The Third World as an International Legal System

No-hyoung Park

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THE THIRD WORLD AS AN INTERNATIONAL LEGAL SYSTEM

NO-HYOUNG PARK*

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I. INTRODUCTION

The proliferation of new states and the subsequent emergence of the Third World has been one of the most significant features in contemporary international society since World War II. The identity of the Third World as an international legal system, however, is often overlooked. The Third World should be regarded as a single international legal system, separate from the individual laws of Africa, Asia and Latin America. This identification is necessary because "[a] system as a whole usually has 'system properties' which are absent in any one of its components alone."2

Several reasons justify the consideration of the Third World as a single international legal system. First, both underdeveloped and developed nations have neglected the study

* LL.B Korea University, LL.M. (International Law) Harvard Law School.


of the Third World as an international legal system. In the study of international law, "Traditional international law," "Eurocentric international law" and "Soviet international law" have been recognized. No effort, however, has been made to recognize the Third World's significant contributions to the development of international law. Regarding the Third World as an international legal system would enhance the development of contemporary international law.

Second, considering the global future, it is necessary to identify the Third World as a separate international legal system. The debate on the global future, whose central issue is to establish effective patterns of order, has been affected by the Superpowers' fight for hegemony. The Third World should participate in this debate because without Third World input, the Superpowers may establish a world order that ignores the needs of many nations.

Thus, the real issue is determining which world order is desirable for both developed and underdeveloped countries, and how that world order is to be achieved. This article does not intend to shape the future of the global international legal system, instead it will clarify the status of the Third World as an international legal system.

However, several factors question whether the Third World does in fact constitute a single system of international law. First, can the Third World be deemed an international legal system given its cultural diversity? The relevance of culture to international law is the basis for the existence of Third World international law outside of European traditional law. This article indicates that cultural diversity among Third World nations does not prevent the Third World's systematization as a single international legal system.

Second, given the universality of international law, is the rationale supporting the First World international legal system, the Second World international legal system and the Third World international legal system justified? This article does not deny the universality of international law. However, the universality of international law should be understood as developing inductively from diverse regional national laws. Thus, considering the international legal system as a three-system group does not undermine the universality of international law.

Third, and most importantly, does the Third World have a legal structure that characterizes a legal system? "A . . . legal system is analyzed . . . in three components: cultural, structural and substantive." The cultural component refers to "the values and attitudes which bind the system together and determine the place of the legal system in the culture of the society as a whole." The structural component, refers to "the institutions themselves, the forms they take, and the processes that they perform." The substantive component refers to "the output side of the legal system, the laws regardless of their formal or informal status." The structure, values and legal contributions of the Third World to international law will demonstrate that the Third World has the components necessary to constitute a single legal system.

Throughout the article, the relationship between the Third World and the international legal systems is considered to demonstrate the Third World's contributions to the development of international law. The underlying basis of this article is that "inter-

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4 Friedman, Legal Culture and Social Development, 4 LAW & SOC'Y REV. 34 (1969).
5 Id.
6 Id.
7 Id.
national law is and has been a developing legal system. The Third World through the Non-Aligned Movement has added cultural diversity which widens the scope and universal application of international law. Thus, this article will indicate that the Third World's significant contributions to international law mandate recognition of its status as a single legal system that will influence the development of international law.

II. CULTURAL DIVERSITY AND INTERNATIONAL LAW

Law reflects societal values. If a law does not represent current social values, that law is amended or repealed by the national legislative authority. "The logical prerequisite for making [law] acceptable to its subjects is . . . their agreement upon values." Moreover, "[t]he greater the cultural heterogeneity of the area in which law is supposed to operate, the more relevant value concerns become. It is a tacit premise of legal theory that a legal system depends upon a value consensus and contributes to that consensus."

The effectiveness of international law has been disputed because of the diversity of values or, more generally, the heterogeneity of cultures in international society. Thus, when examining the Third World as an international legal system, two issues must be examined: (1) whether cultural diversity is relevant to international law, given the great differences between the West and the Third World; (2) whether the Third World can be considered an international legal system, given the cultural diversity of Third World nations.

Traditional international law originated and developed in Europe during the sixteenth and seventeenth centuries. Over the centuries, the scope of international law has grown to accommodate the needs of diverse cultures. As colonial nations received their independence following World War II, cultural diversity in the world has increased. The newly independent nations entering the international legal system prompt some scholars to view international law as an inter-cultural law, rather than a culturally specific law. Contemporary international law is not influenced by specific cultures but reflects an amalgamation of all cultures; hence international law automatically incorporates diverse cultural values. Thus, the relevance of any one cultural group is debatable.

Arguments for the irrelevance of cultural differences to international law are supported by the concept that international relations are not based on ideology or values. Empirical evidence indicates that the existence and efficacy of international law is not influenced by a nation's culture but depends on the interests the states are pursuing. Proponents of this viewpoint stress that the behavior of international judges and the practice of international courts are culturally neutral. These decisions, they argue, indicate that the only noticeable influence upon judges was the national interests of their countries, and not their nation's culture.

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11 The term "West" includes not only North America and Western Europe but also Eastern Europe.
12 See supra note 10.
15 F. Grieves, Supranationalism and International Adjudication 110–12 (1969); N.J. Pa-
Despite these observations, cultural values are relevant to international law. First, Article 9 of the Statute of the International Court of Justice designates the Court as a "whole representation of the main forms of civilization and of the principal legal systems of the world." Article 9 indicates that cultural values are indeed relevant to international law and the ICJ must consider the diverse cultures of nations. Second, the rules which the Court applies are not always universal or culturally neutral. Often, "the Court . . . consider[s] whether there [is] a special custom in capital states giving states of the shareholders locus standi under the circumstances of the particular case." Furthermore, it has been suggested that an established custom among a well-defined group of states is binding on all states in that group, except those states who consistently opposed the custom from its inception. Finally, the premise that state interests which characterize foreign policy are independent of values or culture disregards the fact that state interests are not necessarily value-free.

For example, a "Jihad" or holy war is explained not only by the national interest of territorial expansion but by the Islamic philosophy: unity of God, unity of mankind and the unity of religion. Hence, it is incorrect to assume that culture is irrelevant in international law and politics.

Thus, scholars who support the irrelevance of culture to international law are not convincing. The relevance of culture to international law has transformed contemporary international law into an inter-cultural law. Inter-cultural law is defined as international law which results when a culturally specific law evolves into a culturally diverse law. For example, inter-cultural law reflects the changes in international law following World War II. Prior to World War II, international law reflected the ideologies of Europe and to a lesser extent, the United States. Colonial independence following World War II created new states whose ideologies expanded the cultural values which shape contemporary international law. Thus, international law has become inter-cultural law through the assimilation of non-Western values.

