

عولمة

المنظمات الاقتصادية الدولية وتأثيرها في الأقطار النامية

رسالة تقدم بها

معن عبد القادر مصطفى آل زكريا

الى

مجلس كلية القانون في جامعة الموصل

وهي جزء من متطلبات نيل شهادة الماجستير

في القانون العام

بإشراف

الأستاذ الدكتور

عامر عبد الفتاح الجومرد

أستاذ القانون الدولي العام

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المستخلص

لقد أملت التطورات المثيرة التي طالت الاقتصاد الدولي في الخمسين سنة الاخيرة على العالم ، السعي الى خلق كتلتا اقتصادية اقليمية ودولية بقصدين :

الاول - تخفيف القيود التجارية المفروضة - اعتباراً من قبل -

الثاني - تكثيف مجالات التعاون الدولي للحصول على المزيد من المكاسب التجارية -

تخطيطاً من بعد -

بناءً عليه ، يعد تفهم مسار الاقتصاد الدولي - لأجل فهم الواقع العالمي لحركة الاقتصاد- حاجة ملحة ليس عند المختصين بأمور الاقتصاد حسب ، بل عند صانعي القرار السياسي وسواهم ، فضلاً عن المختصين بالقانون الدولي ، وعلى نحو خاص المهتمين بالمنظمات الاقتصادية الدولية .

بيد ان البحث في مكونات الاقتصاد الدولي يقتضي تسليط الأضواء على عناصر اساسية فيه تكوّن النظام الإنساني التاريخي وتحكم تطورات الاقتصاد العالمي ، وهي عناصر السوق العالمية والنظام متعدد الاطراف والمنظومة الرباعية (البنك الدولي WB ، والاتفاقية العامة للتعريفات الكمركية والتجارة GATT ومنظمة التجارة العالمية WTO وصندوق النقد الدولي IMF) الأمر الذي يقود الى التعرف على حقب الصعود والهبوط في مستويات اقتصاد الدول المقسمة الى دول شمال ودول جنوب ، فضلاً عن استشراف مديات تأثير الأبعاد السياسية في التطور الاقتصادي عبر تحليل التفاعلات داخل النظم السياسية ومنها (شكل الدولة الحديثة ، والدولة والعولمة) ، كي تكشف عن مقومات قوة الدولة الحقيقية بوصفها انعكاساً مباشراً لقدرة الدولة على ممارسة نشاطها داخل النظامين الداخلي والدولي بما يحقق مصالحها المباشرة وغير المباشرة في محيط المجتمع الدولي .

ان محاولة جادة لتقييم النظام الدولي الجديد وعموديه - الاقتصاد وظله المنظمات الاقتصادية الدولية - والسياسة وظلها العولمة - وتأثير ذلك في التجارة الدولية ، ومن منظور اقتصادي / قانوني هي - في المحصلة - استقصاء جاد للآثار الإيجابية والآثار السلبية لهذا النظام في ظل العولمة .

تبقى الأدوار التخطيطية والتمويلية والاقتصادية للأخوات الأربع .. المذكورة آنفاً - تمثل تطوراً متقدماً- من وجهة نظر الأيديولوجيا الرأسمالية - كونها تجري تحت إشراف المنظمات الدولية المباشر من جهة ، والتوافق ومتطلبات خطط المراكز القوية في النظام الاقتصادي الدولي من جهة أخرى .

ثم كان لا بد ان تفرض نفسها على المسرح الدولي - الشركات متعددة الجنسية- ليس بوصفها شركات انتاج عملاقة ، او مصارف مالية عظيمة ، او مؤسسات اقتصادية منتشرة عبر اطراف المعمورة الاربعة ، بل كونها مؤسسات تتمتع بقوى اقتصادية هائلة تتخطى الحدود الاقليمية للدول ، وتستطيع السيطرة على حركة رأس المال والاستثمارات في العالم ، فضلاً عن تمتعها بكفاءات انتاج وادارة وتسويق على مستوى عال ، مستندة في ذلك الى ثروة علمية متشعبة وشبكات معقدة من البحث العلمي كما في التطوير التكنولوجي ، مكنها من ان تتحول الى كيانات دولية عملاقة .

بيد ان العلاقة الارتباطية المتبادلة بين (الشركات والعولمة) أيهما كان السبب وأيهما صار النتيجة؟! لا بد ان ينكشف عبر نتائج اختبارية - صار يسيراً الحصول عليها - بوصف العملية مساراً علمياً متصلاً بخط اتجاه وتآثري متصاعد ، ليصل الامر الى ما وصل اليه - بشكل مؤسسات دولية - مهيمنة تحكم العالم اقتصادياً/ تجارياً / مالياً وتسيطر على الانتاج الكوني من المنبع الى المصب ، وتتدخل في اشكال انظمة الحكم في كثير من دول العالم الثالث ، وتساهم في صنع القرار السياسي والاستراتيجي في دول قوية ومتقدمة مثلما نرى في عملية انتخابات الرئاسة الأميركية .

