Leiden Journal of International Law (2025), pp. 1–17
doi:10.1017/S0922156524000621

ORIGINAL ARTICLE

INTERNATIONAL LEGAL THEORY

The population growth discourse in the first decades of the United Nations: Interpretations of global economic inequality and the struggles for a just international legal order

Dana Schmalz*

Max Planck Institute for Comparative Public Law and International Law, Heidelberg, Germany
Email: schmalz@mpil.de

Abstract

Population growth was a pivotal issue in the United Nations during its first decades. The global population was growing steeply, and most of this growth took place in the formerly colonized states. Population trends were framed as an aspect of development and became object of extensive international activities, outside the UN and within. The paper explores the population discourse of those years with a focus on the UN and on the relationship with international law. It traces, firstly, the UN documents engaging directly with population growth and aiming to influence national population policies. Secondly, the paper suggests that the framing of population growth as problem of development stressed its causal role for poverty and food insecurity. The struggles for a New International Economic Order coincided with the international focus on population growth, partly with competing interpretations of reasons for global economic inequality. Thirdly, the paper suggests that the activities within the UN played a central role in shaping the discourse. While the activities of governments and private organizations were significant, it was through the authority of the UN that the development-population-nexus achieved such dominance.

Keywords: birth rates; decolonization; development; New International Economic Order; population growth

1. Introduction

Not only the actual demographic developments but also the discourse on population numbers had a significant impact on law and politics throughout the twentieth century. During the first decades of the United Nations (UN), the population discourse took a new shape and was entangled with the genesis of the current international legal order. Population trends, specifically lower birth rates, became seen as an aspect of development. This framing took place in a phase of geopolitical formation: numerous states had newly gained independence and the international community changed. An order of sovereign equality, as laid down in Article 2(1) of the UN Charter, replaced the mandate system that had been established by the League of Nations. Former colonial powers

*The research for this paper was supported in parts by a Feodor Lynen Research Fellowship from the Alexander von Humboldt Foundation. I thank the colleagues at the Max Planck Institute for Comparative Public Law and International Law for feedback on an early draft, and colleagues at the University of Bonn for exchange after presenting the theses as a Rhineland Lecture in International Law. I also am grateful for the helpful advice received from the two reviewers.

and formerly colonized states were now legally equal, yet significant economic inequalities persisted. At the same time, international law became more differentiated and offered a toolset for negotiating international relations. The contrast between formal equality and material inequality of states in this postcolonial constellation translated in many areas into legal language and took place in international institutions and proceedings. Law worked, as usual, on both sides: it served to defend unequal conditions and to tackle them.

In this new constellation, the discourse on global population numbers and unequal regional population developments was a central topic. The relation ran into both directions. On the one hand, population trends were a factor in how inter-state relations were discussed. On the other hand, the geopolitical situation as well as the framework of the UN shaped the discourse on population. As Alison Bashford puts it: 'It was the demographic profile that differentiated First World and Third World, the East and the West, and later the Global "North" and "South".'[1]

The present article explores how the discourse on population numbers developed in the first decades of the United Nations and related with international law. It, firstly, traces the UN documents engaging directly with population growth, showing how a statistical approach gave way to a more normative approach. Secondly, the paper examines the role of the population discourse in the wider context of international law in those decades, especially its relationship with the focus on human rights and with the struggle for a New International Economic Order. The framing of high birth rates as a problem of development influenced the way global economic inequality was negotiated. The development-population-nexus offered an explanation for poverty and food insecurity, thereby side-lining other factors such as colonial legacies and international trade relations. Finally, the article suggests that the activities within the UN were important in shaping the population discourse in those years. While many national governments and private organizations engaged in activities to oppose high population growth, it was through the authority of the UN that the interpretation of the development-population-nexus achieved such dominance. Resolutions of the UN General Assembly (UN GA), despite the significant discrepancies in the positions of states, communicated widely shared understandings. Through the repeated framing of population growth in connection with development, the UN GA and other UN bodies exercised what can be called narrative authority: an interpretation of correlations that became dominant through repetition.