The merit of viewing international law as inter-cultural law is reinforced by the fact that "although the cultural distances between many nations of the world still remain great, the culture of the world is homogenizing." Yet, the scope of international law increases as international law reflects culturally diverse values. Moreover, this growth of international law due to its recognition of values will guarantee its effectiveness. "International law itself is a piece of world culture, consisting precisely of those shared values designed to handle disputes. Starting as a system of rules to govern relations between


16 In 1977 the composition of the International Court of Justice included: six Europeans including two from Communist states, two Latin Americans, three Africans, two Asians, one Syrian, and one North American. I. BROWNLIE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 715 (1979).

17 See Barcelona Traction (Belgium v. Spain), 1970 I.C.J. 273-74, 277 (Gros, J. dissenting) [hereinafter Barcelona Traction Case].


19 Even Professor Fatouros, who dismisses the relevance of cultural differences to modern problems, admits that national interests are significantly affected by the country's cultural tradition and its hierarchy of values. See Fatouros, supra note 1, at 348-50.

20 C.S. RHYNE, INTERNATIONAL LAW 23 (1971). See also LEVI, supra note 9, at 140. The alternative of regional international courts is frequently suggested as a way to provide cultural homogeneity. The limited success of these courts in Western Europe reinforces the relevance of culture to international law.

European states, international law has since been virtually globalized."\textsuperscript{22} Yet, despite these trends, international law is still Euro-centric, not because international law had its origin in Europe, but because international law has not incorporated the cultural values of the non-western world. Since international law is also inter-cultural law it must reflect cultural principles inherent in the Third World.\textsuperscript{23}

Despite regional cultural differences, the Third World can be treated as a single international legal system. The Third World is generally composed of three regions: Latin America, Asia and Africa. Cultural diversity among these regions has prompted the establishment of regional supranational laws. This cultural diversity complicates an examination of the Third World as a single entity. However, there is a common element which binds Africa, Asia and Latin America as the Third World and which unites the Third World as a single international legal system.

Clearly, the common bond in the Third World is a shared anti-colonialist sentiment. Nations of the Third World are conscious of their underdeveloped economies. Many Third World countries "blame colonialism for their economic disparity and for political instability."\textsuperscript{24} Most Third World countries have feelings of resentment about past exploitation by the present First World. Third World countries believe that the policies of neo-colonialism cause them to be treated as second-class citizens. Although some scholars label this anti-colonialist sentiment as "sensitivity of many new states to often trivial questions involving colonialism,"\textsuperscript{25} this sentiment "constitutes specific patterns of behavior which correspond to perceptions of national interest."\textsuperscript{26} Since the nations of the Third World share a common national interest, self-determination, they act in international law as a single legal system. Accordingly, the Third World has contributed to international law in the areas of self-determination and non-intervention, and the establishment of the New International Economic Order and New World Information Order.

III. UNIVERSALITY AND INTERNATIONAL LAW

The concept of "universality," has two dimensions: scope and application.\textsuperscript{27} The scope of international law is universal when "a single international law governs Western and non-Western, Christian and non-Christian, or Communist and non-Communist states alike."\textsuperscript{28} A law is universally applicable when "the same results are achieved in the same or comparable contexts when the only difference lies in the identity of the parties to the controversy."\textsuperscript{29} Prior to the emergence of the Second World and the Third World,
the universality of international law was unquestioned, and the scope of international law was limited to Europe. The universality problem arises because the dismantling of colonialism following World War II forced the scope of international law to expand. Therefore, the issue is whether the expanded scope of international law has diminished its universality.30

Some supporters of the universality of international law state that "since 1856 the European Christian law of nations ... spread so as to constitute today universal international law, binding also on nations of non-occidental legal and value systems."31 Furthermore, they state that the non-occidental legal and value systems "threaten neither the existence nor the development of universal international law."32

However, this reasoning that the universality of basically Euro-centric, international law will be maintained as it was before the emergence of the Second World and the Third World because non-occidental value systems are compatible with those of the West, is incorrect. The Third World neither entered the world arena by permission of the already existing states, nor will it accept the existing Euro-centric international law without examination. Only to the extent that the Third World has accepted the existing international law, can it be deemed universal. This reasoning ignores the process of the universalization of the principles of regional non-universal legal systems where Euro-centric international law, Soviet international law and Third World international law, may be components of the global international legal system.

Furthermore the universal rules of international law are made inductively, developing from non-universal regional laws. Although this contradicts the universality of international law, it reinforces the character of international law as inter-cultural law. Inter-cultural international law, however, is becoming universal because it reflects cultures and values prevalent throughout the world. Indeed, as the development of technology and communication aids mutual understanding throughout the world, the world is becoming more homogeneous. Therefore, universal international law will operate in an even more expanded context.

Despite the cultural differences of the First, Second, and Third Worlds, the universalization of contemporary international law has continued. Non-universal movements to intensify international law are apparent in each world: strengthened European Community law in the First World, recognition of the Soviet international legal system guided by the "Soviet internationalism" within the Soviet Union,33 and the Third World's effort to act in concert through the Non-Aligned Movement. Although the three worlds may be strengthening their regional international legal systems, these non-universal legal systems produce universal international law. The universalization of international law requires the assimilation of regional or non-universal law. Thus, an examination of the Third World as a regional international legal system is necessary to assess the contributions of the Third World to developing universal international law.


31 Kunz, supra note 30.

32 Id.

IV. The Non-Aligned Movement: Representing the Third World as an International Legal System

In light of the existing non-universal legal systems and the relevance of culture to international law, the Third World can be deemed an international legal system which contributes to the development of international law. However, the question arises whether the Third World composes a single international legal system. The Non-Aligned Movement, (NAM) represents the values and goals of the Third World and can be considered the Third World's legal system.

The term “the Third World” was first coined in France in the early 1950's at a time of increasing polarization of the international system. The two principal poles, the United States and the Soviet Union, sought to sustain and extend their leadership and discipline over the respective alliance systems.\(^{34}\) It is common to regard the United States and the Western European countries as the First World, and the Soviet Union and the Eastern European countries as the Second World. The Third World includes Asia (excluding Japan), Africa (excluding South Africa) and Latin America.\(^{35}\)

There are many terms for the Third World such as developing countries, underdeveloped countries, newly independent countries, the Group of 77, (G77) or the Non-Aligned Movement. Today, it is apparent that the Group of 77, now containing 125 members, and the Non-Aligned Movement, now containing 101 members, are the principal organizations representing the Third World in world affairs.\(^{36}\) Hence the question arises: which organization is the true representative of the Third World?

In the 1960's, G77 concentrated on economic issues while NAM started as a political cause. However, in the 1970's as membership in the two organizations overlapped, tension occurred. Some member states of G77 which were not members of NAM argued that NAM was a rival organization of G77.\(^{37}\) Although “Third World spokesmen were inclined to stress . . . that the . . . two associations were complementary, not competitive associations for the prosecution of their causes,”\(^{38}\) there are facts which reinforce the position that NAM is representative of the Third World. NAM's significance is apparent in economic issues. First, NAM launched major economic initiatives such as the New International Economic Order on behalf of the Third World. Second, NAM has an Action Programme for Economic Cooperation with specified Coordinator Countries responsible for its implementation, whereas G77 has not implemented similar projects.\(^{39}\)

Third, NAM operates as a distinct entity, independent of international organizations.\(^{40}\)

\(^{34}\) Lyon, The Emergence of the Third World, in The Expansion of International Society 229 (H. Bull & A. Watson eds. 1984).

