Panel 9. Changing concept of 'state' and 'stateness' in the current paradigm of Global Governance: continuing debate"

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"Global Order" and Global Governance: changing role of nation state in multy-level regulatory regimes

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Abstract

In the current realm of public policy studies, that is picking its practical examples for study and exploration from so many fields of governance and decision-making, and using growing number of different methods, borrowed from different disciplines, and applying research designs of so different nature, that it becomes crustal to keep an eye on the clarity of some basic concepts, that can serve the task of uniting frames, that can keep this field of study connected and comprehensible, as using SAME ANALYTICAL FRAMES, that can provide some common usable knowledge in this field of study. This is why two IPSA Research Committees - on Public Policy and Administration and Political Philosophy - launched a panel, largely focused on conceptual frames of analysis, picking the concepts that are used very widely: "governance, meta-governance and the state" and where this author's contribution was focused on "Upgrading the concept of state", which happened to be only a start of a big and fruitful debate on the explanatory capabilities of those concepts, which needs to be continued.

This paper takes on this task, focusing on the application of other key concepts in the field of public policy research, particularly on the global level and compares the contents and usage of such close
concepts as "global order" and "global governance", that are almost competing in their analytical capacity. We try to positioning those relatively "old concepts" together with a rather new concept, that ties them together and connects them to the realities of regulatory needs - a concept of "regulatory regimes", which looks as "gaining momentum" - and may be quite successful in "competition" between those basic concepts and their explanatory power. We attempt to show, why "regulatory regimes" is becoming increasingly wider used and application of it may provide an common language in public policy studies, which is much needed. Finally, we return to the concept of "nation state", as one of the oldest, some even say "outdated" but used so broadly, that may lead to confusion, rather than clarification, and attempt to show, how does the concept of nation state and its practical application can be "upgraded" and may benefit if applied in connection with "regulatory regimes", that shifts the value from "amount of possessed sovereignty" to "tradable assists", that can be an "exchange capital" in Global Governance.

Globalization is rendering the political and legal values of almost all of the institutional characteristics of the national state (sovereignty, territory, the political structure - the nation, civil society, political and legal equality of people, the participation of citizens / subjects in the government).

The effects of globalization create the conditions for the folding of a new "global order", which is not seen as a statement of the current state of the international system, not as a fact, but as a kind of ideal model, a prototype of the future organization and the state of international relations. Global order is regarded as a transitional model for the evolution of nation-states and their interactions in the new state. It differs from the traditional international order as a system of mainly two or multilateral agreements of sovereign nation states.

The core of the global order still make international legal norms. But by itself the global order is not a form of law, as it is based on not only the rule of law. He also is no longer a result of the property of the state and is associated not only with their coercive power. Similarly, despite the fact that an independent, sovereign nation-state is still considered the basis of modern world order, nation-state more clearly at odds with the emerging global order, as players, new international actors, both legal (formal and informal), and not legal.

Global order, on the one hand, it encourages the integration process, and, on the other hand, is building a new internal hierarchy of sovereign states first. Is a radical revision of the national state, which undergoes double pressure: effects of international and supranational community of top local and regional structures – from the bottom.
New actors can use the existing legal and political framework for the promotion and protection of their interests, and the state - is losing the monopoly role of the guarantor of law. To replace him comes a new form of statehood - supranational education, with a status of the individual, civil society, legal regulators and democratic procedures, in which power and functions are gradually distributed over "several levels", and the traditional model of the state undergoes erosion.