The article draws on important works of historians such as Alison Bashford, Matthew Connelly, and Marc Frey, who have studied how the idea of the 'population problem' evolved and how it has impacted politics.[2] In international legal scholarship, the role of the population growth discourse has so far not received much attention. In the 1970s, some scholars explored the legal possibilities and limits for population policies.[3] Other works have summarized population policies.[4] Yet a critical evaluation of the role of the population discourse for the development of international law is so far largely missing. While a comprehensive evaluation is beyond the scope of an article, the present contribution proposes lines of analysis in that regard. It focuses on documents from the United Nations, reflecting about the UN's specific role in international knowledge production. With population politics being linked to a myriad of issues, from health over education, to economic growth and food security, the procedures at the UN were significant sites for shaping a shared interpretation of the relevant questions. Rather than providing uniform answers, the UN documents reflect dominant concepts and frames used for debating the issue.

[1]A. Bashford, *Global Population: History, Geopolitics, and Life on Earth* (2014), 269.

[2]Ibid.; M. Connelly, *Fatal Misconception: The Struggle to Control World Population* (2010); M. Frey, 'Neo-Malthusianism and Development: Shifting Interpretations of a Contested Paradigm', (2011) 6 *Journal of Global History* 75.

[3]A. C. Kellogg, 'Population Growth and International Law', (1970) 3 *Cornell International Law Journal* 93; S. C. Eisenhauer, 'Legal Implications of Population Control: A Practical Reevaluation of Some Human Rights Considerations', (1978) 2 *Fordham International Law Journal* 1.

[4]See S. L. Isaacs, *Population Law and Policy* (1981); J. F. May, *World Population Policies: Their Origin, Evolution, and Impact* (2012).

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

The underlying research of this article is embedded in reflections about how population growth and the accompanying discourse have shaped modern societies.[5] Since the onset of a significant growth of the world population around 1800, there have been warnings about 'too many humans'. Thomas Malthus' 'Essay on the Principle of Population', published in 1798, launched debates about the problems of population growth. Malthus viewed high birth rates as main cause for poverty and warned that the production of food could not keep up with the increase in population. The Malthusian perspective remained influential as European societies changed with industrialization, emigration, and democratization.[6] Concerns about population growth were linked with debates about social rights, about migration, about gender roles, and about ecology. Thereby, the population discourse was permeated by the inequalities of the societies in which it took place. For Malthus and early Malthusians, it was mainly the English poor who were having too many children. In late nineteenth century, Malthusianism became closely entangled with eugenics, and racialized demographic analyses fostered debates about migration restrictions in early twentieth century. With this background, the discussion of population growth had all but an innocent history. The population growth discourse in the first decades of the UN exhibits continuities, but also took place in an entirely new setting. For the first time, a detailed legal and institutional framework existed for the discussion, and the participants were more diverse than ever before.

The article will proceed in the following way: Section 2 provides an overview on the population discourse prior to the founding of the UN and during its first two decades. In Section 3, the article describes the emergence of a policy perspective on population and its connection to the concept of development. Section 4 looks at the 1974 World Population conference and the World Population Plan of Action. After this mainly chronological sequence, the subsequent sections explore specific aspects of the relationship between international law and the population discourse. Section 5 examines the ambivalent role given to human rights in relation to population control. Section 6 proposes the concept of narrative authority for capturing the form of knowledge production around population growth in UN procedures. Section 7 considers the effect that the population-development-nexus might have had on international law more broadly, in particular on the struggle for a New International Economic Order. In Section 8, the article concludes with some reflections on birth rates, development, and international law in the presence.

2. The cautious beginnings of the population growth discourse in the United Nations

The first decades of the United Nations were a phase of formation, legally as well as politically. The UN system was created in reaction to the Second World War and with a focus on collective peace-keeping mechanisms. Enormous hopes were set on the United Nations, also far beyond the realm of peacekeeping.[7] In the years from 1945 until 1975, states adopted numerous international agreements on international trade law, international humanitarian law, refugee law, and human rights. Simultaneously, the international community grew as several states gained independence from colonial rule. From its founding until 1980, the number of member states in the UN tripled. In the emerging international legal order, fundamental questions of global justice were at stake. Between formerly colonized and formerly colonizing states, international law was a site of contention.[8] The postcolonial constellation left its imprint on the content and the structure of many fields of international law. How to properly account for the role of colonialism and

[5]D. Schmalz, *Das Bevölkerungsargument. Wie die Sorge vor zu vielen Menschen Politik beeinflusst* (2025).