\(^{35}\) Alternatively, Mao Tse Tung, considered the United States and the Soviet Union to compose the First World. Europe, Canada, and Japan formed the Second World while the remaining nations including Communist China composed the Third World. Quoted in W. Tieya, The Third World and International Law, in The Structure and Process of International Law 956 (R. Macdonald & D. Johnston eds. 1983).


\(^{37}\) Id. at 28.

\(^{38}\) Lyon, supra note 34, at 234.

\(^{39}\) Since the Fourth Summit Conference, an “Action Programme of Economic Co-operation” has been adopted at each conference.

\(^{40}\) G77 has its origin in the “Caucus of 75” where developing countries prepared their goals for the first UNCTAD Conference. See Department of State Library, International Relations Dictionary 32 (1980).
whereas G77 operates as a caucus only within the United Nations and has no separate activities.

As a whole, NAM, actively involved in economic issues, is also broader in focus and acts as coordinator and lobbyist for its member states on a range of political, social, and economic issues. In addition, the use in the Algiers Declaration of the terms "non-aligned," "developing countries," and "the Third World" is without apparent distinction and indicates that NAM identifies their interests as those of all third World countries. Furthermore, NAM truly represents the Third World in that it has tried to keep an independent outlook uninfluenced by the Superpowers in international affairs, though some NAM theoreticians insist on "the movement's global rather than Third World mission." Thus, the assumption that NAM is the primary representative of the Third World is adequately supported.

NAM organizes the Third World into an international sub-system. Three criteria must be satisfied in order for NAM to be identified as an international subsystem in relation to the global international system. First, NAM must be entirely contained by the global system. Second, NAM must be numerically or quantitatively smaller than the global system. Third, in conflicts of opinion, NAM must be theoretically subdued.

In light of these criteria, NAM qualifies as an international subsystem in relation to the global international system. The members of NAM are entirely contained by global international organizations. Furthermore, Non-Aligned countries interact within NAM and in the international community with "non-alignment" as their foreign policy goal. Additionally, Non-Aligned countries demonstrate their status as an international subsystem by participating in periodic summit conferences and in regional cooperation.

Although NAM is an international sub-system, the question arises whether the Non-Aligned countries can be labeled as a bloc. The First Summit in Belgrade stated categorically that "the non-aligned countries represented at this conference do not wish to form a new bloc and cannot be a bloc." This attitude dominates NAM principles and periodic descriptions of NAM as a Third World bloc have elicited vehement denial within the organization. This attitude arises because the fundamental philosophy of non-alignment, the embryo of the present NAM, is inherently anti-bloc. NAM, however, has gradually institutionalized itself. Such institutionalization eventually leads to the formation of a bloc.

There are, however, only slight differences between a "movement" and a "bloc." Although NAM began with a policy of "non-alignment," the institutionalization of the movement's structure has inherently changed NAM's policy. Accordingly, since the Fourth Summit Conference in Algiers, coordination of non-aligned economic strategy has resulted in the formation of an aligned voting bloc at the United Nations. Thus,
while members still dispute the term "bloc," NAM is becoming a bloc despite the policy of non-alignment envisioned by its founders.48

The global effect of the development of NAM is a loosening of the structure of tight bipolarity of the Superpowers. NAM's impact on the international system has caused an "[i]nterpenetration between system-wide and sub-systemic issues and the system, becoming more complex, manifested features of both bipolarity and multipolarity."49 In short, NAM's creation of a multipolar system seems to have reduced the risk of rigid bipolarity because nations remain independent rather than aligning with the Superpowers.50 In this respect NAM has had a positive effect on the international system.

NAM, as an international subsystem, has had a critical effect on the global international legal system. NAM's significant effect in international relations will be even greater if NAM is recognized as an international legal system. In order for NAM to be recognized as an individual legal system, it must satisfy the three components of a legal system: values, structure and substance.51

A. Values Within the Non-Aligned Movement

NAM's historical development can be briefly summarized as follows:

In 1946 the contemporary international system numbered 59 national actors and by 1970 the membership had risen to 127. This membership increase of more than 100 percent is due largely to the decline of colonial empires and the emergence of Afro-Asian states. Reacting against their recent colonial past, the leaders of most of these states insisted on the "demonstration" of their newly won independence and the playing of a distinctive international role. They tried to achieve this end by rejecting formal incorporation in, or subordination to, any of the then existing blocs.52

Three guiding values were predominant in NAM's development: anti-bloc, anti-colonialism and peace protected from the tension between East and West. The prioritization of NAM's guiding values has fluctuated. Consequently, to define NAM's current values, NAM's history must be examined.

1. From Bandung to Belgrade55

The creation of NAM can be traced back to the "spirit of Bandung" which was strongly influenced by five principles known as the Panchsheel.54 At the Bandung Conference, the Panchsheel was incorporated into ten principles which guided the evolution of non-alignment. In addition, the Bandung Conference devoted attention to common

48 Id. at 10.
49 KORANY, supra note 43, at 363–66. Professor Rosecrance refers to this as "bi-multipolarity," Professor Kaplan calls it "loose-bipolarity," and Professor Holsti uses the term "diffuse-bloc system."
51 See Friedman, supra note 4.
52 KORANY, supra note 43, at 15–16.
53 For the text of the documents adopted at the First through Seventh Summit Conferences see REV. INT'L AFF.: vols. 12, 15, 21, 24, 27, 30, 34.
54 The principles of Panchesheel are derived from the Indian tradition of non-violence and include respect for territorial integrity and sovereignty, mutual nonaggression, mutual non-interference in internal affairs, equality and mutual benefit, and peaceful coexistence.
problems of colonialism, economic development, and maintenance of peace. However, the Bandung Conference was not a genuine, non-aligned conference because some of the countries present retained alliances with the Superpowers.

Ideological differences between the "moderates" and the "militants" influenced the priority of guiding principles. At the First Summit at Belgrade in 1961, the moderates, led by India's Nehru, thought non-aligned action was essentially mediatory. The moderates believed that the maintenance of world peace should be of ultimate importance, while all other issues such as imperialism, colonialism and racism should be secondary priorities. The militants, led by Indonesia's Sukarno and supported by many Africans, thought non-aligned action was essentially combative. They believed that the root of international tension was imperialism and colonialism, which should be actively fought against.

The moderates were able to outmaneuver the militants in setting priorities. At Nehru's insistence, a separate "Statement on the Danger of War and an Appeal for Peace" was adopted, and global issues concerning peace were given priority in the final declaration. Additionally, the Bandung Conference created an awareness of the need for economic cooperation between the nations of the Third World which led to the establishment of the United Nations Conference on Trade and Development (UNCTAD) in 1964.

