

Status of the Individual as a Subject of International Law: The Debate Between Neoliberalism and Neoconservatism

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Abstract. Whether an individual could be treated as a subject in the international law system is a controversial topic for a long time. In earlier periods, individuals were constantly regarded as an objects rather than a subjects in the international law system. However, with the development of globalization and protection of human rights, the status of individuals in the scope of international law has been continuously strengthened. Neoliberalism and Neoconservatism are two highly influential political ideologies in the current world. Neoliberalism advocated global market integration, while neoconservatism deputed state-centric security. These two ideologies have shaped today's international politics and global economy since the 1970s. However, the influence of neoliberal and neoconservative thought on the status of the individual in international law is rarely explored. Although both ideologies claim to support individual freedom, their core principles and administration tactics are fundamentally different. The current essay focus on analyzing different perspectives between neoliberalism and neoconservatism on the status of individual under current international law system with method of literature review of case study.

Keywords: Neoliberalism, Neoconservatism, International Law, Individual Rights, Sovereignty.

1. Introduction

The traditional model of international law was fundamentally state-centric, which means states as the only subjects of international law. While individuals were simply objects whose legal status was fulfilled through sovereign states [1]. However, in the post-World War II era, particularly with the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, constituted a paradigm shift. The individual gradually appeared as a subject of international law, acquired with more rights and duties [2].

Neoliberalism and neoconservatism are two mainstream political and economic ideologies in Western countries, especially in the United States. These two schools of thought have been extensively discussed in fields such as politics, economics, and foreign affairs. However, how they interpret and influence the status of the individual in international law remains a rarely explored topic.

This paper discusses these differences through analyzing how neoliberalism and neoconservatism interpret the individual's role in international law and also use the case of ICC arrest warrant for Netanyahu and Hamas leaders as a valuable and practical example to highlight those differences.

2. Definition and Characteristics of Neoliberalism

Neoliberalism is an ideology and policy model that emphasizes the value of free market competition. Emerging in the late 20th century as a response to Keynesian economics, neoliberalism was championed by figures such as Friedrich Hayek and Milton Friedman and influenced by leaders like Margaret Thatcher and Ronald Reagan [3]. The core principle of neoliberalism is to advocate for lesser government intervention, focusing on free-market capitalism and fiscal austerity. It advocates for a globalized economic system where states cede regulatory authority to transnational institutions, such as WTO and IMF, and private actors (e.g., multinational corporations).

The 1980s witnessed the ascendancy of neoliberalism as the guiding principle of economic policy in numerous Western nations. The International Monetary Fund (IMF) and the World Bank served as key for disseminating neoliberal policies across the developing world. These institutions stipulated

structural adjustment programs--often entailing austerity measures, privatization, and deregulation--as conditional prerequisites for receiving financial assistance. While neoliberalism emphasizes individual liberty and market freedoms, it often undermines social and economic rights by weakening the state's capacity to provide public goods such as healthcare, education, and housing.

3. Definition and Characteristics of Neoconservatism

Neoconservatism is widely considered an offshoot of classical conservative thought, synthesizing elements of traditional conservatism with a commitment to political individualism and support for free-market principles. Unlike neoliberalism, which focuses on economic rationality, neoconservatism is rooted in a moral vision of global order. Irving Kristol, recognized as the founding father of neoconservatism, stated its core principles through five key dimensions: a pragmatic acceptance of the welfare state--including national health insurance; a belief in market efficiency tempered by indirect social interventions; a commitment to preserving traditional values like religion, family, and Western culture; advocacy for equality of rights and opportunity rather than equal outcomes; and a foreign policy stance rejecting isolationism while accommodating diverse perspectives on global engagement [4]. These items collectively define neoconservatism's distinct blend of economic realism, cultural conservatism, and internationally engaged governance.

Neoconservatives argue that individual freedom is depend on the security and ideological dominance of an authoritative state. They are skeptical of multilateral institutions and prioritize unilateral action. The credit for coining the abbreviated term "neoon" stem from American senator Ron Paul. During a speech titled "Neo-Conned!" delivered before the U.S. Congress, he argued: "In many ways, there's nothing 'neo' about their views, and certainly nothing conservative."