[6]A Malthusian League was founded in England in 1877, and parallel groups assembled in other states; six Neo-Malthusian conferences took place from 1900 until 1925.

[7]Cf. E. Luard, *A History of the United Nations: Volume I: The Years of Western Domination, 1945–1955* (1982), 374.

[8]J. von Bernstorff and P. Dann (eds.), *The Battle for International Law. South-North Perspectives on the Decolonization Era* (2019).

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

postcolonial power structures in the development of international law is the object of extensive scholarship.[9] One key aspect in this period of formation, also of discursive formation, was the issue of population numbers and specifically birth rates. Population growth had been the object of attention before, but it received a new way of framing during those years.

This was not least because of the demographic changes in the early twentieth century. The first phase of significant population growth had taken place in Europe. From around 195 million people in 1800, European population had grown to around 456 million in 1920.[10] This growth had been accompanied by large-scale emigration; between 1850 und 1913, around 40 million persons left Europe for other parts of the world, mainly North America.[11] Since the seminal essay by Thomas Malthus in 1898, population growth was treated with concern and was seen as a main explanation for persistent poverty. The population discourse in the early twentieth century was shaped by Neo-Malthusians and by eugenic groups.[12] Yet the center of growth began to shift from Europe to other world regions. Fertility rates in European states began to decrease: In the United Kingdom, for example, they fell from an average of 4.85 children per woman in 1880 to an average of 2.01 in 1930.[13] In Germany, the rate fell from 5.02 in 1900 to 1.98 in 1930.[14] In 1950, the European average stood at 2.7 births per woman, contrasting an average of 5.71 in Asia and 6.59 in Africa.

With the first collection of demographic data in colonized states, European scholars had theorized racial population hierarchies.[15] These racialized views of population groups and the different demographic trends gave rise to tropes such as 'race suicide' and 'the Global Colour line'.[16] The concern about 'overpopulation' that in the nineteenth century had been directed at the poor of various European states now shifted to the poor on a global level, populations in developing states.[17] The idea of an 'overcrowded earth' was already prevalent and made people receptive to totalitarian ideas, as Hannah Arendt has argued.[18] The public perception of world population numbers and the local politics of managing and controlling population developments were strongly intertwined.

Thus was the picture when the United Nations was founded in 1945. On the one hand, openly eugenic and racial population management was largely discredited after the defeat of Nazi Germany, where a eugenic and racist ideology had been employed to justify the murder of millions. On the other hand, ideas about population hierarchies were widely present and often veiled in more neutral concepts. Publications from the time, such as 'Our Plundered Planet' (1948) by Fairfield Osborn or 'Road to Survival' (1948) by William Vogt emphasized the danger of population growth.

Within the UN, the treatment of population developments initially focused on scientific exchange. In 1946, the Population Commission was established under the wings of the Economic

[9]A. Anghie, 'The Evolution of International Law: Colonial and Postcolonial Realities', (2006) 27 *Third World Quarterly* 739; S. Pahuja, 'The Postcoloniality of International Law', (2005) 46 *Harvard International Law Journal* 459.

[10]'Population, 1800 to 2100', *Our World in Data*, available at www.ourworldindata.org/grapher/population-long-run-with-projections.

[11]T. J. Hatton and J. G. Williamson, 'What Drove the Mass Migrations from Europe in the Late Nineteenth Century?', (1994) 20 *Population and Development Review* 533.

[12]S. Klausen and A. Bashford, 'Fertility Control: Eugenics, Neo-Malthusianism, and Feminism', in A. Bashford and P. Levine (eds.), *The Oxford Handbook of the History of Eugenics* (2010), 98 at 100.

[13]'Total Fertility Rate in the United Kingdom from 1800 to 2020', *Statista*, available at www.statista.com/statistics/1033074/fertility-rate-uk-1800-2020/.

[14]'Total Fertility Rate in Germany from 1800 to 2020', *Statista*, available at www.statista.com/statistics/1033102/fertility-rate-germany-1800-2020/.

