹ As a result, despite the diverse structure between the Westphalian system and the states system regulated by international law, the participants in international politics always legalize their actions through the claims of justice.¹¹² However, the modern issues are distributed much more widely than before. This paper first

104. DEVELOPMENT INITIATIVES, PUBLIC SUPPORT FOR HUMANITARIAN CRISES THROUGH NGOs 18, 21 (2009).

105. Peace Corps, *The Role of NGOs in a Civil Society*, http://files.peacecorps.gov/multimedia/pdf/library/M0070_mod1.pdf (last visited Jan. 9, 2016).

106. MARCUS TULLIUS CICERO, ON THE REPUBLIC 19 (Niall Rudd trans., 1998).

107. SAINT AUGUSTINE, THE CITY OF GOD 76 (1887).

108. *Id.*

109. *Id.*

110. *Id.*

111. COLIN S. GRAY, WAR, PEACE AND INT’L RELATIONS: AN INTRODUCTION TO STRATEGIC HISTORY 1 (2007).

112. Hedley Bull, *Order vs. Justice In Int’l Society*, 19 POL. STUD. 269-83 (1971), http://press.anu.edu.au/sdsc/hedley/mobile_devices/ch08.html.

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analyzes the distribution of NGOs by subjects and makes a comparative analysis to IGOs, in order to reveal the pattern of the association brought up by NGOs.

B. Distribution of International Organization by Subjects.

According to “The Number of International Organizations by Subject of Activity” of the *Yearbook of International Organizations*, the amount of NGOs are distributed homogeneously by the subjects of their activities.¹¹³ One may claim that it is because of the different saturation points of international activities by international organizations in diverse areas.¹¹⁴ The distribution of the number of IGOs is not the same with that of NGOs, where IGOs are also categorized as international organizations and implement international activities in all areas where NGOs are involved.¹¹⁵ The diverse state of distribution by subjects between NGOs and IGOs is probably caused by their different natures. Considering this, the analysis takes IGOs as a medium, and only uses the data of the amounts of activities of IGOs by subjects as reference to analyze that of NGOs.¹¹⁶ The figure below was produced based on data and categories collected by the *Yearbook*:

113. THE UNION OF INT’L ASS’N, NUMBER OF INT’L ORG. BY SUBJECT OF ACTIVITY, 51 YEARBOOK OF INT’L ORGS. 175, Fig. 5.3 (2014) [hereinafter YEARBOOK OF INT’L ORGS].

114. *Id.*

115. In this paper, the terms “subject” and “area” are synonymous. However, it does not mean there is no difference between the two. The term “area” places particular emphasis on the nature of matter. It concerns objects. While the notion of “subject” has direct relationship with active actors—people. It emphasizes people in specific situations participating in the formation of a subject in a particular area. Generally speaking, “subject” and “area” are two different aspects of the same thing. See YEARBOOK OF INT’L ORGS, *supra* note 113.

116. YEARBOOK OF INT’L ORGS, *supra* note 113.

Potential Impacts on Individuals

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No.	Subjects Above 4.5)	ON	TA	N/I	No.	Subjects (Below 4.5)	ON	TA	N/I
1	Religious Practice	36	1951	282.43	16	Management	42	1894	4.27
2	Health Care	32	4601	12.45	17	Cooperation	82	1755	2.77
3	Education	33	5675	10.90	18	Finance	27	5061	2.08
4	Employment	22	8634	7.80	19	Transportation Tech	25	3604	1.90
5	Society (Element)	21	6255	7.17	20	Law	39	3534	1.88
6	Production	28	4225	6.83	21	Defence (Police)*	35	877	1.30
7	Culture	54	1745	6.83	22	Government (Politics)	37	2597	1.12
8	Science	51	1582	6.72	23	Environment	49	3780	0.41
9	Research Standard	31	7208	6.61					
10	Conservation	69	2236	5.82					
11	Amenities (Necessities)	24	1894	5.76					
12	Technology	48	1921	5.24					
13	International Relations	59	1637	5.09					
14	Development	60	4792	4.85					
15	Information	23	2403	4.55					

The original data and categories come from the *Yearbook of International Organizations*, the statistics were collected in 2013.¹¹⁷ The fifth and tenth rows show the amount of NGOs' activities divided by that of IGOs' according to various subjects (N/I).¹¹⁸ All data in this figure is arrayed from high to low according to this index.¹¹⁹ Finally, the fourth and ninth rows are the total amounts of all international organizations' actions. The third and eighth rows indicate the original numbers in the *Yearbook*.¹²⁰

Concerning all subjects of actions, the grand total of NGOs is 4.5 times greater than that of IGOs.¹²¹ All data of N/I from left line is

117. YEARBOOK OF INT'L ORGS, *supra* note 113, figs.5.1, 5.3.

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.*

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higher than the average (High), while that of right line is below the average (Low). In order to reduce contingency, the total amounts under 1,000 are not taken into consideration (except for defense, for it is traditional subjects in international politics).¹²² Amounts above 3,000 can be categorized as high and those between 1,000 and 3,000 as low. The figure below concludes this section:

Clearly, NGOs frequently get involved in subjects like medicine, health care, and education, for both the index of N/I and the total

	Total Amount (High Above 3000)	Total Amount (Low 1000-3000)
NGOs / IGOs (High Above Avg.)	Medicine/ Health Care/ Education	Classification/ Futurology
NGOs / IGOs (Low Below Avg.)	Environment/Finance	Defence/Government

amount of organizations are high.¹²³ In contrast, they are least active in areas like defense and government, which are low in both N/I and the total. For some subjects of this category, the number of IGOs is very close to or even higher than that of NGOs. For example, there are 1,227 IGOs working on the subject of Government, which is approaching the number NGOs, estimated to be 1,370.¹²⁴ Comparatively, IGOs fit better in areas like Environment and Finance. While there are large amounts of IGOs active on these subjects, the NGOs seldom work on them. The subjects with high N/I statistics and low totals are difficult to analyze. This is because the comparative advantage that NGOs have over IGOs on these subjects is highly interfered with by the naturally low saturation of international organizations.

122. *Id.*

123. YEARBOOK OF INT'L ORGS, *supra* note 113.

124. *Id.*

C. The First Explanation—State Interests.

What factor causes this diverse distribution of international organizations by subjects? One reasonable explanation is state interests. Thomas Davies, a professor at City University London, discovered this factor when analyzing the ascent and decline of the NGOs.¹²⁵ He had traced back the three waves of “transnational civil society:” the mid-Nineteenth Century to the outset of the Twentieth Century, the end of World War I to the 1920s, and the second half of the Twentieth Century to the outset of the new millennium.¹²⁶ Each wave had witnessed a period of great expansion in varieties and numbers of NGOs with their proponents claiming to speak for “the most representative forces of the different countries” in the period before World War I, the “public opinion of the world” in the period preceding World War II or “global civil society” in the period preceding the September 11, 2001 attacks,¹²⁷ but finally ended with the demise of transnational civil society.¹²⁸ Davies analyzed some factors that affect the demise, including “Scientific/Technological, Environmental, Economic, Social, External Politics, and Internal Politics.”¹²⁹ All of these factors are believed to be double-edged swords, which could both facilitate and deter the development of NGOs.¹³⁰ The trend of detriment is always brought by factions and illiberal actors, and is always accompanied by exhaustion.

What contributes to fragmentation of the international civil society, promoted by NGOs? Divisive trends always originate from areas and issues involving high state interests, such as disarmament in the 1930s and substitution for the welfare roles of fragile states in the post-Cold War era.¹³¹ If these areas and issues are preoccupied by nationalism, as in the late Nineteenth Century, NGOs could stop acting on behalf of world public opinion. According to Davies, it is nationalism – not the inner problem of the NGO – that operates only on behalf of the sovereign state, narrows its prospect of interest within the national boundaries, and devastates the prospect of the reviving of

125. DAVIES, *supra* note 91, at 180.

126. *Id.* at 177-78.