2. From Cairo to the Present

Following the first UNCTAD meeting at Geneva in 1964, the Second Summit was held in Cairo at a time of unusual solidarity within the Third World. At the Second Summit, the African majority promoted the right to force decolonization. Accordingly, the Cairo Declaration asserts that colonized people may legitimately resort to arms, and contains multiple provisions condemning imperialist and colonial exploitation. The Declaration also refers to the need for a "new international economic policy," foreshadowing NAM's demands for the NIEO.

The Third Summit was held at Lusaka in 1970. At this summit, NAM's institutionalization began with a resolution which called on the Chairman, Zambian President Kaunda, to take steps necessary to maintain contact among member countries and carry

55 JACKSON, supra note 36, at 13.
56 These countries were Turkey, Pakistan, Communist China, Japan, Thailand, and the Philippines. See Lyon, supra note 34, at 229.
57 Nehru's speech at the First Summit, 12 REV. INT'L AFF. 20–22 (1961).
58 Sukarno's speech at the First Summit, id. at 11–12.
59 Id. at 42.
60 JACKSON, supra note 36, at 21.
61 At this conference, the Programme For Peace and International Co-operation was adopted. See 15 REV. INT'L AFF. 79–89 (1964).
64 At this conference, the Lusaka Declaration on Peace, Independence, Development, Cooperation and Democratization of International Relations and the Lusaka Declaration on Non-Alignment and Economic Progress were adopted. See 21 REV. INT'L AFF. 11–38 (1970).
out their decisions. The resolution also requested member countries to participate in the
United Nations. 65

At the Fourth Summit in Algiers in 1973, 66 the focus of NAM shifted from peaceful
coeexistence to militant anti-colonialism and anti-imperialism. The Political Declaration
of the Fourth Summit stated that “so long as there are colonial wars, apartheid, imperialist
aggression, power politics and economic exploitation and plundering, peace will
be limited both in principle and in scope.” 67

The Fourth Summit was a victory for the militant African and Arab countries. The
primacy of decolonization over traditional NAM principles was upheld and the existing
economic order was identified as a colonial legacy in the Economic Declaration of the
Fourth Summit. 68 The Fourth Summit’s Declaration on the Struggle for the National
Liberation asserted that oppressed people had no alternative and thus have a legitimate
recourse to armed struggle. 69 The Fifth Summit at Sri Lanka in 1976 70 merely reiterated
the positions taken at the Fourth Summit. 71

Conflicting views on NAM jeopardized the Sixth Summit at Havana in 1979. 72 The
socialist bloc led by Cuba tried in vain to reorient NAM as their “natural ally.” 73 Although
NAM’s founding members argued for the original principles and objectives of NAM,
anti-colonialism was the main focus of the Summit. 74 At the Seventh Summit at New
Delhi in 1983, 75 member states moved to emphasize new causes over colonial issues;
“some delegates referred to the end of the colonial era and the need to find a new, more
relevant ethos for NAM.” 76 However, anti-colonialism continued to influence the Sum­
mits’ outcome. 77 The Political Statement of the Final Declaration continued to define
NAM in anti-imperialistic terms. 78

In conclusion, it is evident that since the Second Summit, NAM has been guided by
the goals of anti-colonialism and economic development rather than the goal of world
peace. To the extent that colonialism and neo-colonialism have diminished, anti-West,
especially anti-US criticism has been strong within NAM. Thus, NAM’s guiding principles
or values are apparent and demand the amendment of traditional international law to
reflect NAM’s goals.

65 Resolution on the Strengthening of the Role of the Non-Aligned Countries, reprinted in 21
66 At this conference, the Political Declaration, Economic Declaration, and Action Programme
of Economic Cooperation and Declaration on the Struggle for National Liberation were adopted.
67 Id. at 20.
68 Id. at 23–27.
69 Id. at 28.
70 At this conference, the Political Declaration, Economic Declaration and Action Programme
for Economic Cooperation were adopted. See 27 REV. INT’L AFF. 18–43 (1976).
71 Resolution on the Question of Palestine, id. at 50. The conference endorsed UN Resolution
3379 which determined that Zionism is a form of racism and racial discrimination.
72 At this conference, The Final Declaration and Action Programme for Economic Co-operation
were adopted. See 30 REV. INT’L AFF. 18–63 (1979).
73 JACKSON, supra note 36, at 30–34.
74 For the text of the Final Declaration, see 30 REV. INT’L AFF. 18–63 (1979).
75 At this conference, the Final Declaration and Action Programme for Economic Co-operation
was adopted. See 34 REV. INT’L AFF. 21–66 (1983).
76 JACKSON, supra note 36, at 76.
77 Id.
78 See text of Final Declaration, supra note 75.
B. Structure of the Non-Aligned Movement

The concept of non-alignment "embodies a separate identity and role for developing states rather than fixed positions defined in relation to outside blocs."\textsuperscript{79} At its inception, one of NAM's primary goals was for members to pursue foreign policies independent of the Superpowers. In accordance with the concept of non-alignment, NAM was not to be institutionalized. An institutionalized NAM would prevent each member from pursuing its own independent foreign policy, thereby contradicting the basis of NAM. Hence, no charter, no headquarters, and no permanent secretariat were considered or established.

During the last three decades however, the members of NAM have aligned with each other in order to effectively preclude alignment with the Superpowers. Indeed, NAM's present structure is more collective and permanent than Non-Alignment in the 1960's and is indicative of NAM's gradual institutionalization. Thus, it is worthwhile to examine the current structure of NAM as an "institution" to determine whether NAM's institutionalization may have ramifications on the Movement's values.

1. Membership and Interest Groups

The criteria for NAM membership were established in June 1961 at the Cairo meeting of ambassadors from nineteen countries in preparation for the First Summit at Belgrade. At that meeting, there were two opposing groups: the "inclusivists" and the "exclusivists."\textsuperscript{80} The inclusivists supported broad membership whereas the exclusivists, supported by the militants, supported restrictive membership. A five-point definition of non-alignment, which would qualify a state for membership, required the state:

1. To follow an independent policy based on peaceful coexistence with other countries of different political and social ideologies or to show trends toward such a policy.
2. To support popular liberation movements.
3. To refuse to join any bilateral treaty with any regional defense bloc, if that would mean involvement in East-West conflict.
4. To refuse to join any collective military pact that would involve implication in current East-West disputes.
5. To refuse to have on its territory any foreign military bases set up without NAM's consent.\textsuperscript{81}

Disputes on the membership criteria however, have caused these five criteria to be applied inconsistently. As the success of the summits came to depend more on attendance and less on the quality of delegations, increasing NAM's membership became a goal. Therefore, the five criterion were ignored or loosely applied. Despite controversy in certain instances,\textsuperscript{82} NAM's membership quadrupled between the Belgrade and New

