

International Regimes: From Public-Intergovernmental to Public-Private Transnational Arenas

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Abstract

The international regimes have been developed to understand the cooperation in a more integrated and multipolar international system. Its empirical application in the history of international relations has been successful both in the range of topics and in the theoretical and methodological questions that the concept evokes. Changes produced in the international political economy of the 1970s explain the rise of the international regimes as an analytical tool to understand the course of history from the perspective of the international relations. Similarly, the rise of non-state actors and the establishment of transnational arenas have made the concept of international regimes obsolete. This article is aimed at the three dysfunctional elements to the concept of international regime: the rise of non-state actors, the establishment of transnational arenas, and more complex and opaque decision-making processes, the result of an international system less hierarchical and more diffuse in its constituent elements.

Keywords: international regimes; cooperation; non-state actors; public-private; transnational arenas; global governance.

Introduction

Contemporary History and the theoretical production efforts to understand the empirical world runs parallel. In the case of theories of international relations, we see the correlation between facts and theoretical approaches that seek to explain the changes in the international system over the past decades. Realism and Liberalism, the two main approaches in international relations theory, are related to processes that dominated societies and the relations between States at the time these theories were designed (Gabriel, 1994; Nye, 2009). Until the 1960s, those processes were understood from the collective security concept used in the bipolar world divided into the West-East conflict.

Despite prevailing during most of the twentieth century, the realist tradition was gradually eroded, especially as it related to the two World Wars and the inability to interpret phenomena that were increasingly out of state actors and international organizations' formal domain. In the 1970s, the interdependence paradigm emerges as an explanatory variable for the new processes in the international political economy. Thus, the theory of international regimes emerges as an attempt to understand the process of cooperation that responded to the structural changes taking place. The concept of international regime is used in this article to provide the structural phenomena with a historical perspective in space and time of its analytical framework (Ruggie, 1998; Rosenau, 2000; Josselin & Wallace, 2001; Hall & Biersteker, 2002; Büthe, 2004; Ruggie, 2004; Dingwerth & Pattberg, 2006).

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In the preface of the seminal contribution of Krasner to the classic *International Regimes* (1983), the author explains the context in which the concept of international regime was designed. He argues that the 1970s began with a 'punch in the stomach' of the realist tradition due to the publication of the book by Graham Allison, *The Essence of Decision*, in which the author considers the exercise of foreign policy as the result of overlapping networks in complex decision-making processes, not just as an autonomous and insulated decision of an authority, considered to be the implementation of foreign policy itself. Moreover, macroeconomic asymmetries between developed countries, mainly fiscal and monetary, contributed to the rise and greater emphasis of non-state actors that started to vocalize interests and preferences in transnational arenas (Wolfers, 1962; Nye Jr. & Keohane, 1971).

The end of the gold standard in 1971, the 'stagflation' that hit developed economies caused by the oil shock in 1973, a pernicious combination of high inflation and economic stagnation (Eichengreen, 2000) were phenomena that contributed to the gap between the economic 'base' and the political dimension of an international system still based on an 'hegemon' (Keohane, 1982). The complexity of 'central authority' (in the monetary and fiscal field), imbalances in trade and investment flows (balance of payments), and the new centers of power (OPEC, multinational companies) destabilize the decision-making process of the international system based on multilateral intergovernmental arenas.

This new institutional environment of 'complex interdependence' was an incentive to liberals who went on to develop new analytical tools. The concept of international regime appears as an explanatory tool for the 'overflow' of international relations, the phenomenon in which non-state actors directly or indirectly begin to participate in decision-making processes between domestic (national) and international arenas, the latter regarded as the space of governments and formal international organizations. The tensions between the USSR and the USA had settled, imbalances in trade and current accounts of developing countries increased, and the so-called peripheral countries called for a 'new world order' that would break with the center-periphery asymmetries with respect to trade flows and foreign direct investment. mOPEC was presented to the world as a cartel as it promoted the rise of the price of a barrel of US\$ 2.62 to US\$ 11.86 in a matter of weeks (Keohane, 1984). The three 'oil shocks' in 1973, 1978 and 1980 demanded a greater macroeconomic coordination among developed countries as evidenced by Putnam and Henning (1989) in his classic study of the Bonn Conference in 1978.