127. *Id.* at 181.

128. *Id.*

129. *Id.* at 9.

130. DAVIES, *supra* note 91, 12-13.

131. *Id.* at 175.

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individuals.¹³² He complains “the leadership of INGOs and transnational coalitions of INGOs should avoid claims to speak on behalf of the public opinion of the world or global civil society, when such organizations have only ever represented a segment of the world’s population.”¹³³

Davies’s theory can also explain the case of diverse distribution of NGO by subject. It is easy to infer from Davies’s point of view that NGOs could be expected to thrive on subjects, or in fields, involved with low state interest. Some NGOs widely distribute on subjects like medicine, healthcare, and education, and are considered as fields involved with lower state interests. Economic areas are involved with higher state interest. There are relatively fewer NGOs, but IGOs are more vigorous in the fields mentioned above.¹³⁴ Government, defense, and military are identified with fields within intense state interest, in which NGOs struggle to survive, while IGOs adapt better.¹³⁵

Further analysis supports this suggestion. In fields of structure and context social action which government and defense belong to, the number of type G NGOs (Internationally oriented national organizations) and N (National organizations), which are influenced by the strong boundaries of the states, are more than that of Type E,¹³⁶ in which the structure of the sovereign state tends to be ignored.¹³⁷ While in cosmosphere/geosphere and biosphere which contain medicine and bio-science, the situation is completely the opposite.¹³⁸ We can safely conclude that when approaching the pole of medicine and biosphere with or without low involving state interests, the influence by boundaries of the states to NGOs gradually weaken.¹³⁹ While getting close to the opposite—fields involved with the most intensive

132. *Id.*

133. *Id.*, at 181-82.

134. *Id.*, at 91-92.

135. *Id.*, at 11-12.

136. YEARBOOK OF INT’L ORGS, *supra* note 113, fig. 5.6, at 175. Type E refers to organizations emanating from places, persons, bodies.

137. *Id.*

138. *Id.*

139. *Id.*

state interests—the structure of states tend to acquire an increasing impact on international cooperation.¹⁴⁰

Though having type difference with NGOs, the distribution tendency of IGOs is similar. In fields involving the most intensive state interests, multilateral treaties and intergovernmental agreements constitute the majority of IGOs.¹⁴¹ For example, IGOs of Type T account for 7,133 out of 13,980 of the total in fields of structure and context social action.¹⁴² Compared to other types, Type T is closer to bilateral treaties reached by states.¹⁴³ So in areas involved with high state interests, where it is hard for NGOs to survive, the structure of IGOs is most similar to the system of sovereignty of states.

We could discover a spectrum of fields ranging from intense state interest to low state interest.¹⁴⁴ This spectrum expands from areas of defense, military, government, and other vital interests concerning the sovereign of the state at one pole, to fields like finance and environment in the middle, then to the areas with low or without state interest, such as medicine, health care and education at the opposite.¹⁴⁵ The first level fields close to the pole involving intense state interest could be hard for international organizations to survive. They mainly are the stages of the sovereign states. The finance and environment in the middle level are environmentally friendly to IGOs.¹⁴⁶ NGOs act most vigorously in the third level.¹⁴⁷

If we make a narrow standard to classify the degree of international cooperation by its efficiency, the system of the sovereign states without doubt has the lowest success ratio and efficiency for cooperation. When the nucleus of autonomy is still possessed by the states, the system of the states always exists as a Hobbesian state of nature. If we see the boundaries of the states as the obstacle for international cooperation, the external environment for idealistic NGOs will avoid the boundaries of the states and dwell in the third level where NGOs could act uniformly without segmenting themselves and acquire the

140. *Id.*

141. *Id.*

142. YEARBOOK OF INT'L ORGS, *supra* note 113.

143. *Id.*

144. *Id.*

145. *Id.*

146. *Id.*

147. *Id.*

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highest degree of cooperation. The spectrum discussed here is shown in the following figure:

State Interest	High	Medium	Low
Fields/ Subjects	Defense/Military /Government	Environment/ Finance	Medicine/ Health Care
Typical Subjects	States	IGOs	NGOs
Degree of Cooperation	Low	Medium	High

While at the one pole, the chaos sphere of Hobbesian state of nature hangs over the international cooperation; the opposite presents a clear profile of human society. Accompanied by the higher degree of cooperation promoted by NGOs, the global human society, consisted of institutions that “straddle the whole earth, and have complex effects that are felt in its four corners,”¹⁴⁸ though may still be a “project” or an “aspiration” rather than an empirically observable phenomenon,¹⁴⁹ is already on the agenda instead of only dwelling in the human mind. The prospect of this kind of global human society which is believed to be founded by NGOs through representing the public claims¹⁵⁰ seems to be much closer to the other prospect of the state of nature proposed by Pufendorf, who considered the state of nature as a human society created through common wealth. However, this analogy has finally proved to be a misunderstanding.¹⁵¹

In the background of globalization, common wealth—which is redefined under the name of “public good” by economists—stands at the end of a chain stretching from local street cleaning to national defense and environmental protection to global warming.”¹⁵² Pedro

148. JOHN KEANE, *GLOBAL CIVIL SOCIETY?* 8 (Cambridge Univ. Press 2003).

149. DAVIES, *supra* note 91, at 8.

150. DOROTHEA BAUR, *NGOS AS LEGITIMATE PARTNERS OF CORPORATIONS: A POLITICAL CONCEPTUALIZATION* 5 (2011).

151. *Id.* at 6.

152. INGE KAUL, ET AL., *PROVIDING GLOBAL PUBLIC GOODS: MANAGING GLOBALIZATION* xiv (Richard A. Musgrave & Peggy B. Musgrave eds., Oxford Univ. Press 2003).

Conceição listed several leading “Global Public Goods” including international financial stability, multilateral trade regime, global communications network and the internet, communicable disease control, reducing the excessive disease burden, climate stability, and peace and security.¹⁵³ Among them, peace, which acts, as the sole common wealth in Pufendorf’s theory, is just one category of these series of “Global Public Good.”¹⁵⁴ However, NGOs are active in providing the rest of “Global Public Good,” which is especially true since the crisis of world war was lightened after the cold war.¹⁵⁵ These kinds of common wealth were foreign to international areas in the Nineteenth Century and also, of course, much harder for Pufendorf to prophesize at his time.¹⁵⁶

D. Amendment to the First Explanation—Complexity and Abstractness.

It is important to make clear the relationship of the diverse subjects of common wealth discussed by Pufendorf on international society, and modern scholars on the “Global Public Good” or benefits to globalization promoted by NGOS. In other words, what is the real difference between peace/war and other subjects? Does the former simply identify with an area involved with intense state interest? It is clear that the positive answer fails to meet any situation.¹⁵⁷ For example, health of individuals could be one of the most important for public good. The area of medicine was supposed to get involved with intense state interests and is not environmentally friendly for NGOs.¹⁵⁸ However, this is not the case according to the Yearbook of International Organizations. It states that there were 4,765 NGOs operating in the fields of medicine by 2013, which is 26.5 times greater than the number of IGOs in the same area. It is well above the aver-

153. *Id.*, at 156.

154. *Compare* PROVIDING GLOBAL PUBLIC GOODS: MANAGING GLOBALIZATION xiv (Inge Kaul et al. eds., 2003) *with* SAMUEL FREIHERR VON PUFENDORF, THE WHOLE DUTY OF MAN: ACCORDING TO THE LAW OF NATURE BOOK II 255 (1698).

155. INGE KAUL, ET AL., *supra* note 152, at 202.

156. *Id.* at 206.