\textsuperscript{79} Jackson, supra note 36, at 6.
\textsuperscript{80} G.M. Jansen, Afro-Asia and Non-Alignment 235 (Faber & Faber eds. 1966).
\textsuperscript{81} Korany, supra note 43, at 160.
\textsuperscript{82} South Korea's application for membership is an example of the ineffectiveness of the five criteria. Both Koreas applied for membership at the 1975 Lima ministerial meeting, but South Korea was rejected because of its support of the United States' military bases in South Korea. Furthermore, South Korea would not have been admitted because North Korea has a seat in the Non-Aligned Coordinating Bureau (NACB) which recommends countries for membership. Hence, North Korea could veto South Korea's application for membership.
Delhi Summits because of the loose application of membership criteria. Accordingly, NAM faces a widening scope of complex issues based on the diversity of its new members. This influx of new members into NAM has caused the Movement to encompass groups with different ideologies and interests.83

Where members share a common interest, they may form an interest group to influence NAM's actions. Interest groups in NAM have formed around common economic systems, geographic locations and regional interests. Examples of interest groups which influence NAM include the group of the oil-producing states, the least developed states, the group of land-locked states, and the group of Indian Ocean states with regard to the Indian Ocean Zone of Peace (IOZP).84 Among the regional interest groups represented in NAM, the largest and most powerful is the African bloc which is composed of the fifty-one members of the Organization for African Unity (OAU), including the South West African People's Organization (SWAPO).85 One of the goals of the OAU is to affirm a policy of non-alignment with regard to all blocs.86 Consequently, because the African group is the most cohesive and powerful group in NAM, once African group nations have agreed on an issue, their position is generally accepted not only by NAM, but also by the United Nations.87

The Arab bloc is the next most vocal regional interest group. The 21-member Arab League is its main axis. There are, however, bitter inter-Arab splits between the moderates, including Saudi Arabia, and the militants, including Libya. Consequently, the Arab bloc lacks the unity and power that characterizes the African group. The Latin American group is composed of seventeen members. Within this group, relative moderates outnumber radicals although the radicals generally lead this group.88 The Asian region lacks a regional caucus within NAM. Only India and three members of the Association of Southeast Asian Nations (ASEAN), play leading roles. Europe, like Asia, lacks a regional caucus within NAM. The participation of even a few European countries, Yugoslavia, Malta and Cyprus, is exceptional because Europe is generally not included in the Third World.

It is difficult to depict how these diverse regional groups, apart from other interest groups, have acted within NAM. In international relations, there are objective boundary lines, such as geographical delineations, and subjective boundary lines, such as social-psychological characteristics.89 Geographical delineations, however, are not enough to delineate the boundaries of NAM. Rather, subjective boundaries are drawn by the shared colonial history of NAM members and a common orientation towards non-alignment. Thus, although NAM's increased membership is segmented into interest groups, NAM retains its common bond of anti-colonialism. Consequently, NAM's position on political, economic and social issues is continually influenced by its philosophy of anti-colonialism.

83 JACkSON, supra note 36, at 45. NAM's ideological differences were exemplified at the Sixth Summit in Havana by the radicals led by Cuba who favored a "natural ally" stance with the Soviet Bloc, versus a loose group of moderates who were against the pro-Soviet direction.
84 Id. at 46.
85 SWAPO will have no difficulty entering NAM because one of the membership criterion was to support liberation movements. See supra text accompanying note 81.
87 JACkSON, supra note 36, at 47.
88 Cuba was the only Latin American member of NAM until the 1970s. Thus Cuba could have manipulated other Latin American members within NAM.
2. Institutionalization

NAM's founders did not envision an institutionalized NAM. Initially, the non-aligned movement was a common policy of some individual states which subsequently developed into a series of *ad hoc* conferences, as exemplified by the First and Second Summits. Since then, NAM has developed into an internal network of institutions and organized cooperation. There are two reasons for this institutionalization. First, the need for effective cooperation within NAM requires the movement to be organized. Second, the continuous expansion of membership requires organization to effectively coordinate NAM's activities. Presently, NAM is administered by a chairman, and the Non-Aligned Coordinating Bureau (NACB).

At the First Summit, the establishment of a permanent secretariat was proposed but was unsuccessful because of the strong anti-bloc sentiment. It was not until the Third Summit at Lusaka in 1970, that proposals for NAM's institutionalization were made and undertaken. These proposals entailed:

(1) that a Summit Conference of NAM be held regularly at intervals of about three years; (2) that the host country of the last Summit Conference should act as the principal spokesman for NAM in the intervals between Summit Conferences; and (3) that the host country, acting in effect as Chairman for NAM, should assume responsibility for convening such other meetings as might be deemed desirable or necessary, as well as assuming responsibility for some servicing arrangements at and between conferences.90

Although, the establishment of a permanent secretariat was proposed at the Third Summit91 at Lusaka in 1970, members remained opposed to any form of institutionalization. At the Fourth Summit Conference in 1973, debate over establishing a secretariat recurred. At the Fourth Summit, however, the chairmanship was permanently institutionalized and the Non-Aligned Coordinating Bureau (NACB) was formed as an ongoing executive committee.92

The actions taken at the Fourth Summit indicated that the chairmanship had become increasingly important in setting NAM's tone and general direction. NAM's loose procedure allows the chairman the advantage of formulating draft agenda and declarations himself rather than relying on member countries to formulate them. Consequently, this position controls NAM's direction because the goals and policies created by the chairman shape the movement's effectiveness as a Third World lobby.

The creation of the NACB is the most significant landmark in NAM's institutionalization process. The NACB began with seventeen members at the Fourth Summit Conference in Algiers. By the Sixth Summit Conference in Havana, the NACB had increased to thirty-six members and at the Seventh Summit Conference in New Delhi, it had enlarged to its present seventy-four seats. The NACB has primary responsibility for membership matters, shaping strategy in key areas, and NAM's central policymak-

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90 See Lusaka Declarations, supra note 64 and accompanying text.
91 At this summit, The Resolution on the Strengthening of the Role of the Non-Aligned Countries was adopted. See supra note 65.
ing. Although the NACB is not the official permanent secretariat, the formation of NACB satisfies much of the need for a secretariat. In effect, NAM has an institutionalized secretariat.

NAM, however, is caught in a dilemma. One commentator states that:

[1]f they [non-aligned countries] continue to seek greater effectiveness of cooperation between and among themselves, they would have to resort to increasing institutionalization of the movement; if, on the other hand, they let the present trends of gradual, indeliberate, institutionalized cooperation continue, they might end up by creating a third bloc — the non-aligned bloc.  

In any event, NAM cannot intentionally or unintentionally avoid the process of institutionalization. Although NAM began as a reaction to bloc politics, it is undeniable that an institutionalized NAM, works like a bloc because it fosters cooperation among members and results in members adopting foreign policy in accordance with NAM’s decisions.

