

# AN ALTERNATIVE ANALYSIS ON THE EMERGENCE OF INTERNATIONAL ORGANIZATIONS

ULUSLARARASI ORGANİZASYONLARIN ORTAYA ÇIKIŞLARINA İLİŞKİN ALTERNATİF BİR ANALİZ

Araştırma Makalesi

**Önder PERÇİN\***

## ABSTRACT

It is generally stated that the initial forms of international organizations [hereinafter IOs] can be traced back to the 19<sup>th</sup> century, and IOs actually get on the stage after the World War II [hereinafter WW II]. This statement causes to raise some questions such as "*Why there were no IOs existed before the 19<sup>th</sup> century?*" or "*Why the WW II is a landmark in the history of IOs?*". Some scholars answer these questions by listing several reasons mainly regarding to sovereignty, transaction costs, the cataclysm of WW II, and the like. However, this paper claims that these answers are not persuasive and it is possible to develop a more persuasive alternative analysis that is based on historical facts and derived from main approach of General Public Law discipline. Therefore, this paper has a two-tiered argument. First, it tries to refute the abovementioned answers. Second, it tries to establish a more persuasive alternative analysis. This alternative analysis depends on classifying IOs into two groups as technical IOs [hereinafter TIOs] and non-technical IOs [hereinafter NTIOs], and claims that they are emerged depending on different reasons: Existence of TIOs depends on necessities of technical developments, whereas existence of NTIOs depends on the American governmental understanding, and hegemony.

**Keywords:** General public law, international organizations, technical international organizations, non-technical international organizations, hegemony.

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## ÖZ

Uluslararası kuruluşların ilk hallerine, 19. yüzyıldan itibaren rastlanmaya başlandığı ve tam olarak ortaya çıkışlarının ise 2. Dünya Savaşı'ndan sonra olduğu genel olarak kabul edilen bir husustur. Bu kabul, "Neden 19. yüzyıldan önce uluslararası kuruluşlar yoktur?" veya "Neden 2. Dünya Savaşı uluslararası kuruluşların tarihinde önemli bir yer oynamaktadır?" şeklinde soruları ortaya çıkarmaktadır. Bu sorulara egemenlik, işlem maliyeti, 2. Dünya Savaşı felaketi ve benzeri kavramlar çerçevesinde bazı cevaplar verilmektedir. Fakat, bu çalışmada, bu cevapların yeterince tutarlı, açıklayıcı ve ikna edici olmadığı ve Genel Kamu Hukuku disiplininin kavram ve kuramlarından hareketle tarihsel olguları esas alan daha tutarlı ve açıklayıcı alternatif bir analiz geliştirilebileceği ileri sürülmektedir. Bu çerçevede, bu çalışmada ilk olarak konuya ilişkin mevcut cevaplar eleştirilerek tutarsızlıkları tespit edilecektir. Ardından, daha tutarlı ve açıklayıcı bir analiz ortaya konulmaya çalışılacaktır. Alternatif analiz, uluslararası kuruluşları teknik ve teknik olmayan şeklinde iki gruba ayırmakta ve bunların her birinin ortaya çıkışlarının farklı nedenlere dayandığını ileri sürmektedir. Buna göre, teknik uluslararası kuruluşların ortaya çıkışı teknolojik gelişmelerin doğurduğu ihtiyaçlara dayanmakta iken, teknik olmayan uluslararası kuruluşların ortaya çıkışı Amerikan devlet anlayışı ve hegemonyaya dayanmaktadır.

**Anahtar kelimeler:** Genel kamu hukuku, uluslararası kuruluşlar, teknik uluslararası kuruluşlar, teknik olmayan uluslararası kuruluşlar, hegemonya.

## INTRODUCTION

The term *International Organizations* refers to a very complex and comprehensive realm that ranges from simple ones to very formidable organizations. For example, APEC secretariat has an initial budget of \$2 million, whereas European Union and the World Bank have thousands of employees and multiple affiliates and lends billions of dollars each year.<sup>1</sup> The term IOs is also problematic. "The modern history of international organization (IO) reflects an uneven development of both the practice and concept that

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<sup>1</sup> ABBOTT, Kenneth W. / SNIDAL, Duncan, "Why States Act through Formal International Organizations", **The Journal of Conflict Resolution (Sage Publications)**, Year: February 1998, Volume: 42, No: 1, (p. 3-32). p. 4.

*go under that name. The term is used in differing ways... ”<sup>2</sup>, thus, it is a necessity for this study to determine how it perceives the term.*

This study uses the term IOs as indicating all organizations acting in the international realm without being officially established under any national law, and officially accepted by sovereign states as a supreme or at least equal authority to themselves. Thus, the networks those are depending on the participation of individuals such as Knights Templar are not included in this term through this study.

On the other hand, “...we have a variety of vigorous theories to explain why they (IOs) have been created.”<sup>3</sup> However, this study argues that these theories or analysis which are named as mainstream analysis through this study are not able to put forth a persuasive answer to the question why IOs have been created, and it is possible to assert a more persuasive and explanatory analysis. Thus, the first section tries to summarize the mainstream analysis about emergence of IOs and tries to refute the reasoning of it. The second section tries to assert an alternative analysis depending on a distinction of IOs as technical and nontechnical, and to verify the alternative analysis by some related issues.

One of the limitations of this study is about mainstream analysis. As it is known, there are different approaches to the IOs such as realist, positivist, institutionalist, and the like. However, from this study’s point of view all of them are gathered under the name of mainstream analysis, and this study has no claim that the part of this study regarding to summarizing of the mainstream analysis encompasses all existing approaches to the IOs. In contrast, the summary of the mainstream analysis only demonstrates some prominent answers of theories under mainstream analysis to the question why IOs have been created.

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<sup>2</sup> THOMPSON, Alexander / SNIDAL, Duncan, "International Organization", in **Encyclopedia of Law and Economics**, by B. Bouckaert & G. DeGeest, 2009, (p. 692-722), p. 692.

<sup>3</sup> BARNETT, Michael N. / FINNEMORE, Martha, "The Politics, Power, and Pathologies of International Organizations", **International Organization (The MIT PressStable)**, Year: 1999, Volume: 53, No: 4, (p. 699-732), p. 699.

## I. EMERGENCE OF INTERNATIONAL ORGANIZATIONS

### A. Statements And Critique of General Approach

Although some scholars argue that traces of the modern IOs appear in the ancient Greek<sup>4</sup>, the initial forms of IOs can be traced back to the 19th century, and IOs actually get on the stage after the World War II [herein after WW II].<sup>5</sup> Along with the question when IOs emerged first, another important issue about emergence of IOs is also raised in the literature. This issue can be stated in different forms such as why IOs have been created, or why these organizations emerged in the nineteenth century, or why were there no IOs before nineteenth century, and the like. However, the essence of the issue is about the reasons that gave birth to IOs. Naturally there are different approaches to analyze the issue. One of them focuses to the time period that IOs hadn't appeared: "*An understanding of the reasons why these organizations started to grow in the nineteenth century can be reached by asking the question: why were there no interstate organizations prior to that time?*"<sup>6</sup>. Some others focus directly to the reasons: "*(W)e have a variety of vigorous theories to explain why they (IOs) have been created. Most of these theories explain IO creation as a response to problems of incomplete information, transaction costs, and other barriers to Pareto efficiency and welfare improvement for their member.*"<sup>7</sup>

A general skimming of literature puts forth a few prominent statements about the issue. These can be listed as sovereignty, transaction costs, the cataclysm of WW II, an awareness of the problems of states' coexistence, and the recognition of the need for means different from those already used to regulate international relationships. Below, these issues are summarized and criticized under separate titles.

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<sup>4</sup> ALVAREZ, Jose E., **International Organizations as Law Makers**, Oxford University Press, New York, 2006, p. 17-18.

<sup>5</sup> ARCHER, Clive, **International Organizations**, Taylor & Francis e-Library, New York, 2001, p. 3.

<sup>6</sup> ARCHER, 2001, p.3.

<sup>7</sup> BARNETT / FINNEMORE, 1999, p. 699.