[15]G. Thorvaldsen, *Censuses and Census Takers: A Global History* (2017), 6; K. Wilson, *Race, Racism and Development: Interrogating History, Discourse and Practice* (2012), 71.

[16]See Bashford, *supra* note 1, at 107 et seq.

[17]See Wilson, *supra* note 15, at 149.

[18]H. Arendt, *The Origins of Totalitarianism* (1958), 457.

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

and Social Council. Its creation was based on the idea that 'many branches of scientific research connected with the promotion of human knowledge, ... yield considerably more effective results if they [a]re conducted on an international plane'.[19] The Commission's name was later changed into Commission on Population and Development.

In 1954, a World Population Conference took place in Rome, with involvement of the International Union for the Scientific Study of Population,[20] the Food and Agriculture Organization (FAO), the International Bank for Reconstruction and Development, the International Labour Organization (ILO), the UNESCO, and the World Health Organization (WHO).[21] Scientific experts gathered and discussed fertility and mortality trends, migration, techniques and quality of demographic statistics, 'demographic aspects of economic and social development', as well as existing population policies and their effects. The second World Population Conference, equally an expert meeting, was convened in Belgrade in 1965.[22]

In parallel to the scientific treatment of population developments, however, policy considerations grew. Curbing population growth in developing states was a concern of Western, particularly US, foreign policy and of non-governmental organizations.[23] The positions of these states in international institutions, the activities of organizations such as the Ford Foundation and the Rockefeller Foundation,[24] and the understanding that many leading demographers and other experts who were based in the United States or other Western states brought to the table, went along rather harmoniously.[25] Concerns about high birth rates were voiced, particularly for India. Independent since 1947, India was the site of international non-governmental activities advancing family planning programs; the Rockefeller Foundation and the Ford Foundation were especially active in that regard.[26] Already in 1951 India had passed a program on family planning, and non-governmental activities continued.

The worries about growing populations in developing states contrasted with pronatalist policies in Western states at the time. In the years after 1945, governments in the West as well as in the Soviet Union were promoting more births, viewing growing populations as an asset for economic reconstruction and a factor of power.[27] Those pronatalist positions came with strict regulations of contraceptives and the promotion of the role of women as mothers. Birth rates had declined in the decades before but were now rising again: the so-called baby boom between the mid-1940s and mid-1960s. For instance, the population of the United States grew, mainly from increased births and without significant immigration, from 100 million around 1920 to 180 million by 1960.[28] In

[19]Based on the Resolution 3 (III) of 3 October 1946, E/RES/3 (III) (1946).

[20]Founded in 1928 after the 1927 World Population Conference, initially named the International Union for the Scientific Investigation of Population Problems, in 1947 was renamed the International Union for the Scientific Study of Population. In those first years, three research committees existed in the Union on 'Population and Food', on 'Differential Fertility, Fecundity and Sterility', and on 'Statistics of Primitive Races'; cf. 'The History of the IUSSP', *International Union for the Scientific Study of Population,* available at www.iussp.org/en/about/history.

[21]UN Department of Economic and Social Affairs, Proceedings of the World Population Conference, UN Doc. E/CONF.13/412 (1955), Preface to the Summary Report. The Conference was authorized by Resolution 435 (XIV) of the Economic and Social Council.

[22]UN Department of Economic and Social Affairs, Proceedings of the World Population Conference, UN Doc. E/CONF.41/4 (1967).

[23]See May, *supra* note 4, at 93.

[24]See also J. Nagelberg, *Promoting Population Policy: The Activities of the Rockefeller Foundation, the Ford Foundation and the Population Council 1959-1966* (Dissertation, Columbia University, 1985).

[25]Influential voices of those years included Frank Notestein from the Princeton Office of Population Research, and Ansley Coale and Edgar Hoover, two further Princeton academics, cf. R. J. Williams, 'Storming the Citadels of Poverty: Family Planning under the Emergency in India, 1975–1977', (2014) 73 *The Journal of Asian Studies* 471, at 479–81.