In the mid-1970s, the Vietnam War was over and the US accounted for the largest budget deficit in its history which were financed through long-term bonds issued in international markets. The record public deficit was the result of an expansionary monetary policy with the breakdown of the gold-dollar standard in 1971. When the inflationary pressures began to pressure the gold-dollar parity, the government's decision was to suspend it and allow the emission of treasury bonds to finance the budget deficit without the proper correspondence in metal reserves. This decision was not painless; the policy decision of the US government had the immediate effect of a rise in inflation in dollar that was exported to the world. As the dollar was the conversion currency for trade and financial flows, all countries had to absorb the inflationary effects of a weaker dollar.

To sum up, the 'low' politics becomes more prominent and the conventional approach to think about the answer to the crisis through the decision-making centrality of a government (or a small group of countries) seemed, at least, inadequate. Thus, the concept of international regime is born of the historical events of the 1970s that produced a demanding institutional environment of international cooperation in a way still considered unconventional in that context. As Nye Jr. (1990) mentioned, if the oil crisis had occurred in the early twentieth century, Western powers simply would take the reserves through the use of force, send troops and invade the producing countries. The fact that force did not prevail in the 1970s reveals a change in the nature of power, which explains the need for new analytical tools to account for international relations (Nye Jr., 2009).

Krasner (1983) believes with certain mischievousness that 'the notion of rule of game that carries the concept of international regime - in the form of principles, norms, rules and procedures for decision-making - guide international behavior' in a new context of crisis. To ensure the success of the new analytical tool, its definition is broad enough to be endorsed by both approaches. He wants to stimulate the debate and is not worried about pointing realism or liberalism as the theory that most contributes to explain the phenomenon of cooperation through international regimes (Krasner, 1983, p. 7-9). Recently, Hurrell (2007) identified the existence of a 'complex governance beyond the state' that emerged with greater intensity in the 1990s.

1. The article Structure

The second part of the article discusses the scope of the concept of international regime over the past decades, and their popularity to be adapted to the most varied themes of contemporary international relations. Then the article sums up the major three 'models' schemes based on different theoretical approaches, but sharing the same assumptions of rationality and methodological positivism. The center of the article that is approached in the next item, lies precisely in the three dysfunctional elements to the concept of international regime: the rise of non-state actors, the establishment of transnational arenas, and more complex and opaque decision-making processes, the result of an international system less hierarchical and more diffuse in its constituent elements. In the final remarks, the reasons for the decline of the concept of international regime are listed both from an analytical point of view and to their ability to grasp the changes in the field of history of international relations.

The scope of international regimes

Between 1980 and 1990, the concept of international regime gained notoriety and became popular within the various graduate programs in political science and international relations. Despite being a concept produced in the institutional academic environment of American political science, it was also embraced in Europe. The most robust research agenda in this regard was developed at the University of Tuebingen by teachers who did their postdocs in the United States. The first book, published in 1993 and organized by Professor Volker Rittberger, discussed the concept of international regime in the light of theoretical approaches and explanatory variables for its creation and sustainability (Rittberger, 1993). The second volume, also organized by Professor Rittberger with the collaboration of Andreas Hasenclever and Peter Mayer, concludes the research agenda with a discussion of how the concept of international regime are informed by the three theories of international relations - realism, liberalism and constructivism (Hasenclever, Mayer & Rittberger, 1997). The scope of the concept of international regime was comprehensive and successful in some areas, and used more sparingly in others. In the case of collective security, the concept of international regime had low grip and experienced its heyday in the 1980s (Jervis, 1985; Stein, 1985; Nye Jr., 1987).