## 1. Sovereignty

Sovereignty is accepted as the founding concept of international system mostly by positivist approach. *“The positivist insistence that sovereignty was the founding concept of the international system led naturally to a careful scrutiny of what entities could be regarded as sovereign. This was an important theoretical and practical issue, given the positivist argument that the sovereign had supreme authority.”*<sup>8</sup> And positivist approach also defines sovereignty: *“For positivists, the general answer was that sovereignty could be most clearly defined as control over territory.”*<sup>9</sup>

Of course, the importance of the concept of sovereignty is not limited to positivist approach. Considering that the concept of “nation” is closely attributed to the concept of “sovereignty”, sovereignty is generally accepted as of the utmost importance for international realm. So, it is a good beginning point for an analysis about emergence of IOs. Thus, the question that *“...why were there no interstate organizations prior to that time (nineteenth century)?”*<sup>10</sup> is answered at first by the concept of sovereignty: *“The most obvious reason is that these organizations had to await the creation of a relatively stable system of sovereign states in Europe. The crucial turning point was the Peace of Westphalia, 1648, ending the Thirty Years War, which had torn apart late medieval Europe. Prior to 1648, the concept of a unified Christian Europe dominated the thinking, if not the practice, of political life in Europe.”*<sup>11</sup>

So it can be stated that according to mainstream analysis, sovereignty is at least a necessary condition for the emergence of IOs. But this statement fosters two questions. First is then why there is approximately 300 years between the establishment of sovereignty by Peace of Westphalia and IOs’ getting on the stage after WW II? Second

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<sup>8</sup> ANGHIE, Antony, "Finding the Peripheries:Sovereignty and Colonialism in Nineteenth-Century International Law", **Harvard International Law Journal**, Year: 1999, Volume: 40, No: 1, (p. 4-75), p. 23.

<sup>9</sup> ANGHIE, 1999, p. 24.

<sup>10</sup> ARCHER, 2001, p. 3.

<sup>11</sup> ARCHER, 2001, p. 4.

question is that were the previous forms of sovereignty really insufficient for the emergence of IOs?

Therefore, the weakest point of the statement about sovereignty as an emergence reason of IOs is about the gap between the time that sovereignty appeared and the time that IOs essentially get on the stage. On the one hand, the Peace of Westphalia in 1648 is accepted the establishment of the modern sovereign system, at least in Europe. *"The signing of the Peace of Westphalia in 1648, reinforced by the Treaty of Utrecht in 1713, established the principle of national sovereignty, thereby placing the states of Europe on equal legal footing. This notion of sovereign equality - endowing each state with territorial integrity and the right to conduct domestic and foreign affairs without outside intervention - represents the first real ordering principle among states. After Westphalia, 'decentralized control by sovereign states' provided the basis for a horizontal international order critical to the subsequent development of international organization."*<sup>12</sup>

On the other hand, generally, it is accepted that IOs get on the stage after WW II in 1945.<sup>13</sup> So, between two events there is approximately 300 hundred years which easily dismiss the statement about sovereignty among emergence reasons of IOs.

However, it can be stated as a contra argument that Westphalia established a sovereign system only among Europe but not all over the world. But then, this contra argument has to explain why at least one IO had not emerged even as a regional one at the continental of Europe where "... *sixty-seven significant wars in the period from 1650 to 1800*" had been waged.<sup>14</sup>

In fact this statement had also been refuted within the mainstream analysis by stating that after Westphalia, the basis for a horizontal international order critical to the subsequent development of international organization provided by 'decentralized control

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<sup>12</sup> THOMPSON / SNIDAL, 2009, p. 693. (Internal citations omitted).

<sup>13</sup> ARCHER, 2001, p. 3; THOMPSON / SNIDAL, 2009, p. 693.

<sup>14</sup> ARCHER, 2001, p. 5.

by sovereign states', however, the actual international organizations did not appear in significant numbers until the nineteenth century. " *Though the advent of states as sovereign political units was an important step, preconditions for the creation of IOs were not met during the seventeenth and eighteenth centuries. For example, there was insufficient contact between states, there was little recognition of problems arising from interdependence among states, and there was no perceived need for institutionalized mechanisms to manage international relations.*"<sup>15</sup>

So, at the end it seems that in mainstream analysis sovereignty is not accepted as a sufficient condition but a necessary one for emergence of IOs. But considering the political relations between pre-Westphalian periods of the world history is it possible to state that the type of sovereignty, which is necessary for emergence of IOs, was not existed? Here it is being argued that the type of sovereignty, which is necessary for emergence of IOs, is to be understood as exclusive to the power of any political authority. So, the concept of sovereignty that has been argued by many scholars from early Greek philosophers<sup>16</sup> to medieval jurists<sup>17</sup> is in a quality that has to be accepted as sufficient condition to the emergence of IOs. Moreover, how reasonable to deny that the Egyptian and Hittite, as parties to the Treaty of Kadesh oldest surviving peace treaty of the history<sup>18</sup>, were sovereign over their territory and accepted counterpart's sovereignty over counterpart's own territory? Or is it possible to say that the type of sovereignty possessed by the great and competitor powers of their times such as the Rome and the Cartage, the Austria-Hungary Empire and the Ottoman Empire was not sufficient to establish at least a regional IO? So, it seems possible to state that Westphalia Agreement differs only recognizing particularly *national* sovereignty, which can be deemed as a subtype of

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<sup>15</sup> ARCHER, 2001, p. 3-4. (Internal citations omitted).

<sup>16</sup> ALVAREZ, 2006, p. 18.

<sup>17</sup> FIDLER, David P., "Caught Between Traditions: The Security Council in Philosophical Conundrum", **Michigan Journal of International Law**, Year: 1996, Volume: 17, (p. 411-453), p. 418.

<sup>18</sup> BOYLE, Alysoun, "A piece of the peace: designing mediated agreements to resolve disputes effectively." **ADR Bulletin (Bond University Dispute Resolution Centre)**, Year: 2010, Volume: 11, No: 8, (p. 170-175), p. 173.

sovereignty. On the other hand, the sovereignty that is necessary for emergence of IOs has been existed beginning from the very early periods of the history.

At this point the argument of this study about the relation between sovereignty and the Treaty of Westphalia matches with an approach about the international law. As an example, Lowe suggests that the statement that international law in its modern form dates from the Treaty of Westphalia in 1648 to have created the system of modern nation-states, is far from clear whether it is really so. *"The primacy of territorial units as the basis of social organization was evident in the Peace of Augsburg in 1555, and the notion of sovereignty was developed by Jean Bodin a little later in the sixteenth century"*.<sup>19</sup>

So, it seems that national sovereignty related to the Peace of Westphalia is not a reasonable factor about emergence of IOs.

## 2. Transaction Cost

The relation between IOs and transaction cost is subject to many different approaches such as neoliberalist, neorealist, rationalist, institutionalist, new institutionalist, and the like. Common point of these approaches seems to make an analogy between international realm and a market. Thus, these approaches heavily use economics concepts in their analysis and transaction cost is one of them.

The neoliberalist and neorealist approaches *"understand world politics to be analogous to a market filled with utility-maximizing competitors"*.<sup>20</sup>

On the other hand, a rationalist and institutionalist approach also shares this understanding among other concepts: *"Our primary approach is rationalist and institutionalist. We assume, for simplicity, that states are the principal actors in world politics and that they use IOs to create social orderings appropriate to their pursuit of shared goals: producing collective goods, collaborating in prisoner's dilemma settings,*

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<sup>19</sup> MURPHY, John F., "Book Review: International Law by Vaughan Lowe", **American Journal of International Law (The American Society of International Law)**, Year: October, 2008, Volume: 102, No. 4, (p. 920-926), p. 920 (2008). (internal citations omitted)

<sup>20</sup> THOMPSON / SNIDAL, 2009, p. 703.



*solving coordination problems, and the like. We start with the pursuit of efficiency and employ the logic of transaction costs economics and rational choice, using analogies with business firms and medieval trading institutions.*"<sup>21</sup>

Moreover, new institutionalist approach also shares similar opinions and applies transaction costs concept to the study of IOs: *"A subsequent wave of scholarship studies international organization through the lens of the 'new institutionalism' within several social science fields, including economics (Williamson, 1985; Eggertsson, 1989; Furubotn and Richter, 1991, 1997), sociology (Powell and DiMaggio, 1991), and political science (March and Olsen, 1989; Moe, 1984). ... The largest body of literature has begun to integrate the 'new economics of organization' (NEO) - also referred to as 'new institutional economics' or 'transaction costs economics' - into the study of international organization. In the early 1990s, economists began to notice 'striking parallels between the central questions of NEO and those of international relations' (Yarbrough and Yarbrough, 1990). Both literatures focus on the need to establish institutions to facilitate cooperation when independent actions would produce sub-optimal outcomes."*<sup>22</sup>

However, it is not clear that whether these approaches, which mainly use the concepts of economics to the issue, are arguing that transaction cost is a factor that caused emergence of IOs or it is only a consequence or benefit of existence of IOs. Though, from the statement that *"States consciously use IOs both to reduce transaction costs in the narrow sense and, more broadly, to create information, ideas, norms, and expectations; to carry out and encourage specific activities; to legitimate or delegitimize particular ideas and practices; and to enhance their capacities and power."*<sup>23</sup>, it seems that it is worth to evaluate whether reducing transaction costs can be listed among the emergence reasons of IOs.