**Globalization and Global order**

The phenomenon globalization contacts the beginning of intensive development of international trade, still Charles Marx, in one of letters to Engels in the late fifties 19th century wrote:« Now the world market exists actually. With an exit of California and Japan on the world market globalization has come true¹ ». Globalization was understood, how process of retraction of economy of the national states in uniform world market economy which was accompanied by washing out of the sovereignty of the national states acting before as the main subjects of international legal relations. Globalization developing in a non-lineal way it interrupted in the thirties a policy of rigid protectionism and international trade curling, and the subsequent acceleration in post-war years, already without being limited to international trade sphere, but grasping new areas information, political, financial, cultural, in sum - both the world of things, and the world of ideas. The international order based on idea of the independent sovereign national states and on international law, has ceased to be former, in world politics and economy there were new players, essentially new conditions of the game, and, according to it began to develop, approaches of researchers developed, specified and changed also to I understand a globalization phenomenon. It became complicated, there were the new theoretical concepts giving new explanatory possibilities. There was a term «Global Order» when from positions of the philosophical approach (a category "space" as unity of time, places and actions) globalization began to be considered not in a context only trade relations, and as strengthening of interdependence of the states, economy and cultures, as «compression of the world and an intensification of comprehension by people of the world as single whole» where the globe becomes the general space for everything, «the world village²». It is specified as well understanding of a role of traditional international law, there was an escalating interest to **regulating** to possibilities of other tools of the coordination of interests of key players, and the globalization phenomenon in the increasing measure is considered in a continuum «a world order - global governance³».

**Global order as a public policy concept**
Global Order is not a completely new concept but its understanding had been significantly changing, as both the terms had gained deeper and more diverse versions, their combination is even a "richer" concept, that is trying to grasp latest trends in how Global Governance is being "functioning" - as a "process", or "mechanism", with an attempt to see some "universal picture", what kind of "order" - or "disorder" - is emerging as a result of this process.

In this paper we analyze commonalities, differences and relations between those concepts and their "competition" for better description of reality, with particular focused on changing role of nation-states and non-state actors as agents in the formation of different regulatory regimes.

We are trying to argue, that growing diversity of actors and complexity of issues, that need regulation in global interactions, cannot be presented as a universal and holistic picture of global actors, rules and institutions, but, rather, should be viewed as pluralistic and dynamic system of different regulatory regimes, that are been organized by both state and non-state actors, aiming to address certain global problems, that require coordination of wills and collective action.

In this case the role of nation-states is also changing significantly: as many of those "global issues" are often emerging in the spheres, that are "not covered" by the structured competencies of "traditional institutions" of Global Governance, like UN, EU or WTO, the resolution of those issues or even addressing those global problems and common needs, requires OTHER regulatory mechanisms, than the states are normally evolved in, when it comes to inter state negotiations or collective decision-making through voting at inter-governmental meetings, based on their "sovereignty rights". Those complex global issues, like international travel and trade security, regulating labor migration, health and disease-proliferation control, international academic mobility or the usage of border-line water-, land- forest or other common resources, often requires different type of resources, participants and activities, than states are usually involved in through conventional "international relations", based on concept of sovereignty.

**Globalization and sovereignty**

Still, the growing need for international cooperation and obvious inability of a nation-state to respond to global challenges on the base of its own resources, including its power and influence, is often discussed in terms of "diluting of sovereignty" and "loosing power", claiming that state sovereignty, is been "divided" between the nation state and the international institutions, that these states belong to.
The relationship between the "old concept" of a nation state, that was seen as a major actor in the field of governance - both inside the state borders and in the "outside" - in the globalizing world and the process of globalization was seen by most of the social scholars as a controversy. In most of the scholarly works those relations were seen as a dichotomy: the more is the development of the globalization, the less is there left of the state sovereignty, and that the nation states are "loosing" their sovereignty because of the globalization, that their "powers" are been "taken away" by the intergovernmental organizations.

Although the "diminishing of sovereignty" is currently a common agreement, there is still a deep disagreement, whether it is "good" or "bad", and if the sovereignty should be "taken back" by the nation state, and that, in fact, is even begin to happen, as the "global institutions" have shown their "ineffectiveness" during the recent global economic crisis.

The are many examples, that show, that academics are even "deeply divided" on this issue.