The classic Jervis' article identifies two cases of security regimes, the nineteenth century's European Concert (from the end of the Napoleonic period until the Crimean War) and the Balance of Power (Jervis, 1985). A successful use of the concept was undoubtedly the regime of weapons of mass destruction (nuclear, chemical and biological), a synthesis of UN conventions and international agreements on the control and prohibition of this type of artifact (Lamazière, 1996). In the area of international political economy, the concept of international regime gained more grip. As noted by Krasner (1983), it was in this field that opportunities for international cooperation have opened up due to the macroeconomic imbalances of the 1970s. The three founding fathers, Ruggie (1975; 1982), Krasner (1983) and Keohane (1982; 1984) notoriously applied the concept successfully in different themes, and ensured its popularity among scholars of international relations. Hence, the international political economy was the perfect area for the dissemination of international regimes in the 1980s and 1990s. The context changes with international regimes that embody normative claims about new subjects that become part of the discipline of international relations.

In the 1970s, the human rights violations perpetrated by authoritarian regimes worsened the application of the concept of international regime for this topic (Donnelly, 1986). The issue of low capacity to implement the rules and standards, even with the compliance of national governments, made the literature to value the enforcement mechanisms and its monitoring by NGOs (non-governmental organizations). It is for this reason that the international regimes of human rights are considered to have low effectiveness (Donnelly, 2003). The problem of low effectiveness is also the center of academic discussion concerning environmental regimes. It may have also been the most successful case in the application of the concept. In fact, there are at least eleven empirical cases of international regimes for the environment, according to Chasek, Downie and Brown (2006): air pollution, ozone, climate change, toxic waste, chemicals, whales, endangered species, biodiversity, fishing depletion and desertification. All meet the theoretical basis for the use of the concept of regime. The great theoretical and empirical reference in this regard is Oran Young (1989; 1994; 1997; 1999; 2002).

2. The Three 'Models' of International Regimes

Regimes are not actors in the international system. They are processes inherent to the international system. Nor are they given structures; they are built through the cooperation of actors. Regimes also do not create an institutional framework. In other words, they do not endogenously generate a new configuration of power or interest; they are exogenous variables that explain the system functionality. There is a structure of power and its distribution. How dependent is the rule/norm on the power distribution is one of the axes of the discussion.

If the regime depends on the power structure, and if this structure distribution is presented in a concentrated form, the regime discussion approaches the hegemonic condition of one or a group of countries. If the distribution of power is more diffuse, the challenge is to explain the creation of the regime itself. That is, much of the discussion regarding the structural regimes revolves around its genesis and variables to its perpetuation. In this sense, transnational actors work together with traditional actors of international relations in matters in which the state and/or formal international organizations share their functions through processes that transcend national boundaries through the dissemination of values, ideas and roles.

International regimes present themselves as principles, norms, rules and decision-making processes involving actors in the international system - preferably sovereign states, which trigger cooperation processes around a question/problem (Krasner, 1983). When international regimes allude to a systemic rule or regulation that explains the behavior of the actors under a certain power structure (and its distribution), it is called 'structural regime', in other words, its creation and stability depend on the hegemonic condition of one or a group of countries.

In general, the academic literature mentions the international monetary and financial regimes, the international trade regime (prior to the WTO) (Finlayson & Zacher, 1983), the American gold-dollar standard (Eichengreen, 2000), the nineteenth century's British gold standard, the balance of payments (Cohen, 1982), and the international regime of foreign direct investment (Vandevelde, 1997-1998) as those rules/norms that define a framework for the international system directly linked to the hegemonic status of one or a group of countries. It is precisely this hegemonic condition that favors its stability, that is, power is the independent variable for the creation and continuity of international regimes. When the distribution of power is more diffuse, without a hegemon, cooperation is more difficult to occur. In this case, no country alone has the condition to provide stability to the international system. In the article *The Demand for International Regimes*, Keohane (1982) defines another 'model' of regime with a functional character and aimed at regulating the international arena. For the author, the 'complex interdependence' generates negative externalities that require new forms of cooperation through governance and regulation.

According to Gabriel (2004), Keohane deals with the loss of hegemony as an inherent characteristic of international relations. In this context, international regimes, whose concept was introduced by Ruggie in 1975 and taken up by Krasner in 1983, seek to deal with future uncertainties, i.e., would there be a rise of a new hegemonic dominance in a scenario of destabilization and war (Gilpin, 1983) or would there be a stable world order, based on free trade (Rosecrance, 1986)? International regimes would certainly play an essential role in this scenario of uncertainty.