157. WORLD HEALTH ORG., MEASURING MEDICINE PRICES, AVAILABILITY, AFFORDABILITY AND PRICE COMPONENTS xi (4th ed. 2008), http://www.who.int/medicines/areas/access/OMS_Medicine_prices.pdf.

158. *Id.* at 1-2.

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age ratio.¹⁵⁹ This means that, though having great correlation with commonwealth, the field of medicine is still extremely environmentally friendly to NGOs, which is a contradiction to our inference.¹⁶⁰ This example weakens the assumption suggested above, which makes it necessary to examine the premise underlining this assumption.

This assumption measures state interests merely according to their quantity. If the state interests were reckoned only by quantitative aspects, then the degree of it can just be measured and leveled by the possible devotion or deprivation for common wealth created by the actions of international organizations.¹⁶¹ When analyzing individuals' interest interpreted as pleasure, John Mill complained, "[i]t would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasure should be supposed to depend on quantity alone."¹⁶² Quantity alone is not sufficient to measure state interests, quality should be taken into account as well. This means that the diverse areas and subjects NGOs operate on can be distinguished from others by state interests of quantity as well as quality.¹⁶³

What is the meaning of "quality" here? Pertaining to subjects themselves, quality can mean non-reductive and incommensurable values of different public good in diverse areas.¹⁶⁴ Based on this premise, John Mill claimed that it might change the question of who is the best judge to evaluate his own pleasure "in their opportunities

159. *Global Public Goods: International Cooperation in the 21st Century*, UNION OF INT'L ASS'N 180 (2014),

http://www.uia.org/sites/uia.org/files/misc_pdfs/stats/Number_of_international_organizations_by_subject_of_activity_2013.pdf.

160. *Compare* WORLD HEALTH ORG., MEASURING MEDICINE PRICES, AVAILABILITY, AFFORDABILITY AND PRICE COMPONENTS xi (4th ed. 2008),

http://www.who.int/medicines/areas/access/OMS_Medicine_prices.pdf, with *Number of International Organizations by Subject of Activity*, UNION OF INT'L ASS'N 180 (2014),

http://www.uia.org/sites/uia.org/files/misc_pdfs/stats/Number_of_international_organizations_by_subject_of_activity_2013.pdf.

161. *Global Public Goods: International Cooperation in the 21st Century*, *supra* note 159, at 15.

162. JOHN STUART MILL, UTILITARIANISM 11-12 (1863).

163. *Global Public Goods: International Cooperation in the 21st Century*, *supra* note 161.

164. MILL, *supra* note 162, at 17.

of experience,” instead of answering how to measure individuals’ interests or “pleasure” directly in his own term.¹⁶⁵

Herbert Spencer once made an explanation of it, which could apply to demonstrate the relationship of the sovereign state to its own interests as well:

To have complete felicity is to have all the faculties exerted in the ratio of their several developments . . . but the minds of no two individuals contain the same combination of elements. Duplicate men are not to be found. There is in each a different balance of desires. The conditions adapted for the highest enjoyment of one, would not perfectly compass the same end for any other. And consequently the notion of happiness must vary with the disposition and character; that is, must vary indefinitely.¹⁶⁶

Likewise, in a complex situation, which means promoting interests in one area could lead to a deficit in the other area, only the sovereign state itself is best to measure its interests for there are no two countries that are duplicate in their level of development and the preference of their citizens.¹⁶⁷ For example, environmental rights could be exalted in a materially prosperous and highly developed modern state.¹⁶⁸ While in an impoverished town, citizens would need to exhaust the resources of the forest nearby to compensate for shortage of the necessity.¹⁶⁹ This is why the “West supported environmental NGOs gaining access to the Earth Summit” always confront the hostility “from developing country governments, who were worried that environment issues might become constrains upon development.”¹⁷⁰ Then there is no general principle to measure best interests of states. Other than “how to evaluate the state interests,” the real

165. *Id.*

166. HERBERT SPENCER, SOCIAL STATICS; OR, THE CONDITIONS ESSENTIAL TO HAPPINESS SPECIFIED, AND THE FIRST OF THEM DEVELOPED 15-16 (1873).

167. *Id.* at 319.

168. A. Dan Tarlock, *The Future of Environmental Rule of Law Litigation (2000 Garrison Lecture)*, 19 Pace Env'tl. L. Rev. 575, 597 (2002), <http://digitalcommons.pace.edu/pelr/vol19/iss2/5>.

169. *Id.* at 598.

170. PETER WILLETTS, NON-GOVERNMENTAL ORGANIZATIONS IN WORLD POLITICS 61 (2011).

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problem is “who is most capable to evaluate them.”¹⁷¹ Only the state can measure which is best for its citizens through its sovereign.

In many fields of international politics, “benefiting regions may not coincide with political boundaries.”¹⁷² Regional goals, according to optimal disposition of world systems to achieve highest effectiveness are far from fitting the states’ best interests according its own reckoning. In some areas, states tend to claim sovereignty on policy and development project making according to their best benefit.¹⁷³ So government always hinders actions of NGOs in these areas. We can attribute subjects like social problems, economy, and even military and territory to these complex fields. However, when promoting benefits in some areas can be compatible with others fields and also easily absorbed into the states’ development plan, sovereign states tend to stop acting as obstacles to NGOs.¹⁷⁴ Contrary to complex ones, these areas can be characterized by abstractness. As the complexity goes down towards abstractness, the subjects become more available and environmentally friendly to NGOs.¹⁷⁵

E. The Second Explanation—Clarity of Goals.

Robert Jordan has discovered that “most INGOs pursue particular interests, their foremost task is the attainment of specific goals for promotion of their interests.”¹⁷⁶ However, definite goals do not only depend on the choices of INGOs. They also relate to the degree of difficulty of forming clarity of goals in international perspective nurtured by specific fields. If the subject of a specific field cannot provide NGOs with clear goals by its nature, this field is not good soil for NGOs.¹⁷⁷ Referring to areas like defense and military in international politics, there is no real common goal among states except self-preservation.¹⁷⁸ Of course, states also could have shared values in

171. SPENCER, *supra* note 166, at 320.

172. INGE KAUL, ET AL., *supra* note 152, at xiv-xv.

173. *Id.* at 127.

174. *Id.* at 182.

175. *Id.* at 126.

176. ROBERT JORDAN, INTERNATIONAL ORGANIZATIONS: A COMPARATIVE APPROACH TO THE MANAGEMENT OF COOPERATION 34 (Library of Congress Cataloging-in-Publication Data, 4th ed. 2001).

177. R.K. GUPTA, NGO’S AND GLOBAL POLICY (Mahaveer & Sons, 2009).

178. LEVIATHAN, *supra* note 41, at Ch. 13.

these fields and cooperated as military alliances. But, it is not sufficient for them to “eliminate all other causes of war.”¹⁷⁹ Because the states “should rather, first, make a league against their enemies (rebellion) and afterwards, fight against one another.”¹⁸⁰ Compared to some weak bind by shared values, self-preservation is more essential to the international relationship. Hobbes has clearly illustrated that self-preservation, as a special common wealth, is by no means considered a fixed goal.¹⁸¹ In the state of nature, self-preservation could expand and permeate into any kind of concrete goal. As a permanent and stable relationship among its members, NGOs prefer the fields that could provide goals precisely defined by their nature rather than by chance.¹⁸²

What’s more, defense and military lie in “a site of justice,”¹⁸³ which is a stage full of moral language, good or evil, just and unjust. Every state cannot fail in equipping itself with good and just to legislate its action. Then these subjects cast the actors back to the state of nature. When analyzing the defects of the state of nature, John Locke pointed out that “there wants a known and indifferent judge, with authority to determine all differences according to the established law.”¹⁸⁴ Without this kind of judge, only diverse subjects which “order their actions, and dispose of their possessions and persons, as they think fit”¹⁸⁵ exist. These areas are kept untouched for sovereign state in Hobbes’ century. Even today, sovereign states seek cooperation with each other in the form of temporary Strategic Partner or instituting a Dispute-Resolving Mechanism. As a result, the influence of NGOs which pursue common good that transcends states’ interest, is rejected in these areas.