C. Substance: Contributions of the Non-Aligned Movement to International Law

Like any institution, NAM has guiding values and operates according to them. Based on these values, the Third World, in general, and the Non-Aligned Movement in particular, have formed their own views on the international system and international law. In general, the Third World desires participation in international organizations to voice their concerns and amend international law accordingly. In pursuit of this goal, the Third World, through NAM, has contributed procedurally and substantively to international law.

NAM’s most conspicuous contribution to international law has been the process of consensus which has been adopted by the United Nations and other international organizations. The use of a consensus began in NAM because of “the earlier club-like conception of the NAM as a loose grouping of twenty-five like-minded states meeting to talk through problems of mutual interest.” Voting was not consistent with NAM’s ideologies because it might infringe on the independent foreign policy of each member and thus produce a third bloc. Consequently, the idea of consensus, rather than voting, is better suited to NAM’s principles.

Consensus is defined as “the adoption of a text without a vote and [with] no objection.” However, the consensus used at NAM and subsequently at the United Nations is not as rigid as this definition. At the Sixth Summit Conference, consensus was defined as:

Both a process and a final compromise formula, shaped by prior consultations, discussions, and negotiations into a generally agreed position. In other words, consensus is a general convergence and harmonization of views
reflecting the broadest consent of the Conference or Meeting enhancing or at least preserving the unity and strength of the Movement. 97

As this definition implies, consensus is the lowest common denominator. Although the effectiveness of a consensus has been disputed because it is less binding, a consensus allows member states to compromise in the interest of NAM's unity without being accountable to domestic constituencies or third parties. In addition, the use of a consensus allows member states to record reservations to declarations.

At the United Nations, resolutions of the General Assembly have been adopted by consensus as standard procedure when there is near unanimity. Specifically, NAM's formula of decision by consensus without voting has replaced the concept of consensus as an alternative to a roll-call vote in many committees of the UN. 98 The frequent use of consensus in the United Nations, however, has reduced the legal value of its decisions because decisions made by consensus are less binding. An arbitral tribunal appointed by the International Court of Justice in a dispute between Libya and the Texaco Overseas Petroleum Corporation found that resolutions adopted by consensus could have legal value when the consensus was reached by "a majority of states belonging to the various representative groups." 99 Hence, consensus as developed by NAM is important because "it can be a first-step in the evolution of a customary rule of international law." 100 However, the increased use of consensus had led to a questioning of legal effect of the General Assembly resolutions which are passed by consensus.

The United Nations General Assembly is NAM's vocal forum. NAM's preeminence, to the extent that its members can agree, is ensured by the UN Charter's stipulation that "each member of the General Assembly shall have one vote." 101 NAM's voice in the General Assembly has become more important in light of the reduced role of the Security Council. In recent years, tension between the Superpowers has prevented the Security Council from acting, thus shifting power to the General Assembly. Consequently, NAM has heightened its voice at the General Assembly where it has preponderant numerical power.

NAM uses resolutions of the General Assembly as a tool to realize its own demands. The legal validity of these resolutions, however, has been disputed in international law. The question is whether resolutions can become a source of international law. The Third World, First World, and Second World each have a different opinion.

The Third World insists that General Assembly resolutions, like recommendations or declarations, are legally binding on member states. This viewpoint arises because Third World countries occupy over two-thirds of the United Nations General Assembly and hence, they can pass resolutions at will.

Second World countries have a different view on the binding effect of General Assembly resolutions. Among Second World countries, "there is complete agreement as

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98 JACKSON, supra note 36, at 182. For example, the consensus was used in June 1976, by the Special Committee of Twenty-Four of the United Nations on Decolonization denouncing South Africa's continued administration of Namibia.
100 J.G. STARKE, AN INTRODUCTION TO INTERNATIONAL LAW 160 (1977).
101 See U.N. CHARTER art. 18.
to the political and moral influence of the resolutions-recommendations of... the General Assembly, if such resolutions have been adopted by the votes of States belonging to all existing principal political groups."\textsuperscript{102} Their criteria for a binding resolution is "whether it is recognized by member states and applied in practice."\textsuperscript{103}

The United States, representative of the First World, usually refuses to recognize General Assembly resolutions as legally binding.\textsuperscript{104} At the first session of the working group concerning the mandatory force of the Charter of Economic Rights and Duties of States (CERDS), representatives of First World countries expressed "doubt that it was... possible... to make the rights and duties set forth in a draft Charter binding upon States."\textsuperscript{105} Thus, First World countries generally refuse to grant legal value to resolutions. The rationale behind this opposition to the generally binding effect of resolutions might be the First World's minority position at the UN. If First World countries composed a majority of the General Assembly, they would surely insist on the binding effect of resolutions. Similarly, if the Superpowers had veto power at the General Assembly, it is likely that they would agree to the binding effect of resolutions.

In some cases, however, where the principles of the Charter of the United Nations are interpreted and applied authoritatively, a resolution may have direct legal effect.\textsuperscript{106} "While it is now possible to recognize that resolutions of the UN have a certain legal value, this legal value differs considerably, depending on the type of resolution, its provisions and the conditions attached to its adoption."\textsuperscript{107} Hence, although a resolution was adopted by a majority, if the proponents did not include various representative groups, the resolution would not have legal value. Thus, the Third World cannot rely on the legal validity of a resolution even if passed by a majority of the General Assembly, when the majority is composed primarily of Third World countries. The Third World should try to persuade the First World to change its position or seek a compromise regarding the inconsistent views on the legal validity of resolutions.

International law, however, is a developing body of law. As the Third World majority in the General Assembly passes important resolutions, the accumulated voices of the Third World will affect future international law. Furthermore, the resolutions of the General Assembly will contribute to the progressive development of international law and solidify customary rules of international law.\textsuperscript{108} Although nations do not agree that resolutions of the General Assembly are legally binding, it is recognized that these resolutions have legal merit in international law. Throughout the history of the United Nations, a few resolutions have been consistently cited and reaffirmed in subsequent resolutions. Frequently, these important resolutions involve issues that previously have been addressed by NAM in some form of resolution or declaration.\textsuperscript{109} For example, the contribution of NAM to international law includes these norms: the end of colonialism; the end of racial discrimination and apartheid; disarmament; non-intervention; self-
determination; the New International Economic Order; the New World Information Order; the New World Cultural Order; and peaceful co-existence. These norms, reflect the common thread of anti-colonialism which has been central to NAM’s identity and which was later incorporated into important General Assembly resolutions. Therefore, the future impact of the Third World through NAM is already apparent through its significant contributions to the development of international law. NAM’s contributions to international law must be considered separately to assess their significance.

1. Anti-Colonialism

NAM’s predominant concern is anti-colonialism. NAM members believe colonialism and neo-colonialism to be the root of their present status as “underdeveloped” nations in the international system. Even before the First Summit Conference, the Afro-Asian countries at the Bandung Conference in 1955 declared the end of colonialism. This prompted the passing of the General Assembly resolution 1514, “The Declaration on the Granting of Independence to Colonial Countries and Peoples” which calls for the end of colonialism in all forms.