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<sup>21</sup> ABBOTT / SNIDAL, 1998, p. 6.

<sup>22</sup> THOMPSON / SNIDAL, 2009, p. 707.

<sup>23</sup> ABBOTT / SNIDAL, 1998, p. 8.

In this context, it seems not so proper to consider transaction cost concept as a forcing reason for the emergence of IOs, although it is a very popular concept for economics. At first glance three questions appear against to the argument that reducing transaction cost in the international relations or realm can be a reason of emergence of IOs.

First question is simple and may be easily refutable or already refuted in the advance studies of economics. It is that if reducing transaction cost in the international relations or realm was a reason of emergence of IOs, why it stood by WW II to establish IOs?<sup>24</sup> The underlying reason of this question is that economics didn't invent the relation of institutions and transaction cost, it only discovered it, so although it was not consciously used it existed as an underlying factor in the decision of any actors among history. Then why didn't the medieval lords or emperors prefer establishing IOs, instead they used diplomacy?

Second question is about density required for reducing transaction cost. As far as concerned there is no requirement of minimum number of states to ensure that an IO may reduce transaction cost of those states' relations. Thus, an IO may reduce the transaction cost of even two states. Then if it is assumed that one of the motives of emergence of IOs is reducing the transaction cost of international relations then why the first attempts of IOs like League of Nations occurred at global scale rather than evolving from regional to global scale?

Third question is about applying economic concepts to law. Considering the wide range of possible consequences of international relations, to what extent it is possible to talk about or to calculate the cost of an international relation for a state? In other words, does applying transaction cost concept to law derive from economic imperialism?

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<sup>24</sup> At this point one may bring a contra argument that transaction cost theory does not say much about timing, and there may be more sophisticated transaction cost theories that can say something about timing. However, as it is mentioned in the previous part of this study that "it is not clear that whether the approaches which mainly use the concepts of economics are arguing that transaction cost is a factor that caused emergence of IOs, or arguing that it is only a consequence or benefit of existence of IOs". Therefore, considering the importance of the theory, this study tries to evaluate whether reducing transaction costs can be listed among the emergence reasons of IOs.

As is known economic imperialism is one of the debates in the literature for many years. Economic imperialism is defined as the extension of economics and it embraces the topics that go beyond the classical scope of issues, which include consumer choice, theory of the firm, (explicit) markets, macroeconomic activity, and the fields spawned directly by these areas. The most aggressive economic imperialists aim to explain all social behavior and they explain it by using the tools of economics. The economic imperialists also analyze the areas that traditionally deemed to be outside the realm of economics, as they do not use explicit markets or prices. As an example, for such an area, discrimination against particular groups that is traditionally thought of as an irrational social phenomenon, has been addressed by economists during the past 40 years.<sup>25</sup>

And there is also contra argument to the critics of economic imperialism: *“Suppose that a beginning student in geometry challenged his teacher: Why assume that the shortest distance between two points is a straight line? How can a point take up no space? There is substance to these criticisms, as mathematicians know, but a novice is unlikely to guess what is at stake. Similarly, the lawyers who criticize economics from the outside seldom say anything of merit about its fundamental concepts. They attack its technical language without understanding the techniques for which the language was created.”*<sup>26</sup>

So, the critic of application of transaction cost to international relations has to be based on fundamental concepts of economics. From this point of view, it seems as a convenient question that considering that one of the basic assumptions of economics, particularly microeconomics, is homo economicus, how the states conduct in international realm concur with the concept of homo economicus? In other words, to what extent it is possible to say that it is accurate to apply transaction cost theory based on the assumption of homo economicus, to international relations based on states those are unlikely act as homo economicus? Aside from a debate about whether the homo

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<sup>25</sup> LAZEAR, Edward P. "Economic Imperialism", **NBER Working Paper No. 7300**. Cambridge, MA, August 1999, p. 6.

<sup>26</sup> COOTER, Robert D, "Law and The Imperialism of Economics: An Introduction to the Economic Analysis of Law and a Review of the Major Books", **UCLA Law Review**, Year: 1982, Volume: 29, (p. 1260-1269), p. 1262.

economicus assumption for individuals is realistic in any sense, to what extent is it accurate to apply a theory based on individuals to states?

Another question derives from calculation of cost. It is obvious that there are some items like travel, translation, and accommodation that have equivalent economic values in markets. Thus, it is possible for such kind of elements to calculate reduction of cost. But when it comes to calculate the overall cost of establishing an IO like the cost of accepting a binding decision of an IO, economics fails to provide satisfactory answers. So, it seems that evaluating the cost of an IO for a state is unlikely a probable task. Actually, the lack of economics in calculating the monetary value of some social or individual values like life, death, happiness, and freedom without commodification also repeats in international relations.

In sum, although, as mentioned above, it is not clear that whether the approaches which mainly use the concepts of economics to the issue are arguing that transaction cost is a factor that caused emergence of IOs or it is only a consequence or benefit of existence of IO, and it is decided above as it seems that it is worth to evaluate whether transaction cost can be listed among the emergence reasons of IOs; consequently it can be stated that, transaction cost may only be a consequence or benefit of existence of IOs rather than a reason for emergence of IOs.

### 3. The Cataclysm of WW II

The relation between IOs and WW II depends on social changes regarding to the cataclysm of WW II. Although World War I [herein after WW I] is also a big social cataclysm, WW II is accepted as the biggest. *“(T)he first World War, the "greatest social cataclysm which has been recorded in the history of humanity"; and finally, the second World War, a cataclysm more influential than the Renaissance, or the French Revolution of 1789, or the first World War.”*<sup>27</sup>

The reflection of this perception is explicitly stated in the UN Conference of 1945. Paul-Boncoir, Speech of Chairman of the Delegation of France to the Conference, deems

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<sup>27</sup> SAMORE, William. "The New International Law Of Alejandro Alvarez.", **Journal of International Law**, Year: 1958, Volume: 52, (p. 41-54), p. 41-42.

WW II as a ravage to the human race and states that League of Nations was not able to protect humanity: *“We built a League of Nations. Humanity, its wounds still bleeding, did not find the shelter it had hoped for, and a second world war came to ravage the human race.”*<sup>28</sup> Additionally, Jan Masaryk, Minister for Foreign Affairs of Czechoslovakia, and the Chairman of the Delegation of the said country to the Conference, also deems WW II as a cataclysm which humanity could not stand another one: *“There will be many important, complex, and far-reaching problems to solve but we can, we shall solve them, because we know that sorely wounded humanity could not stand another cataclysm such as ‘the one out of which we are ‘laboriously, but victoriously, emerging at this moment.’”*<sup>29</sup>

In the light of these perceptions, United Nations [herein after UN], the most prominent and immediate implementation of IOs after WW II, is established as a shield to humanity, and as a provider of permanent world peace and justice, among other goals. Ezequiel Padilla, the Foreign Minister of Mexico and the Chairman of the Mexican Delegation to the Conference mentions that *“We may, therefore, assert that the Conference at San Francisco has not been a somber expression of force, but the embodiment of the highest aspiration of man toward permanent world peace and justice.”*<sup>30</sup>

This perception is not limited to some statesman or to the higher levels of bureaucracy. The unpleasant experiences of WW II also had effect on the juridical conscience of society: *“Judge Alvarez’ basic premise is that law is the product of its environment, that law and its surroundings are inseparable. ... Public opinion is the reflection of all social facts. Juridical conscience being a social fact, public opinion becomes of paramount importance in developing the law. ... Judge Alvarez asserts that this change has been occurring since the middle of the nineteenth century. What has*

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<sup>28</sup> UNITED NATIONS (UN), **Final Plenary Session**, The United Nations Conference on International Organization, San Francisco, June 26, 1945, Vol. 1, (p. 656-685) <https://digitallibrary.un.org/record/1300969> (Accessed 09.13.2022), p. 699.

