



LIAISON OF ASYMMETRIC NATURE OF TERRORISM WITH MODERN GLOBALIZATION PROCESS

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Summary

The international legal factors of asymmetries in the international economic law as a cause of the spread of the phenomenon of terrorism are analyzed in the article. International Economic Law really does not meet the challenges of international economic relations the subject of its direct control. The main objects of rule-making and enforcement efforts in international law have been and remain performers and members of armed conflict. While the causes of such conflicts and aggravation (asymmetry of international economic relations caused by disregard of international economic law, activities of TNCs, failure of fundamental principles of international law, which are intended to establish a fair international economic order) remain to be outside the legal field.

Key words: international economic law, international economic relations, globalization, armed conflict, terrorism.

Аннотация

В статье анализируется явление асимметрии в международном экономическом праве как фактор распространения феномена глобального терроризма. Современное международное экономическое право не способно отвечать на вызовы международных экономических отношений, которые является непосредственным предметом его (права) регулирования. Основными объектами нормотворчества и правоприменения в области международного экономического права были и остаются исполнители террористических актов. В то же время причины возникновения очагов терроризма и обострения социально-экономического фона для возникновения таких очагов (асимметрия в системе международных экономических отношений, вызванная несоблюдением норм международного экономического права, деятельность ТНК, игнорирование основополагающих принципов международного права, которые предназначены для установления справедливого международного экономического порядка) остаются за пределами правового поля.

Ключевые слова: международное экономическое право, международные экономические отношения, глобализация, вооруженный конфликт, терроризм.

Problem formulation. Our world today has entered into the era of globalization. We often hear about “the era of globalization” thus we should ask questions about what “the era of globalization” does really mean and what are the consequences of the globalization processes. Why globalization is a factor of unequal economic exchange, creating asymmetry in international economic relations? How to respond to this asymmetry in international economic law? And the most important question is where the impact of globalization will bring us?

Relevance of the topic is caused by the increasing problem of global terrorism and necessity of searching ways to stop it.

The aim of article research is to study international legal factors of asymmetries in the international economic law as a cause of the spread of the phenomenon of terrorism.

The presentation of the main research material. Globalization means also politicization of the modern world [5, p. 60]. It enables the processes that probably always been present in capitalism, however, while it (capitalism) restrained the social democratic state, they were invisible. The trends observed

in the global economic space are conflictogenic by its nature. In particular, large companies, especially those scale of which can be described as “global”, international, play an advanced role in organizing the economy and society as a whole, as they can (and successfully do it) deprive society of its material resources (capital, jobs).

Some scientists understand the processes of globalization as the institutionalization of modern market [7, p. 97]. There is a process of market restructuring, and aggravated distribution of power and inequality between people. At the same time increasing asymmetry and contradictions in the world system produce global conflict. Currently time we are witnessing a new economic space – the space of the global market.

Other scientists, speaking about globalization, tell about the fact that humanity has survived a century of international politics when states dominated on the international arena [3, p. 17]. Now the era of post international policy has come when public authorities should share the global arena with the power of international organizations, transnational corporations, political movements [2, p. 98].

Polarization is observed in the global system and, therefore, we observe increasing and worsening of conflicts, as the world system generates incredible wealth, but also an incredible poverty at the same time. These processes are such that polarize the world and produce protest moods and asymmetry in the world system. Such asymmetry in the world economy stands as a determinant of aggravation of the socio-political situation in the most vulnerable regions. Social tensions in most vulnerable regions, therefore, finds its extreme expression in the protests, including armed conflicts and acts of terrorism.

It is important that these transitions occur within the norms of international economic law, which is not able to respond to the changes in the international economic relations.

International law (UN Charter) determines the state to be the main subjects of international law and ignores the fact that in modern international economic relations will and legal powers of states are limited by large multinationals who being de facto subjects of international economic relations, are not legally embodied as the subjects of international economic law.



Today the main result of globalization is that states more than ever are tied together. Globalization has arisen under certain conditions in international politics, it is a consequence of such relations between states, that allow creating, developing and maintaining relationships outside national public authorities [1, p. 346].

International law promotes convergence of states and puts this process on the purpose. The Charter of Economic Rights and Duties of States, a document which was intended to form international framework for regulating economic relations of modern states, tells, *inter alia*, that the United Nations General Assembly takes note of “the need to create conditions that would achieve further expansion of trade and intensify economic cooperation between states” [11].

Today, this cooperation is the key not only to good relations between states, but in fact – to the existence of states. It is believed that the world economy is one of the most important phenomena of our time, which affects the development of our civilization [6, p. 111].

One of the negative consequences of globalization is growing differences in development between rich and poor countries. “Asymmetry that exists in relation to the degree of regulation of services in different countries, the special needs of developing countries for the implementation of <...> law, namely <...> a system of principles and rules for trade in services with a view to expanding such trade to the conditions of transparency and progressive liberalization and as a means of economic growth of all trading partners and the development of developing countries” – is recognized by the World Trade Organization in the Preamble of the General Agreement on Trade in Services [8]. The mechanism to overcome this asymmetry is contained in WTO documents, but it is apparently ineffective, because in practice it (asymmetry) exists and progresses.