عليه ، فان حقوق دول العالم النامي - وعلى نحو خاص شعوبه - في الحصول على تنمية هادفة من جهة ، واستحقاق مطلوب تحت ظل عدالة دولية في توزيع الثروات - من جهة اخرى - تصبح امراً واجباً يقع على كاهل منظمات الامم المتحدة بعامة (الجمعية العامة ومجلس الامن) والمنظمات الدولية ذات النزعة الاقتصادية بخاصة .

ABSTRACT

Research Method:

The analytical-deductive method has been adopted in this research which drives at expounding the extent of the impact of globalization of the economy in international law (henceforth abbreviated as IL) and the role it plays in activating the mechanisms of economics in IL.

Research Problem:

The research problem may be summarized in the hypothesis-question is globalization playing a positive or negative role in its impact on the economic aspect of IL.

Research Significance:

Various considerations lurk in the background of my choice of the research problem. Central among these considerations is the possibility of providing a final answer to the nature of the role globalization plays in the economic aspect of the IL, and whether it is positive or negative? Another consideration is to determine the magnitude of this impact providing guidelines for the political decision makers in the Third World to think twice before signing contracts to this effect. According, both legal and economic considerations and outcomes of these decisions are considered. Moreover, researchworks of this type may contribute to rekindling the scientific-deductive method in legal studies in general and IL studies in particular.

Scientific Hypotheses:

The problematic of this research rests on two scientific hypotheses.

They are:

First: Globalization has heterogenous effects on international economic system and these effects play a role in the working of international economy particularly in the Third World countries or the developing countries of the South.

Second: Diagnosing such effects assists decision-makers on the legal level in particular in deducing and extrapolating the hierarchy of the provision of IL so as to affect the desirable effects which may contribute to the activation of national economies by way of legal frameworks of the international economic system. This would in the long-run lead to the policization of the relation of the local and the global to the benefit of each.

Research Approach:

Deduction and extrapolation (partial analysis) have been employed by the researcher as a basic foundation for the work, benefiting from documentary sources available as a raw material for this study. And, in order to reach out our objective in probing the very nature of the changes taking place on the international arena, the researcher pursued the following means:

First: Analysis tools have been used in exploring, describing, and comparing the aspect relevant to understanding the actual field performance of the ideologized economic phenomenon of globalization (international economic Organizations) in the context of IL.

Second: Combining the theoretical exposition of the state-of-the arts of the international organizations structures i.e. the nature of world trade

besides the mechanisms of international loan flow on the one hand, and the empirical knowledge of the activities of the four organizations or sister- organizations through their tangible outcomes on the other.

This will benefit the scholars on economy from the vantage point of IL or the researcher in IL economic implications in two respects:

First: Probing the framework founding elements of economic-oriented international organizations which leads to plausible analysis of the shifts in the international economy not from quantity perspective which occupies marginal consideration on our part but from quality perspective which is our central concern in this research. Let alone our search into the role of IL in conferring authenticity to international organizations or with drawing it from them beside tackling the role of the UNsO as a main world concert in the activation of international activities and economic activity in particular.

Second: Spotlighting the role of globalization on the activities of international economic organizations on the one hand, and on the international economic law system including (the line of action of international economic activities and the mechanism of international investment) on the other.

Interesting development of the international economy during the last five decades, and the quest for founding regional and international economic blocs have been oriented towards :

- 1- Relaxing the imposed restriction on trade.
- 2- Streamlining international co-operation with the aim of achieving more economic profits.

While the first point was arbitrarily managed before, the second is international and planned. Accordingly, comprehending the real situation and facts of the movement of international economy and the direction it

takes is more than needful for specialists dealing with economics and for decision-makers both statesmen and politicians besides those interested in IL and international organizations.

After tackling the components of international economy, a light should be shed on the elements which constitute the man's historical state and control at the sometimes the evolution of world economy.

Clearly, these factors or elements are the parameters of international market and multilateral system which centrapetally rotate around the quadruple organ of the World Bank, the GATT, the IMF and WTO. This conduces to look into the modulation of the class-cleft states their ups and downs across economic growth and depression between north and south spheres besides the political dimensions of the economic development.

This is to be achieved by analyzing the interactions within the political systems which include (the form of modern nation-state, the national state and globalization) to find out about real foundations of state power as direct reflection of the state capability of practicing its activities both internally and externally with the aim of fulfilling its both direct and indirect interests on a global level.

Therefore, a serious attempt at evaluating the new world order with its two pillars-economy which works under the umbrella of the international economic organizations, and politics which works under globalization and the impact of this world order on world trade is a novel endeavour towards pointing out the negative and positive impact of this new world order that takes the form of globalization. In this context, the role played by the four sister organization represents a hallmark in these developments particularly when viewed from the vantage-point of capitalist ideology since they are superintended by major international

organizations and receive their directives from the powerful centers in the new world order.

