

## INTRODUCTION

Some future historian of the American Society of International Law may find it worth a footnote that, in the waning years of the millennium, the Society's annual in-gatherings of the faithful displayed a marked preoccupation with large questions about how the global system is put together, the role—present and future—of international law in it, and the health and life expectancy of a reportedly beleaguered entity called The Nation State. Meetings have grappled with “challenges to international governance” (1993), explored “the transformation of sovereignty” (1994), examined “structures of world order” (1995), and asked “are international institutions doing their job?” (1996). This year's meeting carried forward this discourse with “the challenge of non-state actors,” a theme treated in some measure by perhaps one-third of the meeting's more than three dozen substantive events.

That the “challenge” posed by “non-state actors” is, if nothing else, an intellectual one is evident from the motley nature of the class. How is one to give a single coherent account of the roles of such disparate entities as the non-profit “public interest” organizations that lobby on human rights or environmental policy; today's great unified regional or global corporations; pension funds, securities funds and other organizations in the global capital markets; public international institutions such as the United Nations or its affiliated agencies; trade associations; labor unions; sub-national political entities such as state or city governments; international terrorist groups? It soon becomes clear that what these “non-state” entities have in common is mainly just that: they are not states in the international system.

Certainly they are not alike in posing a common challenge to the nation-state, or to particular nation-states, or even less to the nation-state system. Some, in fact, cannot be imagined in the absence of the state-centered global system: the main *raison d'être* of what are known as international NGO's is to influence state policy and conduct; public international organizations are composed of states; local governments exist only within states. An enhancement of the effective power of one of these actors may, but does not necessarily, diminish that of some state; more likely it merely shifts the factors affecting the making of state policy.<sup>1</sup>

Other non-state actors, by contrast, notably global corporations and commercial financial institutions, may indeed pose a challenge to the effective power of states to influence events that governments think they ought to control. It has long been so. The same may be said of international terrorism, which has its own perverse symbiotic dependence on the state system. Governments may be prompted to respond not only by assertions of national regulatory and enforcement authority but also by acting in concert on the international plane.

Looking at non-state actors of every stripe, panelists at the meeting were preoccupied with ferreting out what, if anything, is new enough and important enough about their contemporary roles and the environment in which they operate to carry major implications for national societies or for the world system: the continuing revolution in information technology? the worldwide dispersal of assets by global corporations whose structure and operations pay less and less attention to political boundaries? the evident growth in the activity (and to a lesser extent practical influence) of international NGOs? readier access by private groups to sophisticated military technology? And what might those implications be? Some suggest, for example, that NGOs, newly ubiquitous and assertive, be accorded or indeed are already achieving a more formal role in what have hitherto been inter-governmental deliberations, that they be held to some more formal standard of accountability or legitimacy of representation than now exists, or even that international organizations

should in some way be held accountable to them. No such modest institutional tinkering came to mind as appropriate responses to—for example—terrorism or to the contention between public authority and private power in the world marketplace. Some argue for incremental increases in the international role of political subdivisions, or discern a trend in this direction. Overall, some hint at dazzling fundamental changes in the global order, while others see the Westphalian system holding up pretty well into the indefinite future.

Meanwhile, as is usual, an array of discussions not explicitly directed toward the meeting theme were underway, and are reflected in these Proceedings. These range exceedingly widely—as a glance through the table of contents will confirm—and a number are excellent examples of the rewarding standard fare of the Society's annual meetings for internationalists of many sorts.

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