International law declares the principles of equality between states, but they exist only *de jure*, while *de facto* principles are not working. United Nations General Assembly at its 39 session in resolution “Strengthening of trust in international relations” announced its belief that “sustainable global development is impossible

without improving the economic situation in developing countries, which also depends on the restructuring of international financial and trading system and the consolidation of trust among all countries and their economic relations” [10]. However, the world economy, the financial system today are equipped so that improvement of economic situation in developing countries is not happening. The deterioration of social and economic development levels and the constant and growing deterioration of living standards creates conditions for the emergence and escalation of armed conflict in which terrorist segment is growing.

The asymmetry in international economic relations emerged through large-scale development of transnational production (transnational corporations) is a new era of production, which is not effectively regulated by international law.

Because of globalization process increases economic factor of unequal exchange, criminal activities of TNCs which creates asymmetry in international economic relations, that finds its utmost expression in protest movements and terrorist crimes.

The asymmetry in international economic relations is manifested in the fact that on the one hand there is economic growth, technological development and social progress, but on the other hand such transnationalization of production limits the sovereignty of the state in which there are major divisions of multinationals which have their headquarters in United States, Japan and other major industrialized countries.

Corporations act according to their interests, ignoring the needs and policies of receiving states and repatriating earnings, refusing to reinvest them. This leads to the impoverishment of economies, depletion of potential of local labor sources and natural resources. Often, within existing norms of international economic law, multinationals close its subsidiaries and production is transferred to more favorable economic environment. Such actions usually lead to sharp changes in the economic situation in the area, to poverty and outflows or terminates the funding. Hence unemployment, social insecurity of the population that is the cause of protests, strikes, general dissatisfaction of the population, which in turn provides a fertile ground for the emergence of social

tension, resulting in armed conflicts, including terrorism.

International law is actually not responding to such asymmetry and is not objectively able to do so in the absence of the required standards.

In theory, international law has no clear opinion on whether multinationals are considered as subjects of international law. Post-Soviet school of international law is inclined to think that the state is the only and full subject of international law. However, it is today the main actors of international life (the states) are the subject to harassment made by transnational corporations. It most often occurs in the plane of relations: a poor country is a subsidiary of the transnational giant.

In modern conditions of strengthening international order, transnational’s status must be resolved from a legal point of view. The problem here is the specificity of the TNC, the essence of which is to ensure that TNCs do not fall under the jurisdiction of individual countries respectively, the activities of TNCs can’t be regulated by national law, as subsidiaries of the latter may be scattered around the world. Departments multinationals, which are typically separate legal entities are subject to the domestic law of those states where they are. However, the activities of transnational corporations because of their organizational structure is not subject to legal regulation of individual states and therefore is not governed by international private law. The point of view of scientists that “the national government has the necessary funds to influence all the activities of modern TNCs, since their operations beyond its competence and, in addition, TNCs often have a much greater economic power than the individual states” is correct [9, p. 60].

Among international legal acts regulating the activities of TNCs as special subjects of international law, integrated regulation of various aspects of such corporations is provided by the Policies for multinational companies – the addition to the Declaration on International Investment and Multinational Enterprises 1976 (as amended 2000) which was adopted in the OECD. However, the said document is not universal. A Code of Conduct for TNCs developed within the UN, including the remaining project, was not adopted. That is, the existing



regulations of international law are only declaratory in nature is lack of the mechanism for implementing legal norms.

In 2003, the Commission on Human Rights approved the draft of Convention "Norms of responsibility of transnational corporations", which relied on TNCs the same obligations as on the state. Under the Convention, corporations should refrain from environmental pollution and human rights violations and follow the rules of fair business. But as of today the project has not received a legally binding convention as international legal document.

Therefore, the activities of transnational corporations partly flows outside regulation of international private and public international law.

The problem that has arisen today in international law is that – International Law doesn't see the economic component of armed conflicts and acts of terrorism. Terrorist result of social conflicts between developed countries and the countries of the so-called third world caused by globalization of economic processes and their consequences (activities of transnational corporations outside the legal field) is an expression of the asymmetric system of modern international economic relations [4, p. 290].

Conclusion. International Economic Law really does not meet the challenges of international economic relations is the subject of its direct control. The main objects of rule-making and enforcement efforts in international law have been and remain performers and members of armed conflict. While the causes of such conflicts and aggravation (asymmetry of international economic relations caused by disregard of international economic law, activities of TNCs, failure of fundamental principles of international law, which are intended to establish a fair international economic order) remain to be outside the legal field.

The solution to these problems by legal instruments, namely through international economic law, is seen, above all, with the completion and adoption of the Code of Conduct for TNCs with the resolution of General Assembly. However, this is only half of the way. The part of the complex problem of low efficiency (of regulation modern economic relations by international economic law) is declarative nature of

the provisions of the international law main sources. That is, even the adoption of the UN Resolution Code will not ensure observance of its provisions. Effective would be the working out and adoption of the Declaration on the Rights and Duties of States in their relations with transnational corporations, as well as the development and adoption of the declaration based on a specific additional agreements that would be legally binding and would be intended to protect those countries, suffering from unregulated activities of TNCs. It appears that only the transformation of existing sources of international economic law in international agreements and compulsory introduction of sanctions for their violation can be a real step towards solving the problem of asymmetric conflict in contemporary international (including economic) relations. Resolving such conflicts by liquidating legal basis for the emergence of social tension, which today is the root cause of outbreaks of protest movements and terrorist crimes is the only possible way.

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