4. Core Philosophical Division between Neoliberalism and Neoconservatism

The view of neoliberalism on international law system is legalistic and institutionalist. It believes that rational institutional design, multilateral cooperation, and legal rules can constrain state behavior, resolve conflicts, and promote global well-being [5]. It emphasizes the role of non-state actors (such as individuals and NGOs, etc.), arguing that sovereignty is not absolute but should be limited by universal international rules. Its ultimate goal is to build a global order based on common rules, open markets, and the rule of law.

Friedrich Hayek is the leading figure in the neoliberal tradition. He stated that an ideal society should be structured around individuals acting in accordance with their own value systems and principles. He insisted that such values must be consistent with a foundational doctrine: the unequivocal supremacy of individual freedom [6].

On the contrary, neoconservatism's view of international law is rooted in power politics and state-centrism. It regards the international system as inherently anarchic, where national interest and security are the paramount considerations [7]. Neoliberalism views human rights as universal, and the legitimacy of state sovereignty derives from its protection of domestic human rights [8].

5. Specific Divisions in the Fields of International Law

Neoliberalism and neoconservatism differ significantly on the topic that whether individuals are qualified to be subjects of international law. The gap between the two thoughts is especially in the fields of international human-rights law, international criminal law, and international environmental protection.

5.1. International Human Rights Law

Neoliberal actively advocates for strong international human rights mechanisms and supports the establishment of individual complaint mechanisms under bodies like the European Court of Human

Rights and the UN Human Rights Committee, allowing individuals to directly allege human rights violations by their governments. They also encourage NGOs to participate in international monitoring and litigation, acting as representatives and advocates for individuals.

In conclusion, in the neoliberal view, the individual is the ultimate holder and defender of international human rights, and international law should provide direct avenues for judicial recourse.

On the contrary, representatives of neoconservatism insist on state-centrism. Neoconservatism argues that human rights issues are essentially matters of domestic jurisdiction and the international community has no right to interfere. John Bolton, a prominent neoconservative political figure and also the former national security adviser of Donald Trump, argues this point in his famous essay-Should We Take Global Governance Seriously [9]? In that essay, John Bolton argued that globalists seized the opportunity presented by the end of the Cold War to advance their agenda across various fields, significantly threatening both the sovereignty of the American people and the nation's international influence. He identifies two camps in the U.S. regarding global governance: the globalists, who are typically highly educated, articulate, and active in promoting worldwide centralization of authority; and the Americanists, who comprise almost everyone else--often unaware of or indifferent to the concept of global governance. Bolton further contends that while all Americans advocate for individual freedom, making human rights a routine agenda item, the broad expansion of "human rights" has been exploited by globalists to constrain the independent judicial and political power of nation-states. Bolton warns that this vision of civil society effectively promotes a corporatist approach to global governance, which poses a profound threat to democratic theory.

In summary, from a neoconservative perspective represented by Bolton, the expansion of international legal subjectivity--especially the elevated status of NGOs and individuals in international law--is viewed as a liberal globalist project that undermines national sovereignty, democratic processes, and the traditional state-centric world order.

5.2. International Criminal Law

Neoliberalism believes that peace and justice for the international community require holding individuals accountable for international crimes, regardless of their official status.

Neoliberalism's support for the subjective status of individuals in international law is primarily reflected in its endorsement of the International Criminal Court (ICC).

Neoliberalism views the overwhelming support for the ICC as a powerful demonstration of its core theoretical claim: that cooperation among states is not only possible but achievable even in an anarchic international system, driven by shared interests rather than coercive hegemony. The successful establishment of the Rome Statute--enabled by a critical mass of ratifications without hegemonic leadership--exemplifies how institutions can emerge through collective action to address common goals, such as justice and accountability for atrocity crimes [10].

From a neoliberal institutionalist perspective, the widespread approval of the ICC reflects states' rational pursuit of long-term interests in a rules-based order, despite short-term sovereignty costs. This cooperation occurred not because a hegemon imposed it, but because a transnational coalition of states and civil society actors recognized the value of a permanent judicial mechanism to combat impunity.