Distinct from “site of justice,” fields like medicine, health care, education, etc. can inspire NGO operations to form clear, defined, and precise goals, contradictory to vague, diffuse, and relatively un-

179. NOEL MALCOLM, *ASPECT OF HOBBS* 455 (Oxford Univ. Press 2002).

180. THOMAS HOBBS, *BEHEMOTH* 144 (The Univ. of Chicago Press 1990).

181. LEVIATHAN, *supra* note 41, Ch. 14.

182. R.K. GUPTA, *supra* note 177.

183. Michel Foucault first used this term to indicate the market in the middle ages and the 16th and 17th Century. The politics, of course, is a typical site of justice. MICHEL FOUCAULT, *THE BIRTH OF BIOPOLITICS*, 30 (Palgrave Macmillan 2008).

184. JOHN LOCKE, *THE SECOND TREATISES OF GOVERNMENT*, 125.

185. *Id.* at Chapter 2. 4.

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specified goals.¹⁸⁶ These subjects are not identified with ones having only a sole primary goal, because NGOs in these fields can have many primary goals, but still operate abstractly with clearly defined multi-goals. Areas like education, health, and science,¹⁸⁷ which tend to help NGOs operate on them to form clearly defined and precise goals, are favored for NGOs to prosper.

Some areas like environment and social problems, though they could not always escape from contradicting other areas' goals of development, can still provide relatively precise goals for NGOs. Despite some resistance, NGOs also thrive in these areas. A well-organized market is still "a site of justice."¹⁸⁸ Because it creates competitive relations among various subjects, and rejects any unified goal, in general sense, for its participants. However, when a unified global market is still in development, establishing it is a great project, which can provide clearly defined goal for NGOs. Establishing a global market is one of the most significant goals after the Cold War, it is not surprising that the number of INGOs that operate in areas of major economic concern have generally grown more rapidly than the number of those that are concerned with essentially noneconomic matters.¹⁸⁹

We can categorize some typical areas with clarity of the "Goals of Subjects" presented in the figure below:

Level by Degree	Typical Areas	Goals of Subjects
1	Science/Technology	Clearly defined, Precise
2	Environment and Social Problem	Relatively Precise
3	Economy and Commerce	Unspecified in Economic

186. MICHEL FOUCAULT, *THE BIRTH OF BIOPOLITICS*, 30 (Palgrave Macmillan 2008).

187. According to a document in 1973, NGOs' Goal Type is categorized as "Politics, religion, recreation, education, health, welfare, economics, mass media, science, etc." Among them, goals of education, health and science can be best compatible with other develop goals. David Smith, *Dimensions and Categories of Voluntary Organizations/NGOs*, NONPROFIT AND VOLUNTARY SECTOR Q., 116-120 (Apr. 1973).

188. FOUCAULT, *supra* note 186, 30.

189. JORDAN, *supra* note 176, at 509, 3733.

		Aspect
4	Military, Autonomy, Territory	Vague, Diffuse, Unspecified goals

As the level moves up, clarity of the “Goals of Subjects” goes downward, and the degree of difficulty for NGOs’ survival increases. If a subject like “Science/Technology” (except for some special areas getting involved with intense national interests like space technology and energy) can lay a foundation for NGOs to develop programs with clearly defined and precise goals, it is ideal for NGOs in terms of survival. No NGO can exercise a representative power for various sovereign states in a site of justice, for these areas lack a method of governing through programs with precise goals.

To sum up, the ideal subject for an NGO is one with clearly defined, precise goals and is isolated or compatible with other subjects lest drawing governments’ hostility. Then the following question is: if there is an ideal subject that has both characters, what kind of association can be expected for NGOs that operate on it?

The Character of Association Brought about by NGOs

A. From Cooperation to Association.

In the previous part, our analysis was confined within a single NGO. Within a NGO, groups of people gather together hierarchically and are assigned respective works according to specific goals.¹⁹⁰ The general relationship among the individuals in a NGO is cooperation. We must distinguish cooperation from association. Unlike cooperation within an organization, the association presumes plural subjects in various kinds of relationships, such as competition.¹⁹¹ Of course, individuals within a single NGO also have competitive relationships with each other. However, this competition is often influenced by the administrative structure and functional structure based on the division of labor of the organization. While the competitions among subjects in an association always happen among equal subjects, the association provides an open field for various organizations

190. Gunther Luschen, *Cooperation, Association, and Contest*, J. OF CONFLICT RESOL., 21 (Mar. 1970).

191. *Id.*

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to chase their own goals.¹⁹² The competitions among them are not confined by the administrative structure and functional structure because of the division of labor of the organization. So the association is closer to an equilibrium system rather than an administrative system. No matter how fierce the competition is among subjects, this system at least has a shared formal rules which contributes to establish the game and some shared values. A healthy state is a typical civil association. Likewise, this paper categorizes NGO as a special cooperation among individuals, while the society idealized by NGOs is considered a joint unit.

The process of thriving NGOs is the same process for reproducing their way of governing. When NGOs might acquire the dominant role in the whole society, they are socialized and reshape the social association by their reproductive works. Though the association presumes competition among subjects, it also constitutes a system of basic rules for them. As Luschen Gunther claims, “even among parties at war, there is a certain amount of mutual understanding.”¹⁹³ So the mutual understanding is nothing abnormal in a social association. The mutual understanding among NGOs helps to form the main character of the social association dominant and also idealized by NGOs. What might it be?

At the beginning of the ninth chapter, Mr. Szazi quoted a section from McDougal, Laswell, and Reisman’s paper: “posterity may characterize our period as the renascent of the individual.”¹⁹⁴ What is the meaning of “the renascent of the individual?” Does it mean that “the sovereign nation-states...would come to an end and the whole international society is governed by mass?”¹⁹⁵ Mr. Szazi rebukes this radical point of view. It may destroy the pillars of international law and reject its own essence, “i.e., the respect to fundamental freedoms of expression and self-government” which may doom the individuals.¹⁹⁶ On the contrary, he believes that the real renascent of the individual, from the perspective of pluralism, presumes an “international system supported in various long-established legal doctrines.”¹⁹⁷ Under

192. *Id.*

193. *Id.*

194. SZAZI, *supra* note 15, at 271.

195. *Id.*

196. *Id.* at 272.

197. *Id.* at 276.

this presumption, through non-governmental organizations, individuals could “interact with the United Nations,” which could compensate for lack of inter-nationality in the system of states and nations.¹⁹⁸ It can be inferred from Mr. Szazi’s work that the proliferation of NGOs could contribute to the real “renascent of the individual.” Is that the truth in any case?

This, he claims, is the position of legitimate subjects for NGOs.¹⁹⁹ If NGOs come to be the legitimate subjects, they will enter into field of politics as active actors. Therefore, his claim is not about the general relationship between NGOs and individuals; rather, he suggests endowing NGOs with direct political effect. Politics, in its broadest sense, is the activity through which individuals make, preserve, and amend the general rules by which they live.²⁰⁰ As active actors in international politics, NGOs have possibilities to make their desires and goals compulsory ones. Through these desires and goals, NGOs could expand and reproduce their ways of cooperation and shape international human society into a new kind of association.