<sup>29</sup> UNITED NATIONS, **1945**, p. 672.

<sup>30</sup> THE UNITED STATES NEWS, **The United States and the Peace Part II Verbatim Record of the Plenary Sessions of The United Nations Conference on International Organization**, 1945, San Francisco., p. 93.

*caused the change? His answer is the development of industry, commerce, and means of communication; changes in the economic, political, and social fields of human activity, and the manifestation of international moral forces; the first World War, the "greatest social cataclysm which has been recorded in the history of humanity"; and finally, the second World War, a cataclysm more influential than the Renaissance, or the French Revolution of 1789, or the first World War."*<sup>31</sup>

Considering above mentioned points, it can be stated that the cataclysm of WW II is generally accepted among the factors that caused emergence of IOs, particularly the ones that are dedicated to deal with international social order, but how accurate is it to state that cataclysm of WW II is a forcing reason for the emergence of IOs?

Naturally it is an undisputable fact that WW II is a cataclysm that in no way any reasonable person can deny. However, the statement that "because WW II is the most influential cataclysm of history, it motivated the emergence of IOs" seems insufficient to explain the failure of League of Nations. This insufficiency relates to the subjectivity of the human perception. Because, although WW II is the most influential social cataclysm of history, until it happened, WW I had been accepted as the most influential social cataclysm. In fact this is explicitly stated in the following statement "*the first World War, the "greatest social cataclysm which has been recorded in the history of humanity"; and finally, the second World War, a cataclysm more influential than the Renaissance, or the French Revolution of 1789, or the first World War."*<sup>32</sup> (footnote citations omitted) So, the perception of cataclysm is relative and subjective. On the other hand, the proponents of WW II as a motivation factor of IOs also do not and may be cannot claim that there is a required minimum level of cataclysm perception in the juridical conscience of people, and WW I was not influential enough to satisfy this requirement so the attempt of League of Nations failed due to the lack of influence of WW I. In other words, considering the fact that although before WW II, WW I was perceived as the greatest cataclysm of the history, as similar to the perception after WW II, it couldn't maintain League of Nations functions properly; it doesn't seem so reasonable that the cataclysm perception of WW II

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<sup>31</sup> SAMORE, 1958, p. 41-42. (internal citations omitted).

<sup>32</sup> SAMORE, 1958, p. 42. (internal citations omitted).

motivated emergence of IOs. Because, the failure of the League of Nations shows that such a perception is not sufficient to even maintain existing IO, let alone to establish one.

#### **4. Awareness of Coexistence Problems and Recognition of Need for New Means to Regulate International Relations**

In the related literature another approach argues that existence of IOs is also related to the states' awareness of coexistence and need for new means: *"Given the existence of the sovereign state system, why did governments not create a network of international organizations throughout the eighteenth century? Inis Claude sets four preconditions before such action could be taken: the existence of a number of states functioning as independent political units; a substantial measure of contact between these subdivisions; an awareness of problems that arise from states' coexistence; and their recognition of the need for creation of institutional devices and systematic methods for regulating their relations with each other. ... The reasons why the nineteenth century provided such fertile ground in Europe for international organizations can be found in Claude's final two points: an awareness of the problems of states' coexistence and the recognition of the need for means different from those already used to regulate relationships. Governments' growing acceptance of new devices with which to conduct their relations arose partly out of the changed political situation post-1815 and partly from economic and social developments."*<sup>33</sup>

As is seen, the awareness of the problems of states' coexistence and their recognition of the need for new means to regulate international relations are stated among the emergence reasons of the IOs.

The statement about awareness of problems of states' coexistence and their recognition of the need for new means to regulate international relations suffers from gradualness. It means that if this statement was true, then why the IOs like League of Nations and UN suddenly occurred instead of growing gradually from regional scales to global scale?

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<sup>33</sup> ARCHER, 2001, p. 4-5. (internal citations omitted)

Actually, this critic is valid for almost all statements of mainstream analysis. In other words, one important shared point of the mainstream analysis's reasons is that although they all are gradual, the consequences of them, like establishment of UN, occurred suddenly. That means that the events, progresses, or conditions represented by these reasons are not suddenly occurred events, but they are kind of events that evolve and develop slowly in the course of history. Naturally this evolution and development has to be first occurred in some geographic regions and then spread all over the world. At this point a question appears: Then why the emergence of IOs didn't evolve from firstly regional ones to at the end global ones?

In other words, the general understanding of the mainstream analysis is not able to explain the following question. If the reasons about the emergence of IOs are accurate, then why regional IOs first didn't appeared on any part of the world at a time when those reasons were not mature enough to emerge IOs at a global scale, but were mature enough to emerge IOs at regional scale? When this question applied to the statement about awareness of problems and need for new means, it focuses to the recognition progress of states: Considering the non-gradual establishment of League of Nations or UN, if the statement accepted as accurate, then it is also be accepted that the recognition of states about these needs and means suddenly appeared in a global scale, which seems as unacceptable in the course of history.

However, a contra argument is possible considering the fact that some IOs like the Universal Telegraphic Union [herein after UTU], which dates back to 1865,<sup>34</sup> are established gradually. However, this time the statements of mainstream analysis do not fit to the reasoning.

For example, is it possible to say that UTU established because states became aware of problems that arise from states' coexistence and recognized of the need for creation of institutional devices and systematic methods for regulating their relations with each other? Actually, the answer is yes but first for regional scale not for global scale. So, it is possible to say that emergence of regional unions for telegraph depends on such kind

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<sup>34</sup> ALVAREZ, 2006, p. 18.



of awareness and recognition, but it is not possible to attribute these reasons to establishment of a global scale union for telegraph. In other words, if this awareness and recognition did not exist, then there would not be any regional unions. When this awareness and recognition existed, there were regional organizations, so it cannot be the reason of carrying these organizations to the global scale.

The problem of the mainstream statements about the gradually established IOs seems that it does not recognize the fact that gradually established IOs are established for technical issues. “*States first established international organizations to cooperate on specific matters.*”<sup>35</sup> As main stream analysis does not distinguish IOs as technical and non-technical which have different reasons of emergence, it fails to persuasively states reasons of emergence for each type. In other words, because the IOs have two main kinds with regard to reasons of emergence, one fits all solution fails. This subject will be separately evaluated below under Classification of IOs title.

## **II. AN ALTERNATIVE ANALYSIS APPROACH**

### **A. Alternative Analysis**

This study argues that it is possible to develop an alternative analysis that may be more persuasive than mainstream analysis.

First step to develop such an analysis is examination of the subject, namely IOs and to clarify the general characteristics and different types of the IOs.

Then the second step is to identify the particular characteristics of each type and trace back to these characteristics in the course of history until finding common and persuasive facts those seem as motivation factors or reasons for emergence of IOs.

#### **1. Classification of IOs**

It is a fact that classification requires a holistic view to the subject. So, considering that the subject of this study is emergence of IOs, it seems proper to focus on the first

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<sup>35</sup> UNITED NATIONS (UN), **UN History Home**, 2022. <https://www.un.org/en/about-us/history-of-the-un> (Accessed 09.13.2022).

examples of IOs. A general skim of the literature gives four main periods for emergence of IOs either in practice or in theory.

First, it is argued that traces of the modern IOs appear in the ancient Greek in practice.<sup>36</sup>

Second, it is argued that IOs first proposed in 18<sup>th</sup>, 17<sup>th</sup>, and even 14<sup>th</sup> centuries, but these proposals didn't put into practice, IOs remained only in theory: "*(E)arly discussions (of IOs as formal organizations) can be found in the writings of Dante Alighieri ([1314] 1957), Henri de Saint-Simon ([1825] 1952), Jeremy Bentham ([1786-89] 1927) and Immanuel Kant ([1784] 1914)*"<sup>37</sup>, "*In 1623, Emeric Cruce published "the first proposal for an international organization that was also a proposal for maintaining peace. Other early proposals for establishing some form of international organization included the work of the French diplomat Sully (1638), William Penn (1693), John Bellers (1710), and Saint-Pierre (1712).*"<sup>38</sup>

Third, it is stated that the initial forms of IOs can be traced back to the 19<sup>th</sup> century, and fourth; IOs actually get on the stage after the World War II.<sup>39</sup>

The first argument seems very interesting; however, there is no argument that those quasi IOs organizations existed in ancient Greek have any practical or theoretical connection to modern ones. In other words, although the organizations in ancient Greek are deemed as proto-IOs, there is no argument that modern IOs are derived directly from them, or modern IOs and proto-IOs have a continuous practical or theoretical connection. So, the ancient Greek era has to be evaluated separately in itself. On the other hand, it is possible to make a comparison between ancient Greek types and modern types of IOs, but such a comparison falls out of the scope of this study.