The approach is based on the idea of 'market failure' to explain the emergence of regimes, that is, excessive market concentration, poor provision of information and the so-called 'transaction costs' explain cooperation between states through international regimes (Raz, 1990; Simmons, 2002; Lake, 2009). Just as governments in the domestic sphere manage the defense systems of competition and ensure the provision of information through regulatory agencies, states also produce rules for the coordination of actions in multilateral and/or regional intergovernmental arenas. The so-called 'transaction costs' relate to efforts to promote negotiations around rules and regulations, to implement them (enforcement), and to monitor the compliance of the parties. The regime is not limited in terms of international action, although these new elements were later added to the regime theory.

When the reward for cooperation (pay-offs) looks bigger than the distribution of costs produced by 'market failures,' states decide to afford the transaction costs and the international regime emerges (Keohane, 1982). This is how the international regime of oil-consuming countries emerged and produced a new international organization, the International Energy Agency (based in Paris), created to provide information about the oil market that was destabilized by successive price shocks of the 1970s.

The same goes for the international trade regime (Ruggie, 1982) of foreign direct investment (Valdevelde, 1997-1998), and ocean pollution caused by oil disposal in the sea by cargo ships (Mitchell, 1994). Both in the structural and functional regimes, there is little room for non-state actors and decision-making processes are centered on state authority. However, in the functional regimes, non-state actors begin to gain some relevance because they share, even if indirectly, more diffuse arenas from domestic/national decision-making that project themselves on international arenas (Putnam, 1988). Banks, multinational companies and NGOs (non-governmental organizations) share informal arenas of consultation and veto even though they recognize the state's authority as rule-maker. In this case, non-state actors do not compete with sovereign states; on the contrary, they recognize the sovereignty and legitimacy that underpins its authority. In the case of structural regimes, non-state actors are not recognized. The systems begin and end from the scope of the power configuration that represents the state sovereignty in the international system (Keohane, 1982; 1984).

A third 'model' of international regime is based on ideas, identities and knowledge as explanatory variables for international cooperation. Unlike the functional approach, based on the maximization of gains with the creation of a regime, the constructivist perspective (or cognitive) believes that the normative dimension of the actors should be considered an endogenous variable to the regime. Actors share values and a belief system that cannot be isolated from the interests and available power resources.

States (and other actors) carry values, identities and a certain ability to the acquisition of knowledge that result in significant variations in international politics. For the cognitive approach, both the dimension of power and interest are reductionist and explain only part of states' behavior (and other stakeholders) (Haas, 1989; Hasenclever, Mayer & Rittberger, 1997). These international regimes are born from normative claims; they bring values that project a behavior change for what they represent. The classic cases of constructivist regimes are the defense of human rights ones, environmental promotion regimes, and those that deal with labor and social standards.

It is known that some issues such as environmental and labor standards, for example, have different intensities with regard to the level of institutionalization of the issues, and some decisions and expectations of stakeholders and society itself still see states and formal IOs (international organizations) as actors who have better performance, such as in the case of labor standards.

Environmental issues have a transnational appeal and the absence of an international organization to regulate it gives grounds for non-state actors to act in a complementary or similar way to states. Other issues such as human rights and international security have a hybridism involving both the intergovernmental and the private transnational aspects of decisions through NGOs and the private sector.

3. From International Regimes to Public-Private Transnational Governance

The public sphere of international relations traditionally built by state actors in intergovernmental arenas is gradually eroding and transnational's is increasingly presented as the phenomenon that drives the issues of global governance. Some authors linked to the theories and rationalist approaches suggest that transnationalism is a threat to democracy as the state loses control of processes that cross their borders due to the increasing role of non-state actors and flows of globalization (Kaiser, 1971). At the same time, it is believed that many non-state actors act in the 'shadow of hierarchy', that is, the state is always present in international relations.