B. Premises.

In order to analyze the possible political impact to individuals by NGOs, we can suppose an extreme situation for NGOs, which means to create an ideal international political environment for them. We can suppose the NGOs acquire a predominant position in international politics that results in NGOs being able to create a civil society by their nature, without any distortion from the impact of states and intergovernmental organizations. This assumption can be embodied through confining the discussion into international politics rather than domestic politics. It is more reasonable to set this constraint to our discussion because it is much more difficult to imagine that a domestic NGO occupies the rudder of politics within a state. There is no dominant subject in international politics like the sovereign state in domestic politics. Based on this premise, NGOs might provide a new chance for instituting international association that never existed.

The same premise can be further embodied by this statement: NGOs also have a dominant position over other subjects in in-

198. *Id.* at 276-77.

199. *Id.* at 272.

200. ANDREW HEYWOOD, *POLITICS 2* (Palgrave Macmillan 4th ed. 2013).

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ternational politics like states and IGOs. In experience, the impacts from states and other kinds of international organizations always oppress and distort the actions of NGOs. If we remove these impacts by granting the dominant position to NGOs in international politics, the association shaped by NGOs is clearly presented to us.

With this assumption, we can make a thought experiment to address the following question: if the international society is shaped and dominated only by NGOs, what does it look like? According to the earlier part of the paper, an abstract subject that can also nurture precise goals tends to idealize NGOs. Under the double ideal premises—the ideal subjects being the internal condition for NGOs and the ideal environment of politics, which is the external condition—what kind of global human society would be nurtured through the association impulse by NGOs? Can this new pattern of association in international politics really promote the emancipation of individuals or be compatible with the profits of individuals?

C. Enterprise Association.

On idealistic subjects, NGOs easily concentrate on clearly defined and precise goals. The goals are supposed to be shared by members of NGOs. Individuals who take part in the association in forms of NGOs connect each other through a common purpose or interest. Mr. Oakeshott once defined this kind of cooperation on the foundation of specific purposes as enterprise association.²⁰¹ Such association is to give an intelligible account of their relationship “only by specifying the object, the purpose, or the interest in terms of why they are related.”²⁰² Then we can also categorize areas like science and technology or even environment and social problem as areas for enterprises. Areas of enterprise are easy for NGOs to multiply. Accordingly, NGOs in these areas are always present as enterprise association of individuals.

According to specific purposes in a particular field, the NGO analyzes itself by constitute according to the natural or functional attributes of the regions. NGOs are confined by their goals, which lead the sub-level goals making and aiming to effectively achieve the final goals. It means that clearly defined and precise goals in particular ar-

201. MICHAEL OAKESHOTT, *ON HUMAN CONDUCT* 115 (Oxford Univ. Press 1975).

202. *Id.* at 116.

can not only contribute to an ideal condition for NGOs, but also bind them. Natural or functional attributes of the regions, in the perspective of an NGO, may not coincide with political boundaries. In order to fulfill the ideal allocation of the regional goals of governance, NGOs tend to ignore all the political boundaries of the states, which is not, of course, compatible with states' interests.

In a specific area, NGOs are prone to unite or absorb a dominant one by nature, other than keep the separate situation perpetual. Robert Nozick, a professor at Harvard University, suggested that, in the state of nature, a dominant protective association gradually substitutes diverse protective associations.²⁰³ The NGOs are different from protective associations which are viewed as "larva" of the states. The discrepancy makes the uniting process much easier for diverse NGOs to be absorbed by a dominant NGO in specific area. The most significant difference between them is that the NGOs do not seek to monopolize the coercive force by their nature. The issue of monopolizing the coercive force, of course, is always involved with fierce disputes or even wars, which may make the chaos persist. On the contrary, NGOs always associate individuals mainly through interests inducing, by claiming to seek for common wealth in particular areas. So the dominant NGO in the specific area is imaginable. Besides, to solve problems or make efficient progress in a specific area, NGOs need the knowledge and technology of expertise. The power structure of professional knowledge and technology are exclusive plural subjects by nature. Therefore, the premise of plural NGOs will hinder the idealization of integrating resources in applying professional knowledge and technology. The NGOs are prone to unite by nature. The idealized NGO is believed as the one that has the position of monopoly in a specific area.

Then we can suggest that the international system is only constituted by three states: A, B and C; and also, three areas α , β and γ make up the multi-aspects of common interests. In order to achieve maximum output to fulfill the special purpose in α , goals in regions of A, B, and C should be distributed respectively as αA , αB , and αC , if and only if sum of $\alpha A + \alpha B + \alpha C$ is maximum, and so on. On contrary, to maximize country A's benefit, goals in areas α , β , and γ should be distributed respectively as $A\alpha$, $A\beta$, and $A\gamma$, if and only if sum of

203. ROBERT NOZICK, ANARCHY, STATE, AND UTOPIA 16 (Basic Books 1974).

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$A\alpha+A\beta+A\gamma$ is maximum, and so on. Then we can list goals distribution in diverse areas and regions according to two different standpoints in the figure below:

Area State	A		B		C		R.D According to Areas
α	$A\alpha$	αA	$B\alpha$	αB	$C\alpha$	αC	$\alpha A+\alpha B+\alpha C$
β	$A\beta$	βA	$B\beta$	βB	$C\beta$	βC	$\beta A+\beta B+\beta C$
γ	$A\gamma$	γA	$B\gamma$	γB	$C\gamma$	γC	$\gamma A+\gamma B+\gamma C$
R.D According to State	$A\alpha+A\beta+A\gamma$		$B\alpha+B\beta+B\gamma$		$C\alpha+C\beta+C\gamma$		Common Interests

It is plain that $A\alpha$ is by no means identified with αA , and $A\beta$ is by no means identified with βA , and so on. To achieve a specific goal, NGOs should adopt rational distribution according to maximum output in geographic areas it operates, and will reject goals in particular regions preferred allocated by states. It is easy for us to conclude that NGOs are guided by their fixed goals in specific areas and tend to suppress states' goals if they can predominate politics. Amongst the two perspectives, individual are the core of the national perspective, while NGOs share a premise of a highly non-personalized perspective and cannot represent the individuals. For only the natural or functional attributes of the regions will be taken into consideration, and also the voice of individuals is silenced by professional knowledge for achieving the particular goals efficiently. In international politics, only sovereign states, as persons²⁰⁴ behind interests and goals, can represent individuals, if it legalized by a reasonable political process.²⁰⁵ If the effects of states are overridden by that of NGOs in international society, individuals will be led to doom. Besides, there are also separate perspectives to calculate common interests or common goals.

At the standpoint of NGOs, common interests consist of interests in diverse areas. As a result, to maximize common interests, the maximum of $\alpha A+\alpha B+\alpha C$, $\beta A+\beta B+\beta C$, and $\gamma A+\gamma B+\gamma C$ should be ful-

204. LEVIATHAN, supra note 41, at Ch. 16.

205. *Id.*

filled simultaneously. However, it is nearly impossible to achieve this goal. For the goal in area α is considered by no means compatible with the goals in β and γ . As Oakeshott believed, “genuinely conflicting purposes or interests may make it difficult for an agent to embrace certain combinations of enterprise association.”²⁰⁶ Therefore, the goals expected by NGOs are only “contingently connected with the common purpose or interest concerned.”²⁰⁷ On the other hand, the real joint purpose or interest can only be expected in the system of states. Though facing immeasurable difficulties, joint purpose or interest can be achieved by an idealized discourse among sovereign states. Finally, representative democracy can open a door for individuals to take part in the international politics.

D. Closed International Society.

When the policies enforced by states, according to their sovereign in the specific area, are discordant with the governance of NGOs, there is tension. Similarly, in a state, it is nothing but collision among classes and individuals caused by their diverse decisions that leads to tension. Karl Popper has defined an open society as one “in which individuals are confronted with personal decisions.”²⁰⁸ For the states to claim their authority to make decisions in complex situation, we can say the international society constituted by sovereign states is an open society.