Second argument, on the other hand, explicitly states that the mentioned proposals about IOs at 18<sup>th</sup>, 17<sup>th</sup>, and even 14<sup>th</sup> century were in theory only, and did not put into

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<sup>36</sup> ALVAREZ, 2006, p.18.

<sup>37</sup> THOMPSON / SNIDAL, 2009, p. 699.

<sup>38</sup> FIDLER, 1996, p. 418.

<sup>39</sup> ARCHER, 2001, p. 3.

practice. So, it seems that this argument also has no clue about the emergence of modern IOs.

Then there remain two arguments about the first implementations of IOs, first one dates back to 19<sup>th</sup> century, the other dates back to 20<sup>th</sup> century. "*States first established international organizations to cooperate on specific matters. The International Telecommunication Union was founded in 1865 as the International Telegraph Union, and the Universal Postal Union was established in 1874. Both are now United Nations specialized agencies.*"<sup>40</sup> But, if there were some kinds of IOs existed in 1800s, then why IOs actually got on stage after WW II? And another relevant question is why the IOs established in 1800s are derived from regional forms, whereas the IOs established after WW II are directly constructed in international scale?

This study answers these questions by distinguishing IOs into two separate categories. One is technical IOs [herein after TIOs] and the other one is non-technical IOs [herein after NTIOs]. This classification depends on the existence dates, existence reasons, and whether the emergence occurred gradually. Considering these criteria, it is argued that there are two main types of IOs, namely TIOs and NTIOs.

On the other hand, this classification is dedicated to analysis of emergence of IOs, so it is natural that different classifications may be applied for different analysis: "*Theorists and practitioners have employed a number of differing conceptions of 'international organization'. These conceptions can usefully be thought of as falling into three categories: IO as formal organization, IO as ordering principle in the international system, and IO as regime. ... More than ever before, international legal scholars are using modes of analysis drawn from political science and economics to understand international organizations and law (Bhandari and Sykes, 1997; Mock, 1992; Shell, 1995; Aceves, 1996; Chong, 1995; Colombatto and Macey, 1996; Setear 1996).*"<sup>41</sup>

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<sup>40</sup> UNITED NATIONS, 2022, p. 35.

<sup>41</sup> THOMPSON / SNIDAL, 2009, p. 711.

## 2. Emergence of TIOs

As mentioned above, this analysis claims that considering the existence dates, existence reasons, and whether the emergence occurred gradually, one main type of IOs are technical. This means that technical IOs emerged depending on different dates, on different reasons, and gradually.

In fact, this distinction is implicitly existing at the statements such as “the initial forms of IOs can be traced back to the 19<sup>th</sup> century, IOs actually got on the stage after WW II.” or “...*Specialized agencies like the ILO, ICAO, and FAO play key roles in technical issue areas.*”<sup>42</sup> So, it is clear that TIOs indicate to the IOs, which concern solely technological issues like telegraph and radio.

About the date criterion, it seems clear that the first instances of TIOs occurred at 19<sup>th</sup> century. Because it is the first time in the world history that some kind of technical development, namely telegraph, that requires cooperation among states physically spread all over the world, or at least to a greater part of it, and reached to a level requiring merger of all regional organizations into a global scale organization.

About the reasons criterion, this kind of IOs emerges due to the physically spread of technology over the world. Moreover, depending the density and speed of its physical spread, it also requires bilateral or multilateral organizations in a specific region. Then when it becomes worldwide spread the requirement turns to a TIO.

About gradually occurrence criterion, it is natural consequence of physical spread of technology. As mentioned above, while a technology spreads all over the world, it first requires a regional organization, and then at the end it requires a global organization. So, in general TIOs emerges gradually from regional organizations.

In other words, emergence of TIOs is historically parallel to technological developments: "*The early 19<sup>th</sup>-century river commissions of Europe, such as the Central Rhine Commission of 1804 and the European Danube Commission of 1856, which responded to commercial needs to regulate river traffic, constituted the next incremental*

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<sup>42</sup> ABBOTT / SNIDAL, 1998, p. 4.

*step towards more permanent modes of international cooperation. Later still, international public administrative unions, such as the Universal Telegraphic Union (1865), the General Postal Union (1874), the International Bureau of Industrial Property (1883), and the International Union of Railway Freight Transportation (1890)—driven by the need for common approaches to problems of commerce, communication, and transportation—make their appearance, contributing in their wake the idea that these needs can be better filled through the creation of permanent secretariats but still involving only periodic, not permanent, meetings of representatives of member states and usually, but not always, requiring unanimous agreement for taking action. Not much later, the Versailles Treaty at the end of World War I, from which sprang the League of Nations—the forerunner of today’s United Nations—becomes the progenitor of the modern ‘universal’ international organization.”<sup>43</sup>*

Especially history of The International Telecommunication Union provides a particular example for the gradually emergence of TIOs: First public message over a telegraph line was sent on 24 May 1844 by Samuel Morse. This event deemed as the beginning of the telecommunication age. Approximately ten years later, telegraphy was available for the majority of the community but limited to national borders because each country was using a different system. This difference was requiring transcription, translation, and re-transmitting in order to communicate among countries via telegraphy. This disadvantage forced many countries to make bilateral or regional agreements with many other countries about synchronization their systems and by 1864 there were several regional conventions<sup>44</sup>. Finally, in 1865, 20 European States developed a framework

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<sup>43</sup> ALVAREZ,2006, p. 18.

<sup>44</sup> At this point one may argue that this is close to the transaction cost approach which is rejected in the previous sections of this study. However, it seems that, the necessity that forced the states to make bilateral or regional agreements or establishing ITU derives from the need for accelerating communication, rather than the need for reducing the transaction costs of communication. Moreover, as it is mentioned above, this study argues that transaction cost may only be a consequence or benefit of existence of IOs rather than a reason for emergence of IOs. Thus, probably, making regional agreements or establishing of ITU reduced transaction costs of communication via telegraph, however, it does not seem as an intended reason considered by states in the establishing of ITU.

agreement covering international interconnection and The International Telecommunication Union was established.<sup>45</sup>

On the other hand, ILO is an important IO that is hard to determine whether it is a TIO or an NTIO. In fact, it seems like an NTIO at first glance. However, considering some examples of improvement areas listed in the Preamble that also deemed as “relevant today”<sup>46</sup> easily puts forth that it is established to solve technical issues about labor force as a production source.

Another evidence for this assumption is the source of the idea about an international organization deals with labor issues. “*The Constitution contained ideas tested within the International Association for Labour Legislation, founded in Basel in 1901. Advocacy for an international organization dealing with labour issues began in the nineteenth century, led by two industrialists, Robert Owen (1771-1853) of Wales and Daniel Legrand (1783-1859) of France.*”<sup>47</sup> A natural expectation from two industrialists lived in early 19<sup>th</sup> century is probably to focus needs of industry regarding regulation of labor, rather than to provide a solution to the transaction costs of sovereign states, or establish cooperation between states, and the like. So, considering the source of the idea about an IO dealing with labor issues reflects technical needs, ILO seems to be a TIO rather than an NTIO.

### 3. Emergence of NTIOs

Considering abovementioned distinction of IOs, it is clear that this study argues that IOs other than TIOs, namely NTIOs, have different existence date, and reasons than TIOs. Moreover, NTIOs are constructed non-gradually at a global scale, whereas TIOs constructed gradually.

However, it is important that the emergence of TIOs is a natural process, whereas the emergence of NTIOs is a deliberate one. So, this deliberation requires some other

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<sup>45</sup> INTERNATIONAL TELECOMMUNICATION UNION (ITU), **Overview of ITU's History**, 2013. <http://www.itu.int/en/history/Pages/ITUsHistory.aspx> (Accessed 09.13.2022).