Even without directly influence on the intergovernmental arenas for decision-making, non-state actors end up taking into account the existing intergovernmental regulation because that will be subject to approval. This is the argument for this approach to question the legitimacy and the effectiveness of cooperation between non-state actors (Börzel & Risse, 2010). However, it is argued that transnationalism is a way by which the public is renovated or rebuilt and that it affects the provision of global public goods (Ruggie, 2004). This 'new way' of governance and regulation is 'produced' by NGOs and the private sector to play a key role in ensuring that issues of global governance can evolve to complement or even substitute forms of 'politics' included in an intergovernmental basis. The fact is that regulation promoted by NGOs and the private sector produces incentives for cooperation as it creates institutional arrangements that involve the participation of strategic stakeholders for a given issue-area. The increasing participation of non-state actors is a fact and is linked to new forms of governance beyond the hierarchical structures of states.

The change of the issues from intergovernmental arenas to public-private transnational arenas creates transnational institutional arrangements that characterize the decline of the regulatory capacity of states (Pattberg, 2007). The 1990s, the decade of major United Nations conferences and the period in which the liberal-institutionalist approach to international relations had its heyday between scholars and analysts, also engendered overcoming the elements of regime theory. The concept of global governance went on to emphasize the coordination of 'ungoverned' actions in partnership with the third sector and private companies. The so-called Agenda 21 launched at the Conference on Environment and Development in Rio in 1992 emphatically defended the complementarity of government policies and actions of companies and NGO programs to overcome the environmental challenges - climate change, desertification, and biodiversity - the three conventions signed and subsequently ratified by national governments.

Multilateral intergovernmental arenas began to give way to diffuse spaces for cooperation between state and non-state actors. The concept of transnationalism is recovered to characterize this new era of international relations (Risse-Kappen, 1995). In fact, the concept was widespread in the 1970s to explain the 'overflow' of economic integration, a phenomenon that was outside the intergovernmental dimension. The hierarchy between rule-makers and rule-takers that had always prevailed gradually eroded to give ground to the public-private cooperation in new areas. Transnational arenas occupied the space between the strictly national dimension and the multilateral intergovernmental system of sovereign states in which the decision-making process traditionally takes place in international relations only reached out by diplomacy and the executive power. The differentiation between issues of 'high' or 'low' policy became obsolete with the overlap of non-state actors in transnational arenas.

Similarly, the role of the private sector is driven by the ongoing global integration process. Environmental and social issues are increasingly interconnected and formal borders of the states are open to incentives of cooperation between companies and NGOs through more efficient governance tools related to regulatory functions (Risse-Kapen, 1995; Mathews, 1997; Josselin & Wallace, 2001; Lacher, 2003). The concept of governance gained wide scope and its definition is related to the complexity involving the cooperation between 'stakeholders', a concept brought by the applied social sciences, particularly management, and that also entered the field of international relations. It is from the coordination between 'stakeholders' that global/local incentives are born for the implementation of rules and regulations. Thus, the concept of governance is now used to define the polycentric cooperation agenda (multiple actors) in overlapping arenas (international, transnational, national/sub national and local) within new research agendas that require analytical tools for more complex decision-making processes.

The variety of topics and the difficulty to accurately apply the concept regarding their verifiable results implied both the redesign of levels of analysis (different arenas) as well as the decision-making processes that, as a result, have become harder to a traditional approach based on state authority (Singer, 1961; Mathews, 1997; Rosenau, 2000; Nayyar, 2002).

Governance brings along the transnational dimension of international politics understood as the 'overflow' of the national sphere or domestic dimension. Although the first conceptual formulations restrict the national/transactional movement to the sphere of governmental action (Putnam, 1988; Keohane & Milner, 1996), it soon shifted to hybrid transnational arenas (public-private) or even purely private (Josselin & Wallace, 2001; Biersteker & Hall, 2002; Buthe, 2004). The concept of governance has a typology adaptable to the context in which it is inserted. The discussion can revolve around governance without government (Rosenau & Czempiel, 2000), private governance (Bartley, 2003; Pattberg, 2007; Buthe & Mattli, 2011), the governance of networks (Keck & Sikkink, 1998; Slaughter, 2004) and multilevel governance (Hasenclever, Mayer & Rittberger, 1997; Ruggie, 2004). They all differently cover the transnational dimension that the subject entails.