As we have noted, abstract fields and subjects are the important elements to contribute to an ideal environment for NGOs. This ideal circumstance makes NGOs operating abstractly a great benefit of it. Operating abstractly, as we have explained, means getting rid of obstacles by states’ actions. Geographical space, in perspective of INGOs, tends to exclude political space of territories.²⁰⁹ The utopia of the international society dominated by the governance of INGO is the very association without tension. Absence of social tension, as Popper argues, is the character of “a tribal closed society” which “may be based on slavery does not create in itself a social tension, because slaves sometimes form no more part of society than its cattle; their

206. OAKESHOTT, *supra* note 201, at 117.

207. *Id.* at 115.

208. KARL POPPER, *THE OPEN SOCIETY AND ITS ENEMIES* 165 (Princeton Univ. Press 2013).

209. *Id.* at 606-7.

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aspirations and problems do not necessarily create anything that is felt by the rulers as a problem within society.”²¹⁰

Of course, there are seldom any similarities between individuals or states in modern global society and slaves in ancient society.²¹¹ However, what we take into consideration is not experienced in modern global society. This analogy is on the premise of the ideal environment of NGO. Under this assumption, individuals as well as states, though important in general, will not create any problems perceived by the INGOs. According to this analogy, a NGO predominated international world is a “closed society,” which has as its creed that the individual is nothing.

There is still an unsolved problem hindering this analogy. According to Popper, a closed society is characterized by the belief in magical taboos²¹² and submission to magical force²¹³ which is a mystical unity,²¹⁴ and hostile to reason,²¹⁵ while an open society is marked by rationalism²¹⁶ and critical²¹⁷ thought. An NGO is much closer to the production of reason than magical force. How can we identify an international society dominated by NGOs as a closed society? The problem is created by confusing different categories of reason. Which kind of reason is the mother of NGO? Is it the same one that gives birth to the open society? If we clarify the meanings of term “reason” in different settings, all the confusions could be wiped out.

In Plato’s work, reason acts as one of the three elements of spirit, the other two being courage and want.²¹⁸ Reason is “the ability to behave reasonably and with judgment”²¹⁹ and dwells in the upper region of the soul. It is a good guide for human behavior in any occasion without limiting itself to logical aspects — the point of which also inherited by Aristotle, for reason always functions in super-logical

210. *Id.* at 614.

211. *Id.* at 16.

212. *Id.* at 513.

213. POPPER, *supra* note 208, at 613.

214. *Id.*

215. *Id.*

216. *Id.* at 513.

217. *Id.* at 613.

218. MICHAEL OAKESHOTT, LECTURES IN THE HISTORY OF POLITICAL THOUGHT 152 (Terry Nardin & Luke O’Sullivan eds., 2011).

219. *Id.*

aspects of life.²²⁰ It is reason that endows humans with the ability of communication by means of language. Somewhat close to Popper's argument, Aristotle identified reason to making reasonable arguments. Reason in eyes of is Greek philosophers is an emancipator rather than a disaster to individuals.

Reason has had multiple meanings for a long time, it has been defined as "the capacity for consciously making sense of things, applying logic, establishing and verifying facts, and changing or justifying practices, institutions, and beliefs based on new or existing information."²²¹ However, it is narrowed gradually into the logical aspect of the world. When scientism began to spread all over the Europe beginning in the Seventeenth Century with an arrogant belief that the truth of everything is logic and experience observed; reason came to be viewed as a productive system which produces truth through theories by enforcing logic forms to observed experiences.²²² In this period, though reason was confined into a solo aspect of logic, it was also compatible to various values.

Since the Nineteenth Century, utility has increasingly encompassed all the traditional values.²²³ Reason began to act as a servant of technology and helped in calculating profit and loss in interests.²²⁴ Reason and utility contributed to establish the "regime of verification" which, according to Foucault, "is not a law of truth, but a set of rules enabling one to establish which statements in a given discourse can be described as true or false."²²⁵ In the public fields, a regime of truth that only operated in science before and, according to Hobbes,²²⁶ by no means entered into fields of practice, connected up to governing practice for the first time. A regime of truth sanctified this kind of reason and blocked its other aspects from its traditional meaning.

In the modern world, reason has a close connection with "a new technology of the exercise of power."²²⁷ Michel Foucault keeps a

220. *Id.*

221. Nikolas Kompridis, *So We Need Something Else to Mean*, 8 INT'L J. PHIL. STUD. 271 (2000).

222. *See generally id.*

223. FOUCAULT, *supra* note 186, at 44.

224. *Id.*

225. *Id.* at 35.

226. *See generally* LEVIATHAN, *supra* note 41, 158.

227. MICHEL FOUCAULT, *POWER/KNOWLEDGE* 124 (Colin Gordon ed., Colin Gordon, Leo Marshall, John Mepham, & Kate Soper trans. 1980).

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close eye on this innovation, which “begins to exercise itself through social production and social service.”²²⁸ This new technology has re-defined the problems in some fields such as “demography, public health, hygiene, housing conditions, longevity and fertility,”²²⁹ which are the very soil of NGOs’ thriving. Dealing with problems in these new fields, “a real and effective ‘incorporation’ of power was necessary”²³⁰ for NGOs. Under the regime of truth, reason being in its new form, is believed to be the best tool to achieve this aim for it can provide both truth and efficiency. On the one hand, the regime of truth makes any rational criticism of the new kind of reason inconceivable.²³¹ On the other hand, it also helps reason create some rules for NGOs under the name of governing according to truth concerning these two phenomena. Reason, throughout the cooperation inspired by NGOs’ operations, is a perfect substitute for magic force and taboo in a closed society. According to Mr. Oakeshott, it is just this new form of reason that is destructive to individuality.²³²

Popper claims reason, a character of an open society, is identified with arguments. Arguments suggest multi-subjects, thus making reason individualized. The real open society exists only when individuals can use reason to plan as they see fit and express themselves in the public world. This highly individualized reason is the same as the one in Hobbes’ theory.²³³ In Hobbes’ theory human beings are not considered to be irrational creations. Rather, their reason is highly individualized.²³⁴ Any form of acquired universal reason is not legitimate. This individualized reason led to chaos in international politics in the Seventeenth Century which is also believed to be the golden age of autonomy according to Richard Tuck.²³⁵ Similarly, according to Popper’s point of view, conflict is the result of the individualized reason, and is widespread in the open society. On the contrary, reason in the context of NGOs is supported by the regime of

228. *Id.* at 125.

229. *Id.* These problematic fields also guide the formation of global governance in the contemporary era.

230. *Id.*

231. *See generally* MICHAEL OAKESHOTT, HOBBS ON CIVIL ASSOCIATION 66-67 (1975).

232. *Id.*

233. *Id.* at 67.

234. *Id.*

235. TUCK, *supra* note 27, at 11.

truth, which sweeps out any conflicts and brings doom to the individuals. If international society is dominated by the governance of NGOs, individuals can hardly cause conflicts and create tension from inside, and are easily ignored in politics.

Then what does it matter to the NGO? If there is no big tension from inside, its relation with objects acquires an incomparable importance. Then the answer could be some external menace. What is external menace? The external menace acts as “fortune” to NGOs. The term “fortune” is borrowed from the politic theory of classic republicanism. Fortune is defined in classic republicanism as the force which directs contingent events, and thus “symbolizes pure, uncontrolled, and illegitimated contingency.”²³⁶ Fortune is always used to describe the relationship between the sovereign and the objects of its governing. In this perspective, individuals are not connected or governed directly by the sovereign who rules them. The sovereign only deals with the phenomenon of politics, which is the positive or negative impact caused by individuals. As a result, a “thin phenomenal theme of interest”²³⁷ of impact is imposed between sovereign as governor and their individuals. Thus, the voice of individuals is blocked by this kind of “thin phenomenal theme.” Concerning the way to govern a newly conquered republic, Machiavelli grimly suggested to the new king of this land “the safest way is to destroy them or to reside there.”²³⁸ In this case, the sovereign does not take new citizens as individuals “in themselves” into consideration. He only cares about the hazard of subverting the sovereign brought about by “hatred, and desire for vengeance.”²³⁹ The voice of individuals is silenced in this kind of governance.