<sup>46</sup> INTERNATIONAL LABOR ORGANIZATION (ILO), **ILO Origins and History**, 2013. <http://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm> (Accessed 09.13.2022).

<sup>47</sup> ILO, **2013**.

factors. First factor is naturally an explicit will to take necessary actions through the deliberated process. Second factor is obviously a power that is sufficient to take necessary actions. Considering that establishing NTIOs is a matter of global scale, it comes out that such a will and power requires world hegemony. So, hegemony appears as a key factor of alternative analysis and it seems proper to explain what does hegemony in this study mean. The concept is developed by Antonio Gramsci and "*Gramsci defines hegemony as power reached by a combination of force and consent. Power cannot be reached only by brute force; it needs to be imposed by individuals that voluntarily accept government.*"<sup>48</sup> Moreover, it is used in more extended content: "*We have to start in 1945 when the U.S. became hegemonic, really hegemonic. What does hegemony in this context mean? It means that the U.S. nation-state was so much the strongest; it had an economic capability so far ahead of anybody else in the world as of 1945, that it could undersell anyone in their own home markets. The United States had a military strength that was unparalleled. As a consequence, it had an ability to create formidable alliances, NATO, the U.S.–Japan Defense Pact, and so on. At the same time the United States, as the hegemonic power, became culturally the center of the world. New York became the center of high culture and American popular culture went on its march throughout the world.*"<sup>49</sup>

This study uses the term hegemonic in the meaning that includes both definitions mentioned above. On the one hand it includes not only military or economic power but also cultural influence power. On the other hand, the US's hegemony is not implied depending on brute force, but it was imposed by voluntarily acceptance of individuals and governments.

This acceptance mostly derives from the increasing importance of science among perception of individuals. As a consequence of WW II, science was accepted as neutral and the US was the prominent source of scientific knowledge: "*During the late war years, from 1943 to 1945, a continuing collaboration between the key players in the anti-Fascist*

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<sup>48</sup> MATTEI, Ugo, "A Theory of Imperial Law: A Study on U.S. Hegemony and the Latin Resistance", **Indiana Journal of Global Legal Studies**, Year: 2003, Volume: 10, No. 1, (p. 383-448), p. 387.

<sup>49</sup> WALLERSTEIN, Immanuel, "U.S. Weakness and the Struggle for Hegemony." **Monthly Review**, Year: 2003, Volume : 55, No: 3. <https://monthlyreview.org/2003/07/01/u-s-weakness-and-the-struggle-for-hegemony/> (Accessed 09.13.2022).

*alliance seemed assured. When the war ended with mushroom clouds over Hiroshima and Nagasaki, it was blindingly obvious that scientific development would play a critical role in the future of nations. Scientists had played an essential role in the war effort; now many hoped to do the same for keeping the peace. Science was understood to be neutral while at the same time promoting progress. For many scientists, international cooperation represented a means of not only continuing their anti-Fascist commitment but also preventing the destructive use of science in the post-war era."*<sup>50</sup>

About the date criterion, WW II provides basics of analysis. As it is mentioned above, NTIOs got onto the stage after WW II, and it is also the same time that the US acquired the hegemonic lead.<sup>51</sup>

About the reason criterion, NTIOs are created by the deliberate action of the US: *"The United Nations was mainly an American idea, and its structure today closely follows the plans prepared by American Diplomats during World War II."*<sup>52</sup> But what is the source of this idea?

This study claims that the source of this idea is a new governmental understanding shaped through the colonial period of the New World. It includes American Federalism however is not limited to it. It consists of all other factors such as cultural, social, economic, and legal that may affect the understanding of governing. However, exploration of the foundations and the characteristics of this governmental understanding fall out of the scope of this study. Thus, only related aspects of this governmental understanding will be mentioned in this study.

One of the essential components of this new governmental understanding is explicitly embedded into the US Constitution about the formulation of solution to combating special interest: *"Constitutional procedures can make democracy more inclusive by directing policy toward the public good of the community as a whole, rather*

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<sup>50</sup> PETITJEAN, Patrick, "Introduction, Visions and Revisions, Defining UNESCO's Scientific Culture, 1945–1965", in **Sixty Years of Science at UNESCO 1945-2005**, by Brian Smith, Bruno de Padirac, Gail Archibald Jake Lamar, UNESCO Publishing, 2006, (p 29-35), p. 29.

<sup>51</sup> WALLERSTEIN, 2003, p. 1.

<sup>52</sup> MEISLER, Stanley, **United Nations: The First Fifty Years**, Atlantic Monthly Press, New York, 1995, p. 3.



*than the special interests of particular factions. James Madison's solution to the problem of faction, embodied in the United States Constitution, was to establish representative government within an "extended republic" encompassing a much larger territory and a greater variety of interests: "Extend the sphere, and you take in a greater variety of parties and interests; you make it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other."*<sup>53</sup>

This study argues that this strategy stated clearly by James Madison and embodied in the US Constitution is the substance reason for emergence of NTIOs, and its formal appearance occurred by adaptation of US's federalism to the international realm by the help of US's hegemonic power as an implementation tool.

About the gradually occurrence criterion, it is clear that emergence of NTIOs did not occur gradually, instead NTIOs are constructed directly at global scale. However, such a big achievement became possible by the long accumulated experience of the US's governmental history: *"The United Nations was mainly an American idea, and its structure today closely follows the plans prepared by American Diplomats during World War II. Even before the United States entered the war, President Roosevelt had asked Secretary of State Cordell Hull to set up a State Department team of planners for peace. Roosevelt himself talked often of the need for "Four Policemen" – the United States, the Soviet Union, Britain, and China – to order the postwar world. The policemen would operate out of a station house run by an international organization, but it would be the strength and unity of the policemen that gave that organization its vitality. He did not mind fitting his scheme into the framework of some kind of League of Nations, but he envisioned a league of awesome power.*<sup>54</sup>

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<sup>53</sup> KEOHANE, Robert O. / MACEDO, Stephen, / MORAVCSIK, Andrew. "Democracy-Enhancing Multilateralism", **International Organization**, Year: 2009, Volume: 63, (p. 1-31), p. 6-7.

<sup>54</sup> MEISLER, 1995, p. 3.

#### 4. Distinction of the Analysis from Similar Approaches

There are two approaches that are similar to the alternative analysis, namely functionalist theory and transnational federalism.

The functionalist theory is similar to the alternative analysis in using technology as a reason for emergence of IOs: *"Despite the failure of the League, the concern for international organizations carried through World War II, although it was significantly changed by David Mitrany's ([1943] 1966) 'functionalist' theory. Technological advancements and the desire to promote welfare concerns were seen as creating a need for interstate cooperation that required both international governmental organizations and non-governmental organizations to manage the necessary technical cooperation. The theory further emphasized the important role of professionals within those formal organizations in effecting international cooperation. 'Neofunctionalism' extended this argument by suggesting that successful collaboration in one area would increase the benefits of cooperation in related areas, and generate joint pressure from domestic interest groups and international officials to extend the realm of cooperation. This 'spillover' would then provide the motor for broad international, and especially regional, integration, as exemplified by the development of the European Community. Although this body of literature never took off, it represented an important move away from description towards a theoretical analysis whose ideas continue to be echoed in contemporary discussions."*<sup>55</sup>

Although the functionalist theory and this study mentions about the importance of technological developments, there is a big difference in general acceptance of two approaches. Functionalist theory explicitly puts the technological advancements to the base of both TIOs and NTIOs, but this study claims that it is only applicable to TIOs. So, it is not possible to deem alternative analysis as wholly functionalist.