In this context, determining the level of analysis is a common problem and part of the International Relations literature tries to address the issue by identifying only two arenas: the international and the domestic (Singer, 1961). The fact is that the most recent literature identifies a kind of 'mix' of these arenas, largely promoted by the actions of the players involved that are 'allowed' to act in transnational arenas (Keohane, 1973; Ruggie, 2004; Hurrell, 2007). The public and private are complementary and do not compete with each other, but with different intensities, that is, the private can play the role of 'enforcer' of the public or the public can be strongly influenced by the private action, as in cases in which the private sector action is so expressive that it ends up influencing the development or even the adaptation of public policies.

Some authors refer to 'private regimes' even though much of the literature prefers to name the production of rules and standards outside the state as governance and/or private regulation (Buthe, 2004), 'privatization' of authority or building an authority through the market (Hall & Biersteker, 2002), civil regulation or private institutional arrangements (Pattberg, 2007; 2012). The concept of 'private regime' breaks with state-centered approaches in 'classical' international regime theory. However, it violates the concept of integrity of international regimes. None of their original formulators envisioned a dynamic outside the sovereign state. With the complexity of decision-making processes between state and non-state actors in transnational arenas, it is difficult to define the hierarchy between the 'public' and the 'private', which makes the traditional concept of international regimes obsolete.

4. Final Remarks

We have discussed about one of the most notable characteristics of contemporary international relations is the constitution of transnational arenas (Nye & Keohane, 1971; Risse-Kappen, 1995), which means a place occupied by non-state actors in decision-making processes that involve the regulation and governance of themes in which the states and international organizations themselves cannot promote consensus for the implementation of rules and standards on a global scale. It is known that the transnational arena is not endowed with legitimate and recognized authority with well-defined instruments of enforcement. Moreover, the rules and standards do not necessarily have their origin in processes of collective choices which would involve governments and formal IOs. In this context, non-state actors such as NGOs and multinational companies would assume their ultimate authority as rule-makers. In the same way, the adhesion to the rules is voluntary, which demands costly monitoring instruments for the provision of such information at global level. The result of this transnational dynamic is institutional arrangements for public-private cooperation that are being shaped in areas such as the environment, labor standards, humanitarian aid, human rights and the privatization of collective security (Büthe, 2010).

In this way, what is the role of international regimes in the face of the changes in the international system? Does the original concept still keep its analytical vitality to confront the changes identified above? Could it be adapted to the new context of public-private partnership? Are nowadays' international regimes completely old-fashioned? Have they been overcome by the new 'global governance' (Rosenau & Czempiel, 2000; Nayyar, 2002), 'transnational governance' (Held & Hale, 2011) or 'transnational pluralism' (Cerny, 2013)? First of all, the concept of international regime was born in the 1970s to capture the greater complexity of the international economy vis-à-vis the decision making procedures under way at intergovernmental multilateral arenas, then still very constrained for the hegemonic condition of the United States. The international regime explained the intergovernmental cooperation through formal and informal mechanisms, without a political incentive directly linked to the authority of the state and/or from a formal IO.

The intergovernmental cooperation in multilateral arenas that had taken place in the developed world had not lost its prominence. However, there was a tipping point because states alone did not explain the more complex movements of contemporary international relations. In this sense, the concept of regime has lost much of its initial impetus. Explaining how standards and rules are implemented, the origin of the underlying principles, and by which instruments it is possible to guarantee compliance are elements of international cooperation that international regimes could never satisfactorily explain. Secondly, international regimes were replaced by the so-called 'global governance' (Rosenau & Czempiel, 2000; Nayyar, 2002) whose concept can easily capture the spread between the hierarchy and the anarchy of the international system. The plasticity of the concept of governance has allowed that new meanings emerged in recent decades: 'good governance', corporate governance, private governance, multilevel governance and participatory governance are among them (Kersbergen & Waarden, 2004).

Finally, international regimes are still marginally used to designate the cooperation between non-state actors in the context of 'private', 'hybrid' or 'public-private' governance regimes. However, these concepts cannot be fully understood without the necessary ontological reasoning. A necessary condition for its assumptions is safeguarded and maintains the integrity of the underlying theoretical formulation. In this case, the assumption that sovereign states are agents of regimes cannot be violated. For this reason, the adaptation of the concept to the new realities of international relations does not seem to make sense and provide fruitful results.

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