Similarly, NGOs also govern through this kind of “thin phenomenal theme of interests.” This goal of governance is far from satisfying the real and diverse needs of individuals. The method of it is to make projects to achieve specific goals. Individuals are treated as an undifferentiated unity, and only positive or negative interests of this unity will be considered in the process of governance. This kind of governance can also cover particular areas such as democracy and

236. J.G.A. Pocock, *THE MACHIAVELLIAN MOMENT: FLORENTINE POLITICAL THOUGHT AND THE ATLANTIC REPUBLICAN TRADITION* 156 (2d ed. 2003).

237. Foucault, *supra* note 186, at 46.

238. Niccolò Machiavelli, *THE PRINCE* 2 (Peter Bondanella & Mark Musa trans., 1984).

239. *Id.*

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human rights. For example, some pro-democratization NGOs are immersed in the task of strengthening the taproots of democracy, and are making positive impacts on the democratization processes occurring in South Africa, Tajikistan and Argentina.²⁴⁰ Despite whatever accomplishments these NGOs have achieved, democracy is still regarded as an unfinished social project of commonwealth. In the case of pro-democratization NGOs, individuals are still not considered directly in their governance.

What is most important is not the special areas or subjects NGOs deal with, but rather the way of their governance. If democracy is considered as a magnificent project rather than a kind of association of various citizens, and if human rights are treated as a commonwealth of human race as a whole rather than the precious value of every man, individuals will be submerged in this splendid prospect as well. In other words, there is no demos underlying NGO's governance. J. H. H. Weiler, a professor and the European Union Jean Monnet Chair at the New York University School of Law, has suggested, "there is no convincing account of democracy without demos."²⁴¹ Even under our ideal premise, pro-democratization NGOs can never achieve their goals for the mission if it is not compatible with the governance because of their nature.²⁴²

E. Additional Remarks.

Some critics may say our analysis is based on the idealized premise. Hence in experience, NGOs cease to reproduce this kind of association into other areas that cannot provide ideal subjects for them. Considering that the ideal subjects exist only in a few select areas among various areas of our full experience, NGOs are far from a threat to politics. This criticism confuses our method and our goal. Please remember that the aim of studying the premise of idealistic subjects is to reveal the association brought about by NGOs without any distortion. The idealized subjects premise is concerned with the

240. JULIE FISHER, IMPORTING DEMOCRACY: THE ROLE OF NGOS IN SOUTH AFRICA, TAJIKISTAN AND ARGENTINA 3 (2013).

241. Joseph H. H. Weiler, *Governance Without Government: The Normative Challenge to the Global Legal Order*, in THE GOVERNANCE OF GLOBALIZATION 49, 74 (Edmond Malinvaud & Louis Sabourin eds., 2004).

242. *Id.*

methodologies. If we achieve our research goal, the premise could be removed. When the premise is removed, the characters of society are reduced to a future possibility, and the potential impact to politics brought about by NGOs.

How could it be? What really threaten politics are not NGOs as subjects in the international world. The true threat is the particular technology of governance carried by NGOs. In other words, NGOs are mere mediums of this technology of governance. The increasing impact of NGOs in some areas of international politics can open the door for the invasion of this technology of governance into all areas. What lies at the foundation of this technology is an external perspective, which is prone to view every issue as a program, and leads to the doom of individuals.²⁴³ This pattern of governance tends to reproduce the external perspective into every area through particular subjects such as NGOs.

Michel Foucault once discovered this kind of technology originated in the theories and practice of governance of states in Eighteenth Century Europe.²⁴⁴ He found that the term “population” which is “absolutely foreign to the juridical and political thought of earlier centuries” gradually converted the old notion “people” into politics,²⁴⁵ the “multiplicity of individuals” on which the term “population” has no claim, dwell in the notion of “people.” The notion of “population” as “a new collective subject” premises an external perspective in which the people as themselves never exist. Only the numerical aspect of people is considered in population through its contribution to interest.²⁴⁶ In the new kind of governance, the final objective is the population. As Foucault suggested, “the population is pertinent as the objective, and individuals, the series of individuals, are no longer pertinent as the objective, but simply as the instrument, relay, or condition for obtaining something at the level of the population.”²⁴⁷ When art of government replaced sovereignty, which meant

243. MICHEL FOUCAULT, *SECURITY, TERRITORY, POPULATION* 65 (Michael Senellart ed., Graham Burchell trans., 2009).

244. *Id.*

245. *Id.* at 54.

246. *Id.*

247. *Id.*

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the changing perspective, population substituted people and emerged a new object in the practice of politics.²⁴⁸

In fact, the method applied to deal with issues depends on the technology of governance. The different notions are the carriers of diverse perspectives. Basically, the particular perspective is constructive to the technology of governance. Therefore, the answer of “how to deal with it” does not depend on the question “what to deal with,” rather it relies on “how to view it.” In other words, the pillar and the foundation of governance is not the objects or issues being dealt with, but the perspective which helps to construct them; therefore, what really matters is not the particular area or subject, but the specific perspective premised by the governance. Even in the same area, diverse perspectives lead to construct their subjects in totally different ways.

For example, the reason that the issues of international politics before the Twentieth Century concentrated on war and peace does not mean the aspects of other issues preferred by the modern international world could not be entered into the discussion. In fact, international trade and other issues always lie at the center of international politics, but in the perspective of sovereign state dominated by the notion of autonomy, every significant issue was viewed as the representation of conflict and cooperation among sovereign states. Likewise, when the perspective is changed, the subject of war and peace may also be workable for NGOs. When wars break out amongst diverse states, the subject of security absorbs concerns for justice and states’ interests they are viewed as a new kind of program—anti-terrorism. The most significant difference between war and anti-terrorism is diverse perspectives. In the battle among the states, each side claims to act justly to legislate its actions. While in the state of anti-terrorism, the enemy is viewed as terrorism, a problem that needs to be resolved, or as a threat poised to remove states’ security. The voices of the enemies are silenced by this demo-voice-damping technology supported by the external perspective. Though lacking military power, NGOs are seldom able to work on this area. However, the battle-field reconstructed by this external perspective already has the possibility to open the door for NGOs.

248. *Id.*

Above all, just like every important issue where views are representatives of war and peace in the Seventeenth Century, every solution to major problems in the contemporary international field can be reconstructed by the external perspective into a project for governance of NGOs. The demo-voice-damping function of this new technology of governance can reform every area from discussions of multi-subjects to programs.

Conclusion: The Correct Position of NGOs in International Politics.

In order to clarify our discussion, we limit the term “politics” to the narrow sense: the practicing of coercive power.²⁴⁹ Creating policy and legislation are two major ways to practice coercive power. Under the principle of democracy, this kind of coercive power is assigned to an active legal status. This positive legal status not only requires the subjects themselves to belong to the law, but also requires them to be legislators or policy makers. However, in most cases, NGOs cannot properly function in policy making. They are always granted consultative status in international policy making. Legal personality always means a more reliable identification for active participants in politics. Peter Willetts, Emeritus Professor of Global Politics at City University of London, has demonstrated special cases which can bear witness to the legal personality of NGOs.²⁵⁰ He discovered that some NGOs take part into international politics in one of the following forms: being equal to states in international diplomacy; being among the Observers at the UN General Assembly; having a special role in procedures for handling human rights and the environment; or by participating in intergovernmental committees.²⁵¹ Besides, “there are currently more than 1,500 NGOs which work in collaboration with states on a basis of equality of statutes and equal participation right, including the ultimate right of voting on authoritative decisions.”²⁵² He claims that, “states, transnational NGOs, intergovernmental organizations, international non-governmental organi-

249. Adrian Leftwich, *Politics: People, Resources and Power*, in *WHAT IS POLITICS: THE ACTIVITY AND ITS STUDY* 62, 62 (Adam Leftwich ed., 2004).