NAM’s anti-colonial campaign has been successful. Except for Namibia, the only remaining colonies are a handful of island dependencies, mostly in the Pacific and the Caribbean. Although decolonization seems virtually complete, at the Seventh Summit Conference in 1983, NAM continued to insist on anti-colonialism.

2. Self-Determination

Self-determination is complementary to decolonization. Originally framed as a universal process toward self-government, the principle of self-determination is promoted by the Third World because the principle relates to decolonization and independence. However, self-determination should not be limited to the decolonization and independence of a nation. The principle of self-determination also protects struggles by peoples for their own cultural identity within a country as well as a colony’s struggle for independence.

NAM’s repeated affirmation of the right to self-determination has given it a normative character. Consequently, the General Assembly recommendation that “the Member States of the United Nations shall uphold the principle of self-determination of all peoples and nations” resulted in the adoption of the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960. This Declaration is significant because it incorporates the principle of self-determination as part of the obligations present in the UN Charter. Thus, the principle of self-determination is no longer a mere recommendation. Rather, self-determination is accepted as “an accurate statement of

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110 See supra note 24 and accompanying text.
112 See supra note 75 and accompanying text.
113 Article 1 and 55 of the UN Charter refer to “self-determination of peoples,” as a purpose of the United Nations. Article 73 states that “to develop self-government” is a responsibility of UN Members for non-self-governing territories.
modern international law.”117 In addition, this statement was affirmed by the International Court of Justice in the Namibia and Western Sahara cases118 and is also set forth in the International Covenant on Civil and Political Rights (1966) and on Economic, Social and Cultural Rights (1966). Hence, as a result of NAM's efforts, anti-colonialism has become a reality and self-determination has been established as a legal principle.

3. Racial Discrimination and Apartheid

NAM and the General Assembly have continually condemned the policy of apartheid and racial discrimination in Namibia, Zimbabwe, and South Africa.119 NAM considers policies of racial discrimination to be another version of colonialism: “the fight against racial discrimination has become an extension of the struggle to end the system of colonialism.”120

Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (1965) defines the term “racial discrimination” as

... any distinction, exclusion, restriction or preference based on race, colour, descent, or national or other origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedom in the political, economic, social, cultural or any other field of public life.121

While a complete body of universal international law binding all states to protect human rights may not exist, the principle of racial non-discrimination has a different status in international law. Many nations support the view that “there is in international law today a legal principle of non-discrimination which at least applies in matters of race.”122 The majority of the International Court of Justice in Barcelona Traction Case (1970) referred to racial non-discrimination as erga omnes.123 Thus, NAM has succeeded in its advocacy of non-discrimination as a legal principle and has contributed this principle to international law.

4. Non-Intervention124

The Non-Aligned Movement's commitment to the principle of non-intervention in the internal or external affairs of each state is a logical extension of its commitment to the principle of anti-colonialism. The Third World believes that any kind of intervention may be detrimental to sovereignty or independence. Thus, since the Bandung Confer-

117 AKEHURST, supra note 114, at 252. See also BROWNLIE, supra note 16, at 593–96.
119 For example, there were Resolutions 1780 (XVII) of December 1962, 1904 (XVIII) of November 1963 and 1906 (XVIII) of November 1963 which proclaimed the end of racial discrimination.
120 Mojsov, Dimensions of Non-Alignment, 55 Medunarodna Politika (1982).
121 BROWNLIE, BASIC DOCUMENTS IN INTERNATIONAL LAW 305 (1983).
122 BROWNLIE, supra note 16, at 596.
123 See supra note 17, at 302.
124 The term “intervention” is not adequately defined by international law scholars or through state practice. However, many writers use the term to mean “dictatorial interference in the domestic or foreign affairs of another state which impairs that state's independence.” See BRIERLY, THE LAW OF NATIONS 402 (1963).
ence, NAM has reiterated its belief that "interference in the internal affairs of states is totally unacceptable."125

NAM's commitment to the principle of non-intervention is incorporated in the 1965 Declaration on the Inadmissibility of Intervention into the Domestic Affairs of States.126 This Declaration, proposed by the Afro-Asian and Latin American countries, provides that a state does not have the right to intervene, directly or indirectly, for any reason whatsoever in the internal or external affairs of any other state.127

5. Disarmament128

One of motives behind NAM's organization was the Third World's fear of war resulting from the rigid polarization and the Superpowers' arms race. Thus, NAM believes that disarmament should have normative status in international law.

In NAM, disarmament is another version of anti-colonialism. NAM regards the Superpowers' nuclear dominance as an effort to make the Third World powerless. In addition, NAM believes that disarmament would be economically beneficial to the Third World because arms reduction would increase the capital available for economic aid to the Third World.

In addition to supporting a series of resolutions by the General Assembly on disarmament,129 NAM called for a world disarmament conference at The Fifth Summit Conference at Colombo (1976) and refined their demand at a General Assembly Special Session on Disarmament (SSOD) in 1978 and 1982.

Although NAM did not fully succeed in realizing its intention to stop the arms race between the Superpowers, the non-aligned countries succeeded "in creating world public opinion [in favor] of complete disarmament."130 Although NAM considers disarmament a version of anti-colonialism, it may be that disarmament unlike colonialism, is a problem which NAM can not solve independently.

6. The New International Economic Order131

NAM has maintained that the major cause of the present economic underdevelopment of the Third World is due to their former colonial status. NAM labels the present economic structure of most developing nations as "neo-colonialism"132 because the Third World remains economically subordinate to developed countries.

125 Quoted in T.V. Subra Rao, Non-Alignment in International Law and Politics 142 (1981).
128 U.N. CHARTER arts. 11, 26 and 47 refer to disarmament. However, the issue of disarmament in international law is in the formative stages, primarily because states do not have an obligation to disarm. See Tunkin, Theory of International Law 79 (1974).
130 Rao, supra note 125, at 146. For example consider: the Moscow partial test ban treaty (1963); the Non-Proliferation Treaty (1968); the Latin American Nuclear Free Zone Treaty (1967); the Antarctic Treaty (1959); the Sen Bed Treaty (1972); and SALT (1972).
131 See supra notes 61–69 and accompanying text.
132 Jackson, supra note 36, at 172.
The Third World through the Non-Aligned Movement, has demanded reform of the international economic system. NAM's main contribution has been its clear articulation of the demands of the Third World which has forced developed nations to negotiate reforms in economic policy. In 1962, the Cairo Economic Conference on Development began the negotiation process which led to the establishment of UNCTAD in 1964. The Second Summit Conference at Cairo in 1964, following the first UNCTAD meeting at Geneva, adopted a declaration referring for the first time to the need for a "new international economic policy." This declaration foreshadowed NAM's demand for the New International Economic Order (NIEO). At the Third Summit Conference at Lusaka in 1970, NAM again was emphatic about economic issues, and adopted the Declaration on Non-Alignment and Economic Progress.