[26]J. Sharpless, 'Population Science, Private Foundations, and Development Aid: The Transformation of Demographic Knowledge in the United States, 1945–1965', in F. Cooper and R. Packard (eds.), *International Development and the Social Sciences: Essays on the History and Politics of Knowledge* (1998), 176.

[27]See Frey, *supra* note 2.

[28]P. Morland, *The Human Tide: How Population Shaped the Modern World* (2019), 214.

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

the meantime, the concern with population growth in developing states contributed significantly to the research on contraceptives, funded for instance by the Ford Foundation and the Population Council.[29] The first contraceptive pill became available in the United States in 1960, despite significant political opposition. Western perspectives exhibited a tension between a widely shared support for family-planning in developing states and restrictive politics regarding birth control 'at home'.

3. The population-development-nexus and the increasing policy focus regarding population growth

Concerns regarding population growth became increasingly present within the United Nations in the 1960s. In 1950, the Report of the Population Commission had pointed out the 'demographic aspects of technical assistance for economic development' and expressed the high priority of studies of the interrelationship of economic, social, and population changes, mentioning a field study to be conducted in India in collaboration with the government.[30] The UN General Assembly passed its first resolution regarding global population in 1957, under the title of 'demographic questions'.[31] It was adopted on the report of the Economic and Financial Committee and underlined 'that there is a close relationship between economic problems and population problems, especially with regard to countries which are in the process of economic development',[32] calling for attention to the issue and for more research.

Not only was the topic of population growth increasingly linked to the goal of development during those years, but development emerged as a predominant issue that it had not been before. In the UN Charter, development does not appear in the purposes or principles of Articles 1 and 2; it is mentioned only in Article 55(a) in the section on International Economic and Social Cooperation. With the membership in the UN growing and diversifying due to decolonization, the notion of development gained center stage in the late 1950s. The UN GA established a special fund, proclaimed the 'development decades' from 1960 onwards, and founded the United Nations Development Programme (UNDP) in 1965. Among the issues addressed under the title of development were poverty and illiteracy, and economic development was widely equated with industrialization.[33] The focus on economic growth and the equation of development with industrialization have been criticized in retrospect, especially with view to interests of sustainability and environmental protection.[34]

Population growth, or the 'population explosion' as it was often titled in the 1960s, were discussed in connection to food security. Already the 1952 the Report of the UN Food and Agriculture Organization had stated that 'the production of foodstuffs is not increasing at the same rate as the population'.[35] In the Resolution 2211 (XXI) in 1966, the UN General Assembly expressed concern 'at the growing food shortage in the developing countries, which is due in many cases to a decline in the production of food-stuffs relative to population growth'.[36]

[29]M. Cueto, T. M. Brown and E. Fee, *The World Health Organization: A History* (2019), 148.

[30]UN Economic and Social Council, Report of the Population Commission (Fifth Session), UN Doc. E/RES/308(XI) (1950), at 36–7.

[31]UN GA, Resolution of 14 December 1957, Demographic Questions, UN Doc. A/RES/1217(XII) (1957).

[32]Ibid.

[33]In 1953, the Council requested that the Secretary-General, 'in continuing his studies on the question of industrialization as part of the problem of integrated economic development' should prepare a study on 'processes and problems of industrialization' in 'under-developed countries'; cf. UN Department of Economic and Social Affairs, Processes and Problems of Industrialization in Under-Developed Countries', UN Doc. E/2670. ST/ECA/29 (1955), Foreword. In that report, population growth is viewed as an ambivalent factor for development: case of abundant land resources, population growth seems desirable for industrialization, yet under most circumstances it is seen as a hindrance.

[34]A. Gillespie, *The Illusion of Progress: Unsustainable Development in International Law and Policy* (2001), 4.

[35]UN Economic and Social Council, Resolution of 19 June 1952, Report of the Food and Agriculture Organization of the United Nations, UN Doc. E/RES/424(XIV) (1952).

[36]UN GA, Resolution of 17 December 1966, Population Growth and Economic Development, UN Doc. A/RES/2211(XXI) (1966).

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

In the 1960s, various UN bodies discussed the role and effect of population growth with increased urgency. In the Commission on the Status of Women, the topic was mentioned briefly in the Seventeenth session in 1963 and discussed at more length in the Eighteenth session in 1965. In the report on the Nineteenth session in 1966, the notion of 'population explosion' is already prominent. Policies of family planning remained a controversial topic in the Commission, yet the issue entered the spotlight, and the tone of discussion changed.