250. WILLETTS, *supra* note 170, at 83.

251. *Id.*

252. *Id.*

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zations, and hybrid international organizations are...participants in the international legal system.”²⁵³ Through several advocates state, NGOs can be expected to have broader rights for legislation and more stable statuses of legal personality.

Can NGOs be seen as competent actors in politics by participating in legislation and equipping with coercive power? Of course not. In the core meaning of politics, coercive power cannot be separated from its law side, which means the norms of political power should be studied as well in specific areas. In traditional theory, politics is a site of justice. Everything that is attached to politics is a site of justice as well. For example, the market in the Middle Ages and the Sixteenth and Seventeenth Centuries was a site of justice.²⁵⁴ Then what is a site of justice? Without doubts, state of nature is a typical site of justice. In state of nature, as John Locke depicted, “the execution of the law of nature is...put into every man’s hand.”²⁵⁵ Actors in a site of justice are equipped in their claims of justice. The next question is, what is justice?

A basic element constituting the presupposition of justice is harmony.²⁵⁶ When analyzing the justice in the state, Cicero said, through the person of Scipio that:

Just as with string instruments or pipes or in singers’ voices a certain harmony of different sounds must be maintained, and as that harmony, though arising from the management of very different notes, produces a pleasing and agreeable sound, so a state, by adjusting the proportions between the highest, lowest, and intermediate classes, as if they were musical notes, achieves...and such concord cannot exist at all without justice.²⁵⁷

Actually, the special “subject—state” is not important in the explanation. Cicero’s purpose was to reveal the relationship of justice and harmony by making an analogy between music and justice. Ac-

253. *Id.*

254. FOUCAULT, *supra* note 186.

255. LOCKE, *supra* note 184, at 2.7.

256. MARCUS CICERO, *DE RE PUBLICA DE LEGIBUS: THE REPUBLIC* 69 (Clinton Walker Keyes, ed. Harvard University Press 1943).

257. *Id.*

According to Dooyeweerd, justice indicates “a harmonizing process preventing from any excess.”²⁵⁸ It means that, the subjects in the field of politics should either act as agencies “weighing all the interests against each other in a retributive sense,”²⁵⁹ to enforce this harmonizing process as the state sovereign does in domestic politics, or create an open stage of justice as states do in international politics.

NGOs can choose neither of the two ways. An NGO, by its nature, is a goal-achieving mechanism or good-product system, not compatible with the nucleus of politics. Furthermore, concerning “public justice involves harmonizing the various interests,”²⁶⁰ if there are no diverse interests, there is no harmony. Meaning that harmony is a particular relationship among individuals or other subjects through the medium of interests, or we can say plural subjects are the logical presupposition of justice. The model of governance of NGO can only distinguish different parts which are absorbed into an overall goal according to their natural features and functional assignment. Then the governance of NGOs cannot contribute a harmonizing process. By contrast, it is the NGO that represents particular interests or common good, which need to be further harmonized by politics. In other words, the association operated by NGOs only have potential properties in jural aspects until it is actualized by real subjects in politics. Roy Clouser defined the jural function concerning this kind of subjects as a “Passive Function.”²⁶¹ This function means that the subjects can only function objectively in a process of politics. Then we can conclude that NGOs can only function passively in politics.

If the NGOs fail to fulfill the law or norm aspect of politics, it is unreasonable for them to acquire coercive force, which is supported by monopolizing violence in politics. In traditional political theory, the state governs by monopolizing violence.²⁶² Even in modern international politics, states have to pay the price when they have bro-

258. H. Dooyeweerd, *A New Critique of Theoretical Thought. Deel 2. The General Theory of the Modal Spheres*, 406 (2013),

http://www.dbnl.org/tekst/dooy002newc06_01/dooy002newc06_01.pdf.

259. *Id.* at 446.

260. Jonathon Chaplin, *Public Justice' as a Critical Political Norm*, 72 PHILOSOPHIA REFORMATATA 130 (2007).

261. Roy Clouser, *A Brief Sketch of the Philosophy of Herman Dooyeweerd*, CHRISTIAN MIND, <http://www.christianmind.org/npc/wrestlers/files/dooyeweerd.pdf>.

262. LOCKE, *supra* note 184, at 7.88.

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ken treaties among nations or other kinds of international law through the imposition of sanctions, a form of the application of coercive force. To the contrary, Thomas Risse claims that the modern practice of politics has proved that monopolization of violence is not the only way to govern.²⁶³ Interests can substitute violence in governance. He says “[p]ositive incentives as well as sanctions are meant to affect the cost-benefit calculations of the relevant parties and to induce the desired behavior.”²⁶⁴ This new kind of governance “aims at challenging fixed interests and preferences so that actors are induced in a socialization process to internalize new rules and norms.”²⁶⁵ Actors like firms and especially NGOs always adopt this way of governance. Nevertheless, Risse’s assertion can only be applied in situations lacking a coercive force that does not conform to our narrow definition of politics, and not the case in international society.²⁶⁶ Where coercive force already exists, the rules and norms induced by NGOs through challenging fixed interests and preferences can only be considered a part of politics when they are authorized or at least acquiesced by it.²⁶⁷ Risse has correctly indicated that until now, NGOs govern mainly through the choices of individuals, rather than coercive force.²⁶⁸ The ideal civil society is the heaven of choices. NGOs are ingenious inventions for fulfilling the choices of individuals and promoting the vitality of civil society. Therefore, there is no condemnation for them to thrive in civil society.

Is it right for NGOs to be equipped with coercive force? The answer is definitely no. For granting them legislative power is totally another thing. The will of a NGO, as an enterprise association, “is necessarily constituted by the continuous choice of each associate to be related to others in terms of a common purpose, a choice from which he/she must be able to extricate themselves.” As Mr. Oakeshott has suggested, “compulsory enterprise association is a self-contradiction.”²⁶⁹ If NGOs step over their boundaries and ac-

263. RISSE, *supra* note 19, at 11.

264. *Id.* at 11

265. *Id.* at 12.

266. *Id.*

267. *Id.*

268. *Id.*

269. OAKESHOTT, *supra* note 201, at 119.

quire coercive force, they contradict themselves and undermine international politics.

Szazi's study introduced the NGOs' influence on international politics and law in its current state: NGOs not only have acquired legal personality "in several formal sources of law, notably treaties and customary international law,"²⁷⁰ but also, act as "shapers of policy and indispensable bridges between the general public and the intergovernmental processes" other than merely as "disseminators of information."²⁷¹

However, his study cannot deny the fact that, no matter what influences NGOs have brought, they still act passively in world politics and without sharing coercive force. If NGOs keep within their boundaries, they could, as Szazi argues, "constitute a remarkable contribution to pluralism at the international level and, even more importantly, a fundamental gust of fresh air in the bureaucracy."²⁷² But if they seek for status of legitimate subjects, and ask for taking part in the process of making decisions with coercive force in international politics, by the chance of current inadequacy of formal political structure for international problem-solving and decision-making,²⁷³ they have transgressed their boundaries.

270. SZAZI, *supra* note 15, at 278.

271. U.N. Secretary-General, *Arrangements and practices for the interaction of non-governmental organizations in all activities of the United Nations system*, ¶¶ 57-59, U.N. Doc. A/63/170 (10 July 1998).

272. SZAZI, *supra* note 15, at 278.

273. THOMAS G. WEISS, *GLOBAL GOVERNANCE: WHY WHAT WHITHER* 3 (2013).

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