Moreover, multi-national companies which enjoy tremendous capital and have ramifications in all economic domains, impose themselves on the economic arena for they can influence the flow of investments and capital across national borders. They also enjoy optimal productive competence, RD qualifications and top-level administration and marketing capabilities, let alone, their scientific technical and technological support services that are composed of a world-wide network of scientific research centers that provide these multinational giants with information turning them into international massive entities.

However, the reciprocal relation between multinational companies and globalization whosoever was the cause and whose ever will be the results, should become clear through empirical findings that are easy to come to the fore through the normal progression of the process which is structurally interrelated by linear, repetitive and ascending rhythm. This is all-too-evident for this process has its current manifestation in the form of international institutions which govern the world economically, commercially and financially and control the global production from the fountain-head to the outlet. Also, this process controls the political system in many third world countries, let alone its contribution to the strategic and political decision-making process in powerful and advanced countries such as the USA presidential election process.

Accordingly, the rights of the developing countries and particularly their nations in obtaining purposeful development and deservings under an international fair-distribution system become needful and lay at the door of the UNsO, the general Assembly and security council besides other economically-oriented international organizations.

According to the above-mentioned details regarding research method, problem, significance, hypotheses, approach and implications, the methodology dictates dividing the dissertation into two principal chapters besides an introductory section which we have devoted to the historical background of the emergence of imperialism as a natural outcome of exporting fiscal capital in the wake of exploring the Near East, the Far East, Latin America and Africa by European power starting from the 16th century on. With a view of making our paper combinatory that is yoking both economy and international law, we have entitled the first chapter as “Representatives of Economy International Law”.

It has been subdivided into three sections the first section-in its first quest-tackles the origin of sovereign nation-state with a preface on IL besides the impact of globalization on nation-states. The second quest deals with the globalization issue and its effect on sovereignty and the legal impact of the principle of state sovereignty on its national wealth and economy. A third quest discusses the globalization of world economy at large and the regional-national response to the globalization of the economic international organizations.

The second section tackles international organizations that are economically-oriented. Here, we traced the history of its formation, the nature of its functions and activities. These we labeled as the four sisters.

The third section is dedicated to multinational companies. Their identity and their legal status besides their investment activities under globalization were briefly discussed as well.

The second chapter, is entitled “The Globalization of IL Economic Aspect”. It has also, been subdivided into three sections. The first section entitled “The Emergence of the IL Rules for Economy and the Mechanisms of their Applications”. Was dichotomized into two quests

the first of which provides an account on the concept of international law of economy under three branches the most significant of these branches are the diagnosis of the place of the third world in economic international relations and the international trade as a principle tool of the international economic system. The second quest tackles through two notes the international economic norms and the new liberal trend. The second section studies the IL attitude towards international organizations besides the concern we have particularly paid to the notion of international organizations and the emergence of these organizations, Let alone our determination of the controls for the legal personality (status) of the international organization.

The third section is devoted to determining the history of the economic relations between North and South. This is being done by pursuing two quests. The first quest tackles the nature of the relations between North and South. The second quest deals with the harvest of the states of the south under the shadow of a globalized economy. Here, we digressed to development indicators particularly on the human plane. We have also shed light on the development cartels or blocs of the states of the south.

The dissertation ends up with a brief concluding remark besides a list of sources, references and quotations.

Difficulties faced the Research:

The main obstacles the researcher had to overcome was the drastic security of relevant sources and reference books on the topic he had to grapple with. As for the printed book, it was always a hindrance to obtain. For the situation in Iraq is, was, and has always been miserable as far as

communication is concerned; first, the blockade, then the violence, all make post services interrupted and uneven.

A book may be sent for from a given publisher but it is a miracle to have it safely delivered. Translations are either absent or outdated since the work I set ahead of myself to achieve is both novel and innovative. Arabic references have been either irrevocably damaged or implorably incomplete. Similar situation applies to English journalistic or review materials which are all opinionated and reflect a personal rather projective half-backed notions.

The previous research works that were made into dissertations do sometimes tackle my topic. But it deals with it in a round about way and only touch upon it tangentially. It is almost like seeking a grain of wheat in a haystack as Taha Husein had put it.

However, since I deal with international law, international economic system with the intermediacy of globalization that constitutes a rather shimmering variable, I had no alternative but to recourse to novel materials that are mostly available on the net which I have truly benefited a great deal from. However, it is safe to say that despite all these hurdles and stumbling-blocks the results can be safely judged as satisfactory at least for the personal point-of-view of the researcher who has really gone through all the difficult meander to bring to your eyes something readable.

Ma'an Abdul-Qadir Mustafa

Al-Zakariya

Globalization
Of the International Economic
Organizations and its Impact on the
Less Developed Countries

A Thesis Submitted

By

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Supervised By

Amir Abdul Fattah Al- Jumard (Ph.D)
Professor in the Public International Law

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