The Fourth Summit Conference at Algiers in 1973 played a critical role in the launching of NIEO in 1974. The Fourth Summit identified the existing economic order as a legacy of colonialism and the chairman of the conference proposed NIEO at the 1974 sixth special session of the General Assembly. The special session adopted without a vote, but with reservations by developed countries, a Program of Action for the Establishment of a New International Economic Order. This program was directly based on the opinions voiced at the Fourth Summit. Subsequently, the regular session of the General Assembly adopted the Charter of Economic Rights and Duties of States (CERDS) by a lopsided vote of 118–6. The dissents were six developed countries including the United States.

Although the adoption of the NIEO and CERDS has prompted discussion and publication on the new international economic system, these concepts have little substantive value in international law. For example, in the Texaco Overseas Petroleum Case the International Court of Justice indicated that the resolutions establishing NIEO and CERDS were ineffective because they were not supported by any of the developed countries whose market economies support international trade. Although Third World countries insist on the binding effect of NIEO and CERDS, developed nations "... dislike the attempt by the General Assembly resolutions on the New International Economic Order to create a legal obligation for richer states to help poorer states." Today, the demand for international economic reform by the Third World seems to be at a stalemate. To resolve this deadlock, NAM should demand less radical reforms and persuade developed countries to concede more without demanding an international obligation.

7. The New World Information Order

The concept of a New World Information Order has been endorsed by NAM. The negative attitude towards the Western-dominated, worldwide news media was first voiced at the Fourth Summit Conference at Algiers. This Conference concluded that developing countries should reorganize the existing communication networks inherited from their colonial past. In 1976, NAM established a separate Non-Aligned News Agencies Pool

134 See Henkin, supra note 105, at 110.
135 Akehurst, supra note 114, at 199.
to advance the New World Information Order's (NWIO) objectives and to eventually serve as a single, inter-governmental news service throughout the Third World.

As the result of NAM's effort to establish a New World Information Order, the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO), adopted a compromise text for the "Declaration of Fundamental Principles." The Declaration discusses the potential contribution of the mass media to strengthening peace and international understanding.\(^{137}\) Article I of the Declaration demands the free flow of information with wider and better balanced dissemination of information. This declaration reflects the compromise between the developed countries' position that information should be allowed to flow freely and the Third World's position that there should be balanced dissemination of information.

Following the UNESCO declaration, the General Assembly approved resolutions 33/115A and 33/115B in response to the controversy over information dissemination. Resolution 33/115A calls for increased assistance to developing countries in communication technology, while Resolution 33/115B affirms the need to establish a more effective world information and communication order.\(^{138}\)

UNESCO's 1980 Belgrade General Conference passed a resolution specifying eleven points to be considered in order to realize the objective of NWIO.\(^{139}\) The resolution emphasized the free flow of information and the development of communication capacities in the Third World. Although the free flow of information was provided for in the two UNESCO documents, the practice of the Third World has been to control the flow of information passing across borders. Technical and financial aid from the First World, however, has restrained the extreme demand for governmental control of information flow.

The legal validity of NWIO is uncertain because it has not been enunciated clearly by the United Nations. The Third World's position that governmental control over the flow of information is necessary for their national development may conflict with principles of international law. Governmental involvement may violate the fundamental right to communicate recognized in the Universal Declarations of Human Rights (Article 19), the 1975 Helsinki Final Act, the UN Chapter (Articles 55, 56), and the UNESCO Constitution (Article 1). Accordingly, those Third World countries which voted in favor of these documents are obliged to vote against a NWIO which provides for governmental control. The Third World must not ignore the First World because NWIO's objectives cannot be achieved without the help of developed countries.

The mere declaration of these new orders without the understanding and support of other parties will not enable the new orders to achieve normative status. Thus, NAM must remember that the codification of its principles into "new international orders" like the NIEO, NWIO, the New Scientific and Technological Order (NSTO),\(^{140}\) and the New World Cultural Order (NWCO),\(^{141}\) is merely a formal statement of Third World concerns.

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\(^{138}\) Id. at 240–41.


8. Peaceful Coexistence

The five principles of coexistence, also known as the Panchsheel, were endorsed by the United Nations through the efforts of NAM. At the First Summit at Belgrade in 1961, peaceful coexistence was understood as "an active international co-operation among peoples." The principle of peaceful coexistence includes "the right of self-determination of the ex-colonial territories and independence and the free determination of forms and methods of economic, social, and cultural development."

At the insistence of the NAM countries, the Declaration of Principles on International Law concerning Friendly Relations among States in accordance with the Charter of the United Nations was adopted by the General Assembly in 1970. This declaration is legally effective as an authoritative interpretation and application of the principles of the Charter. Among the Charter's principles, those of self-determination, refraining from the use of force, sovereign equality, and the obligation of non-intervention and cooperation are principles which NAM has supported continuously from its inception.

V. Conclusion

This article demonstrates that the Third World, through the Non-Aligned Movement can be deemed a single international legal system.

First, the cultural diversity of the Third World does not hinder the Third World's contributions to international law. Contemporary international law is an inter-cultural law that has developed from culturally specific laws of different nations and regions. Although the Third World is composed of culturally diverse nations, it shares a common bond of anti-colonialism and self-determination which characterizes the Third World's position in international law and in international relations. The common anti-colonial tradition of the Third World enables it to function as a single legal system which contributes regional laws from which international law can develop. As international law incorporates diverse regional laws its effectiveness increases because it is applicable to more nations.

Second, in reality, both universal and non-universal international law exists. In some respects contemporary international law appears to be non-universal because it reflects the increased cultural diversity of the different regions in the world. This article, however, indicates that universal international law develops inductively from regional non-universal law, such as the principles of self-determination and the NIEO, which have been adopted as universal principles of international law. Thus, the Third World as a source of non-universal regional law contributes to international law as a single legal system.

Finally this article shows that the Third World, through the Non-Aligned Movement, has the requisite "values, structure and substance" necessary to compose a legal system. Anti-colonialism is the predominant value guiding the Non-Aligned Movement. The Non-Aligned Movement has institutionalized in order to effectively organize policy and coordinate NAM's activities. Finally, the substantive law of the Third World is evident in the Non-Aligned Movement's contributions to international law.

142 Rao, supra note 125, at 141.
143 Id. at 141.
144 Brownlie, supra note 16, at 15.
The substantive development of international law since World War II has been largely influenced by the Third World. However, in comparison to studies on the European Community or the Soviet international legal system, the study of the Third World as an individual legal system in international law has been neglected. The Third World through the Non-Aligned Movement is an international legal system that has contributed substantive law to the global international legal system. Accordingly, international law and international legal scholars should increase their attention to the Non-Aligned Movement and the Third World since they are and will be influential forces in the development of international law.