We are arguing, in the line of "changing concept of state and stateless itself", that the matter is not about "more" or "less" sovereignty the states posses but that the concept of "state sovereignty" itself is much less relevant, when the "control of the territory" or "control of the behavior" on certain territory matter much less, than before. While even very strong and self-sustained states may seek to enjoy the "monopoly of regulation" on their territory, trying to ignore international regulation on hazard waists, nuclear security or violation of human rights, it does not help to address almost any of burning problems - from human security to goods exchange, from water quality to labor force, from science and technology to ideology, culture and religion, because all those "assets" are easily moving through and beyond borders and their circulation is subject to different regulatory regimes, that are often extra-territorial and are implemented by pohter regulatory agencies.

**Regulatory Regimes and usage of “Tradable Assets”**

The literature on regulatory regimes had recently grown immensely, and the knowledge on "regimes" is taken with from legal and political science and, clearly, from international Law and International Relations. Among many people, that had published on this concept recently, worth mentioning are quite a few namely. See generally O.R. Young, Resource Regimes: Natural Resources and Social Institutions (1982); O.R. Young, International Cooperation: Building Regimes for Natural Resources and the Environment (1989); A. Hurrell and B. Kingsbury (eds), The International Politics of the Environment (1992); O.R. Young and G. Osherenko (eds), Polar Politics: Creating International
Despite of many different approaches, provided in those works, there is a rather derailed definition, provided by Krasner rather long ago, in 1983, which have identified several common features, that can be taken as regulatory regimes explanatory frame. This definition consists of certain elements, that are characteristics of regulatory regimes, that make them function, that is a "zone of relative consensus" between the scholars involved. “sets of implicit or explicit principles, norms, rules and decision making procedures around which actors’ expectations converge in a given area of international relations. Principles are beliefs of fact, causation and rectitude. Norms are standards of behaviour.
Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice.\(^4\)

This definition had become so popular, that it is now quoted in Wikipedia as "classic". "Definition and Types. Stephen D. Krasner defined International Regimes as “Implicit or explicit principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given area of international relations” in the journal International Organization in 1982. Regimes "are more specialized arrangements that pertain to well-defined activities, resources, or geographical areas and often involve only some subset of the members of international society", according to Oran R. Young, in his 1989 book International Cooperation: Building Regimes for Natural Resources and the Environment. Types of regimes include International Conventions such as the Basel Convention, the Mediterranean Action Plan and well-known regimes like the Bretton Woods System of monetary management. International Regimes might also include International Organizations in a broader sense.

Formation. International regimes often form in response to a need to coordinate behavior among countries around an issue. In the absence of an overarching regime, for instance, telecommunications between countries would have to be governed by numerous bilateral agreements, which would become impossibly complex to administer worldwide. A regime such as ITU serves simultaneously as a forum, a multilateral treaty, and a governing body to standardize telecommunications across countries efficiently. The International Monetary Fund, Biological Weapons Convention, and Kyoto Protocol are other examples of international regimes. The number of international regimes has increased dramatically since the Second World War, and today regimes cover almost all aspects of international relations that might require coordination among countries, from security issues (such as weapons non-proliferation or collective defense), to trade, finance, and investment, information and communication, human rights, the environment, and management of outer space—to name a few. Some scholars emphasize the importance of a hegemon in creating a regime and giving it momentum. This is called the hegemonic stability theory. The United States, for example, has been instrumental in creating the Bretton Woods system, with organizations such as the World Bank and the International Monetary Fund. The rationale is that a hegemony, being the dominant actor in international politics and economics, often stands to gain the most from the creation of global standards. For instance, while other countries might benefit from it, U.S. companies like Microsoft, Universal Studios, and Pfizer would be among the greatest beneficiaries of a strict global intellectual property regime. As the hegemons use their power to create regimes, their withdrawal similarly can also threaten the effectiveness of regimes".
So, for the current time nation state, if it wants to have an effective "regulatory power", it have to be *engaged* in many regulatory systems, rather than "keep to its sovereignty" and secure its "regulatory monopoly".