On the contrary, neoconservatism views the ICC's universal jurisdiction as a serious violation of national judicial sovereignty, particularly fearing the potential "politicized" prosecution of American soldiers and officials. In his argument, Bolton maintains that the United States should consistently oppose ICC whenever possible. He contends that the primary function of the ICC has been to challenge American interests by enforcing what he characterizes as oppressive and unacceptable international treaties. Instead, Bolton emphasizes that the U.S. possesses a range of alternative foreign policy instruments that better serve its national interests.

John Bolton holds deeply skeptical and often adversarial views toward the ICC, NGOs, and the expansion of individual standing in international law. His criticisms are rooted in a commitment to national sovereignty and a realist vision of international relations. Bolton also criticizes NGOs and

the elevation of individual rights under international law, contending that they serve a globalist agenda aimed at undermining state-level democratic processes and traditional structures of power.

5.3. International Environmental Law

Neoliberalism and neoconservatism hold fundamentally different views on international environmental law.

Neoliberals believe that individuals and non-state actors should play a role in addressing environmental problems. They support cooperation across borders through networks of government officials, experts, and judges. They also back international agreements like the Aarhus Convention, which gives people the right to access environmental information, take part in decision-making, and seek justice.

On the other hand, neoconservatives take a state-centered approach. They prioritize national interests and security over global cooperation. They oppose international commitments that could limit domestic policy or economic growth. Neoconservatives also reject the involvement of non-state actors in national decision-making. Instead, they prefer voluntary forms of international cooperation and believe that environmental regulation should be handled domestically.

6. Case Analysis: Neoliberal and Neocon Interpretations of the ICC Arrest Warrants for Netanyahu and Hamas Leaders

The International Criminal Court (ICC) prosecutor's application for arrest warrants against Israeli Prime Minister Benjamin Netanyahu and Hamas leaders has sparked significant global controversy. This case serves as a litmus test for the perspectives of neoliberalism and neoconservatism on international law.

From a neoliberal institutionalist perspective, the ICC's issuance of arrest warrants for Israeli Prime Minister Benjamin Netanyahu represents a critical assertion of institutional authority in upholding international legal norms. Neoliberalism emphasizes the role of international institutions in facilitating cooperation, enforcing accountability, and reducing impunity--even against powerful state actors. By targeting a sitting leader of a non-member state, the ICC demonstrates its commitment to impartial justice, reinforcing the principle that sovereignty does not exempt governments from legal scrutiny. However, neoliberals also recognize practical challenges: the warrants may strain diplomatic relations, test the court's enforcement mechanisms, and provoke geopolitical backlash. Ultimately, this move underscores the neoliberal belief that structured multilateral institutions are essential for constraining power and promoting a rules-based international order, despite inherent implementation hurdles [11].

On the contrary, Robbie Sabelhe examined legal and political implications of the ICC's arrest warrants against Israeli leaders from a neocon view, while implicitly addressing broader debates about individual accountability in international law [12]. In Robbie Sabelhe's opinion, this action challenged traditional state-centric international law, as Israel and the U.S. oppose the ICC's jurisdiction over non-member nationals, arguing it violates sovereignty and that domestic courts should handle such cases. In summary, the ICC's arrest warrants for Netanyahu and Hamas leaders act like a prism, refracting the fundamental opposition between neoliberalism and neoconservatism in their conceptions of international law. Ultimately, the essence of this debate remains: in a supernational world, should we rely more on law and institutions or on power and sovereignty to achieve justice and order?

7. Conclusion

Neoliberalism and neoconservatism hold different and highly consistent attitudes towards the status of the individual as a subject across the three fields of international law. Neoliberalism, based on its institutionalist and rule-of-law beliefs, strives to build a multi-level global governance network

where individuals, NGOs, companies, and states are all important participants. It therefore tends to endow individuals with more international legal rights and obligations. On the contrary, neoconservatism, rooted in realist power politics and “American exceptionalism”, firmly believes that a Westphalian system centered on nation-states and led by major powers is the foundation for maintaining order and security. It thus vigorously defends the state’s monopoly as the only true subject of international law and opposes any attempts to grant individuals direct status under international law, which would weaken sovereignty.

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