Another approach similar to the alternative analysis is transnational federalism: *"(W)ith the emergence of institutionalized cooperation in international relations, i.e. the founding of international organizations, and more importantly, with the advent of*

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<sup>55</sup> THOMPSON / SNIDAL, 2009, p. 700. (internal citations omitted)

*supranational organizations after World War II, the concept of federalism was increasingly stripped of its state-centeredness. The debate over the status of states and their sovereignty as members of these new organizations is still rampant, but it no longer dominates the scene. Rather, the focus of interest has shifted to the interpretation of federalism as an international and national formative principle, as a functional-organizational and structural principle. Today, there appears to be no principal methodological or doctrinal objection to applying the concept of federalism to the levels beyond the state. In fact, there are increasing attempts to use the concept of federalism in developing models of transnational governance by which the exercise of public authority beyond the state could be made more transparent, more rule-of-law based, and even more democratically legitimate. ... In summary, the foregoing analysis suggests that the present international system has several elements of federalism in common with state-centered federal systems. The decisive difference between the two is that transnational federalism is a process, not a predetermined, fixed, and territorialized form of a political community. Transnational federalism is an open-ended structural and functional way of governance commensurate to the challenges posed by the equally dynamic process of globalization."*<sup>56</sup>

Although the transnational federalism approach and this study mentions about the importance of federalism, there are important differences in general acceptance of two approaches. First of all, the transnational federalism approach denies the state centric understanding of federalism; whereas this study claims that emergence of NTIOs is adoption of the US's state centric federalism to international realm. Second, the transnational federalism approach uses federalism to provide proper future forms to the IOs whereas this study uses it to explain the emergence of NTIOs. As a third difference, the transnational federalism approach has no distinction of IOs; whereas this study claims that federalism is emergence reason of only NTIOs. Fourth, transnational federalism is a way of governance about challenges of globalization so globalism is prior to transnational

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<sup>56</sup> DELBRÜCK, Jost, "Transnational Federalism: Problems and Prospects of Allocating Public Authority Beyond the State", **Indiana Journal of Global Legal Studies**, Year: 2004, Volume: 11, No: 1, (p. 31-55), p. 47-48, 55.

federalism, whereas this study claims that federalism is base form for NTIOs so it is prior to globalism. So, the alternative analysis differs from transnational federalism approach.

## **B. Verification of the Analysis by Further Issues**

There are many issues that can be useful to verify the alternative analysis and such verification may provide to put forth the alternative analysis in a more comprehensive manner.

### **1. Historical Comparison Among Hegemons**

One of the assumptions of this study is that the general understanding of the governing among states all over the world is affected by the understanding and implementations of the hegemon of the time. So, the period after the end of WW II reflects the general governmental understandings of the US; whereas the period before the WW II reflects the general governmental understandings of United Kingdom [herein after UK]. In this context, as there were neither a concept of superior authority independent from territory nor the extension of the territory or actors for the combating special interest in the UK's governmental understanding, NTIOs couldn't emerged at the hegemony period of UK.

This argument becomes almost concrete at the events occurred between WW I and WW II because it is the period that the hegemony was changing hand but it is fully controlled by neither UK nor the US. So, this period reflects a hegemon in tension between two participants with different general understandings. The establishment and failure of League of Nations is the best example of this tension: *"Though President Woodrow Wilson was its chief proponent, the United States never joined the League. Due largely to the lack of US participation, the organization never lived up to its promise... ..the League of Nations... It suffered from a relative neglect of the actual incentives of states, including their reluctance to transfer sovereignty to federal or supranational organizations."*<sup>57</sup>

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<sup>57</sup> THOMPSON / SNIDAL, 2009, p. 695-699.

On the other hand, when the hegemony was clearly at the US, UK provided required support to UN once she denied providing to League of Nations: *"Winston Churchill, fearful of the postwar machinations of Joseph Stalin, was more concerned with molding a West European-American alliance to balance the power of the Soviet Union. He derided the Americans for setting off on the wrong track. He also suspected the American visionaries of plotting the dismemberment of the British Empire. Undersecretary of State Sumner Welles, after all, had told a Memorial Day audience in 1942, "The age of imperialism is ended." Churchill did not see the point of the early American planning. ... But Churchill did not intend to antagonize Roosevelt. While Churchill looked on the early American planning as naïve and premature, he and his diplomats went along, humoring the Americans they needed so desperately as allies."*<sup>58</sup>

However, in the aftermath of WW II the participation of hegemony by the US and USSR did not cause such a traversal consequence, because the governmental understanding of both states was similar in formal structure. This issue is evaluated in a separate title in the previous pages.

## **2. Unsuccessful First Attempts**

Although NTIOs got on the stage after WW II, there are prior attempts of establishing NTIOs. However, these prior attempts were unsuccessful in achieving their functions properly. It is claimed here that these unsuccessful attempts support the alternative analysis in two points. First point is about the assumption that the idea of NTIOs derived from the US's governmental understanding. Second point is about the required power support to establish NTIOs is at hegemonic level, thus the US was not able to support because she was not the hegemon yet.

The most apparent example of such attempts is League of Nations as it is evaluated under previous title. *"Though President Woodrow Wilson was its chief proponent, the United States never joined the League. Due largely to the lack of US participation, the organization never lived up to its promise."*<sup>59</sup>

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<sup>58</sup> MEISLER, 1995, p. 3.

<sup>59</sup> THOMPSON / SNIDAL, 2009, p. 695.

Another example of such kind of attempts is the Hague Conference. The importance of the Conference is the adoption of the Convention for the Pacific Settlement of International Disputes. However, this convention also derived from the US's governmental understanding: *"A panel of arbitrators was established with the intention of making their services available on a regular basis and the First Conference adopted a Convention for the Pacific Settlement of International Disputes. Precedents for such moves can be found in the Alabama Case (1871), when Britain and the USA settled a dispute by arbitration rather than conflict; the Pan-American Conference of 1889, at which seventeen North American and Latin American states tried to establish an arbitration tribunal for disputes but ended up with an agreement on ad hoc tribunals; and the Anglo-American Arbitration Treaty negotiated in 1897. The latter two attempts were not very successful: the Pan-American agreement was signed by eleven states and only ratified by one; the Arbitration Treaty was subject to stringent British reservations and failed to obtain the approval of the US Senate."*<sup>60</sup>

So, it seems clear that the idea of NTIOs either before or after WW II is derived from the US's governmental culture and couldn't be successful until it got the US's hegemonic support.

### **3. Why WW II is a Landmark?**

As it is known WW II is generally accepted as a landmark about emergence of NTIOs. However, mainstream analysis answers the question "why it is a landmark" by the statements regarding the social cataclysm after the WW II, and the like. However, this study argues that WW II is a landmark about emergence of NTIOs because it is the time that the US became clearly the hegemon and so be able to support the establishing of NTIOs. *"The United States, at the peak of its hegemony, sponsored numerous IOs, including GATT, IMF, and NATO; these organizations have provided" continuing utility . . . as instruments ... for regime and rule creation.*"<sup>61</sup>

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<sup>60</sup> THOMPSON / SNIDAL, 2009, p. 9.

<sup>61</sup> ABBOTT/ SNIDAL, 1998, p. 8. (internal citations omitted)

#### 4. The Hegemony of the US and the Power of USSR

Throughout this study it is stated that after WW II the US became clearly the hegemon. However, WW II was a turning point also for USSR and actually it was the other hegemon of the bipolar world but it was the “...*model of a modern repressive hegemony*”.<sup>62</sup>

On the other hand; *"Stalin's postwar vision was closer to that of Churchill than Roosevelt. He intended to conquer an Eastern European buffer belt that would protect the Soviet Union from any future German or other European aggression. Since Roosevelt's vision of Four Policemen leading a universal peacekeeping organization did not seem to clash with his postwar plans, Stalin accepted it. "I think Stalin, with all his nastiness, scheming and beastliness with regard to his own people" says Russian historian Henry A. Trofimenko, "was serious about that ... He was quite prepared to police the world together with the United States, conveniently picking up in the process some neglected chunks of land." Stalin just wanted to make sure this new organization did not isolate him.*"<sup>63</sup>

But why Stalin accepted Roosevelt's vision? This study argues that one of the reasons of this acceptance may be the formal similarity of the US's and USSR's understandings of government<sup>64</sup>.

As mentioned before the difference of the US's governmental understanding appears on the James Madison's solution to the problem of faction. On the other hand, not the substantial but the formal consequences of this understanding, namely federation, overlapped with the form of USSR's governmental understanding. So, since Roosevelt's vision was adaptation of this formal structure to the global scale, this similarity may be

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<sup>62</sup> ABBOTT/ SNIDAL, 1998, p. 8.

<sup>63</sup> MEISLER, 1995, p. 4.