Does this mean, that the state is "losing its sovereignty" or that it is being "diluted"? We think - not necessarily, state may keep all of its "territorial sovereignty", but the *value* of the sovereignty itself is diminishing, while the other means and assets, that the states either already have under their control, or can mobilize, while the need arises, are becoming more important.

We call them - "tradable assets", as something, that the state can "trade" or exchanged with other actors in global regulatory processes, in order to be "useful to others" while solving common problems.

By "tradable assets" we mean particularly ANYTHING, that can be TRADED by the state in globalised environment - or what makes this state "attractive" for the other global actors, - from partner states to industrial companies to ordinary global citizens, that are becoming more and more "mobile" and travelling the world easily, taking advantage of "attractive territories" and escaping from "less attractive". So the types of such "tradable assets" are extremely DIVERSE - from oil, gas and other extractable minerals, to clean and secure environment and drinking water, to science and innovation technologies, as well as completely "virtual assets", but are becoming even more important in post-industrial world, as fashion, films, recreation, that can come along with religion and other types of ideology and ideas, like ideas and practices of freedom and citizen participation which was manifested by "occupy" practices. All of those assets have different regulatory regimes of their usage, so the trade of them have to be specially "organized".

Exchanging such "tradable assets", the states are integrating themselves in many regulatory regimes, that unite and coordinate the interests of different nations on any kind of needs - from establishing rules and prices for oil trade to academic exchange in Bologna process - subjecting themselves to hard and soft regulatory regimes, that organize the exchange of those assets, that may have very little to do with the concept of sovereignty, particularly, if those "assets" are "movable". For example, qualified labor force from Turkic, that moves around all Europe and contributes to national economics of other countries, exists beyond Turkish sovereign territory and regulatory system, but is been regulated by EU legislation and labor laws of certain countries. But this is a very important "tradable asset", that contributes to the development of Turkic as well, because those people, if they are seasonal workers, are bringing their salaries back home. So, to benefit from
this particular " asset ", Turkish Government is involving itself in several regulatory regimes: labor migration regulation, marketing regulation, business and finance regulation, etc, that may include both other states and non-state actors, like international Trade Unions or Business Associations, as well subject itself to the regulatory norms of extra-territorial regulatory agencies, like Intentional Banking Association.

The scheme here functions almost directly opposite, than the traditional " regulatory monopoly ", based on concept of " territorial control ", where only the " sovereign" is defining rules on behavior on such a territory. On the contrary, the more regulatory regimes are exercised on a particular sovereign territory, the more opportunities this territory is receiving for global exchange and development.

This observation, definitely, needs further studies with lots of data, but the hypothetic we want to formulate, is: effectiveness of the regulatory power of the modern nation state depends much less on its sovereignty and its " ability to control " human behavior on its territory, but, instead, on its intensive involvement in extra-territorial regulatory regimes, which provides for multiple regulatory regimes, that allows their integration into Global Order.

New vision of Global Order

In such a vision the Global Order is not a unique set of rules " for everyone everywhere " but a networked environment of multiple regulatory regimes, that are largely integrated, as they are often regulating behavior of the same actors - for example, travelling workforce - but they are also clearly differentiated, because they are constructed and controlled by different regulatory agencies - from WTO to MAGATE and World Health Organization, from Muslim Bank of Development to Agricultural division of Euro comission to Internet Engineering Task Force, establishing standards for internet technologies for the whole Globe.

Each of those regimes can work on same territory, either integrating with national legislation or acting independently or even be superior to national regulation, but the territories themselves can be " integrated through certain regulatory regime", like British Commonwealth or International Free Trade Zones and Off-shore territories for business opportunities.

On this case, the more regulatory regimes is functioning on a certain territory, the more opportunities it creates for development, as those different regimes provide all sorts of special actors some organized procedures, protection, and predictability.
Given this observation, the role of modern national states - in terms of their "regulatory power" is shifting from "protecting its sovereignty" and demands of "regulatory monopoly" on its territory to the intensive integration into multiple regulatory regimes and cooperation with different regulatory agencies, that all together constrict Global Order.

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