<sup>64</sup> It has to be emphasized that, this part of the study tries to evaluate why USSR did not avoid form involving in a global system that was mostly designed by the US. Thus, it seems proper to state that one of the reasons for this conduct of USSR may be the formal similarity of the US's and USSR's understandings of government. However, this study does not claim that the US and USSR are together intended to establish or design such a system. Instead, if USSR had not accepted to involve to the new order, for example to the UN, and established its own system, then no global IOs may be existed. In such a case, for example, the UN may be only a regional IO. Therefore, after the collapse of USSR the international system did not collapse, in contrast there occurred a proliferation that will be evaluated below.

an important factor and familiar implementation that motivated Stalin to accept Roosevelt's vision.

Although this similarity seems helped to the establishment of NTIOs, it was neither sufficient to ensure their functioning in a desired level nor strong enough to prevent ideological conflicts: *"From a practical perspective, IOs have not always lived up to the high expectations they have raised. This was true with the League of Nations in the 1930s and with the United Nations by the 1970s when the General Assembly and various UN agencies seemed to have become little more than forums for ideological debate (between North and South and between East and West). In the 1980s the UN system faced open hostility from the United States, its most powerful member."*<sup>65</sup>

However, NTIOs used by both the US and USSR and accepted as useful even to them: *"We accept the realist point that states are jealous of their power and deeply concerned with the distributive consequences of their interactions. Yet, realists underestimate the utility of IOs, even to the powerful. The United States, at the peak of its hegemony, sponsored numerous IOs, including GATT, IMF, and NATO; these organizations have provided "continuing utility ... as instruments ... for regime and rule creation". Even the Soviet Union, the very model of a modern repressive hegemony, used the Council for Mutual Economic Assistance to organize economic relations within the eastern bloc."*<sup>66</sup>

On the other hand, when the interests of two hegemons, namely the US and USSR, were same the NTIOs functioned well. However, if there was a conflict of interests then NTIOs failed to function properly. International criminal tribunals are proper examples for this. At the Nuremberg Trials the interests of two hegemons were same so it functioned well, however, later these interests conflicted so criminal tribunes did not function properly: *"Many experts say that Nuremberg's most important legacy was to*

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<sup>65</sup> THOMPSON / SNIDAL, 2009, p. 700.

<sup>66</sup> ABBOTT / SNIDAL, 1998, p. 8. (internal citations omitted)



*recognize crimes against humanity”<sup>67</sup>, but, “The use of international criminal tribunals fell into desuetude during the Cold War.”<sup>68</sup>*

## 5. The Proliferation at 1990’s

It is accepted that 1990’s is a period of time that a proliferation occurred in the establishing of NTIOs: *“NAFTA and the WTO were both treaties of the 1990s, an era that witnessed an explosion of international conferences (or circuses, depending on your viewpoint) and produced many new treaties, resolutions, and “outcome documents.” These texts contained rules and norms that often touched on or overlapped with rules and norms already in existence. As early as 1992, legal scholars warned of the growing problem of “treaty congestion”.*”<sup>69</sup>

This study argues that the proliferation occurred due to a shortfall in the implementation of Madison’s solution to the problem of faction into the international realm. This shortfall is about the coercion aspect of this strategy. As mentioned above this strategy depends on extending the sphere in order to take in a greater variety of parties and interests. So, it becomes *“less probable that a majority of the whole will have a common motive to invade the rights of other states; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other.”*<sup>70</sup> This strategy works well when all parties voluntarily involve in the sphere. However, if the parties refuse to involve in the sphere, they establish their own sphere as an opponent to the first one.

In fact, this is exactly what happened before the US Civil War, namely two “United States” as opponents. The solution of this problem is using coercion, or war as its classic name in world history. By using coercion all parties gather under one sphere. However, this may be a solution to a regional scale problem but is it possible to use

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<sup>67</sup> EHRENFREUND, Norbert, **The Nuremberg Legacy**, Palgrave Macmillan, New York, 2007, p. 216.

<sup>68</sup> SIMMONS, Beth A. / DANNER, Allison. "Credible Commitments and the International Criminal Court", **International Organization**, Year: Spring 2010, Volume: 64, (p. 225-256), p. 228.

<sup>69</sup> RAUSTIALA, Kal, "Institutional Proliferation and the International Legal Order", in **Interdisciplinary Perspectives on International Law and International Relations: The State of the Art**, by eds Dunoff and Pollack, Cambridge: UCLA School of Law Research Paper No. 12, 2012, (p. 293-320), p. 298.

<sup>70</sup> KEOHANE / MACEDEO / MORAVCSIK, 2009, p. 6-7.

coercion in global scale? Actually, the answer seems negative due to the many reasons. One reason may be that the power balance among international area prevents it, like it happened during the Cold War. Another reason may be that the economic volume of such a worldwide coercion extremely exceed any individual state's capacity, even it is the hegemon.

So, it can be claimed that after the collapse of the USSR, the states under the influence sphere of USSR throw off the repressive authority and the number of the states in the sphere increased.<sup>71</sup> But the disappeared bipolarity brought an undisciplined environment. So, *“(T)he 1990s proved a propitious time to resurrect the idea. The end of the Cold War had reinvigorated the search for multilateral solutions to transnational problems, and establishing courts became a popular strategy.”*<sup>72</sup>

### **SELF-CRITIQUE OF THE ANALYSIS AND CONCLUSION**

This study recognizes that the alternative analysis needs to be developed in several dimensions by further studies. However, such kind of studies exceeds limits of this study. Nevertheless, it seems proper to put forth the dimensions that need further studies as a self-critique of the analysis.

One important issue about the analysis is its assumptions about the US's governmental understanding. Actually, it seems that the said governmental understanding is not exclusive to the US, but it includes also all colonial areas especially Latin America. This study did not include the Latin American experiences about IOs; however, a more accurate analysis requires these experiences to be included but such a task exceeds limits of this study. So, the assumption about foundations of the new governmental understanding requires a further study.

On the other hand, throughout the study the term “governmental understanding” played a key role. As it is mentioned above, it consists of all factors such as cultural,

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<sup>71</sup> RAUSTIALA, 2012, p. 307.

<sup>72</sup> SIMMONS / DANNER, 2010, p. 228.

social, economic, and legal that may affect the understanding of governing and it also includes related concepts like federalism. It is important to point out that this new governmental understanding's influence is not limited to the emergence of NTIOs. It also influenced cultural, social, economic, and many other aspects of both international and national realms. A striking example to this influence is the establishment of public administration centers in almost all over the world by the technical assistance agreements between UN and several states.<sup>73</sup> However, throughout this study, only one of the essential components of this new governmental understanding is explored, namely Madison's solution to the problem of faction, and it is argued that this is the substance reason of emergence of NTIOs, whereas the federalism is the formal appearance, and hegemony is the tool for implementation. Besides, it is clear that examining the other aspects of this understanding is irrelevant to this study and requires a further study.

Moreover, this study assumed that the New World's governmental understanding differs from the Old World's understanding. However, this assumption requires to be grounded by a comparison of the New World's governmental understanding with Old World's similar concepts like federalism, the authority of the Pope, and the governmental understanding of the Holy Roman Empire.

One other issue is about the ancient Greek forms of IOs. It seems that a comparison on emergence of ancient IOs with modern ones may contribute to the alternative analysis. However, such kind of comparison would be so comprehensive and falls out of the scope of this study.

Consequently, according to main stream approach, emergence of IO's occurred due to some idealistic factors, such as cataclysm of WWII, awareness of coexistence problems, recognition of need for new means to regulate international relations. In contrary, this study states that emergence of IO's should be evaluated by a classification depending on being technical or not. Considering this classification through historical facts, it appears that TIO's emerged gradually due to necessities of technical

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<sup>73</sup> UNITED NATIONS DEPARTMENT OF ECONOMIC AND SOCIAL AFFAIRS (UN DESA), **Contribution of the United Nations to the Improvement of Public Administration**, New York, 2008, p. 47-48.

developments, whereas, NTIO's emerged non-gradually due to intended effort of the USA through its governmental understanding and supported by the hegemonic power of it.<sup>74</sup>

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<sup>74</sup> It has to be emphasized that, this study does not claim that after WW II the whole world order designed solely according to the US's governmental understanding. In fact, after WW II two new blocs, namely Eastern Bloc and Western Bloc, emerged respectively around the USSR and the US. Eastern Bloc mostly designed by the USSR, whereas Western Bloc was mostly designed by the US. Moreover, there are other internal and external factors that also affected the design of these blocs. However, as this study focuses on the main designing factor of Western Bloc, determining other factors and analysis of Eastern Bloc exceeds limits of this study.

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