The UN General Assembly adopted several Resolutions under the title of 'population growth and economic development'.[37] Resolution 1838 (XVII) in 1962 emphasized that 'population growth and economic development are closely interrelated' and called for more research and the collecting of specific data, especially in the 'less developed countries'.[38] The Economic and Social Council in 1965 cited this UN GA Resolution, stressing 'the problems in the economic and social development of developing countries associated with the growth and structure of population and migration from the countryside to the cities', and referencing the 1965 Report of the Population Commission.[39] The sessions of the Population Commission in those years turned from a focus on collecting demographic data to discussing causal relations of population numbers and economic, social, and environmental questions.

It was thereby a diverse group of states sponsoring resolutions on the issue of population growth. The draft for UN General Assembly Resolution 2211 (XXI) in 1966, for example, was introduced by the representative of Iraq, also on behalf of Denmark, Ecuador, Finland, Ghana, India, Kenya, Kuwait, Malaysia, Nepal, Norway, Nigeria, Pakistan, Rwanda, Singapore, Sweden, Syria, Turkey, the United Arab Republic, the United Kingdom, the United States, and Yugoslavia, with El Salvador, Jamaica, and the Netherlands joining as co-sponsors.

When the draft resolution was discussed in the General Assembly, the representative of Jamaica took the floor. While supporting the resolution, he also emphasized that 'population growth is but one of the several important factors that determine the scale and rate of economic development'.[40] He further pointed to the 'discredited Malthusian triumvirate of war, disease, and famine' which often still seemed underlying concerns regarding population growth. Finally, he suggested that 'sensitive policies of emigration and immigration' should also be part of 'realistic population policies', rather than a focus on birth control alone. Historically, immigration and emigration contributed to the economic development of states, he argued, and they could still do so. He attributed it to the 'the implicit unconcern felt for the population problem in its totality' that migration policies were not a relevant part of the debate. This intervention highlights how the issue of population growth was far from an isolated topic but touched upon several other areas of international law – such as migration. It also indicates how, while the push for international action regarding population growth was widely shared, the perspectives on what kind of action should ensue strongly differed.

The concept of population policy itself depends on prior understandings and there is no clear-cut definition.[41] For data and discussions on population, it is relevant what is taken as the unit of measurement. In that sense, any concept of population relies on political-territorial boundaries, and on understandings of permanent versus temporary population. Observations of population policies, in turn, will rely on conceptions of what counts as neutral status of regulation. Numerous fields of regulation can influence population developments: family laws, laws on social benefits for

[37]The initial Resolution suggesting the inclusion in the agenda was UN GA, Resolution 1719 (XVI) of 19 December 1961, Population Growth and Economic Development, UN Doc. A/RES/1719(XVI) (1961).

[38]UN GA, Resolution of 18 December 1962, Population Growth and Economic Development, UN Doc. A/RES/1838(XVII) (1962).

[39]ECOSOC, Resolution of 30 July 1965, 1084 (XXXIX), UN Doc. E/4117 (1965).

[40]UN GA, Official Records of the United Nations General Assembly, Twenty-First Session, 1497th Plenary Meeting, 17 December 1966, UN Doc. A/PV.1497 (1966), at 12–13, paras. 136-146.

[41]P. Taylor, 'Population: Coming to Terms with People', in P. Taylor and A. J. R. Groom (eds.), *Global Issues in the United Nations' Framework* (1989), 148 at 149.

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

family or children, health regulations, labour laws, tax laws, migration regulations. Most international activities regarding population growth were directed at family planning programs. But as the abovementioned episode illustrates, the discussions at the UN also concerned the scope of considerations: what, beyond family planning programs, follows from the concern with demographic trends?

Resolution 2211 (XXI) explicitly recognized 'the sovereignty of nations in formulating and promoting their own population policies'.[42] That such explicit recognition seemed necessary also highlights the turn to policy considerations on the international level. The resolution requested the creation of a work programme in the field of population and asked the Secretary General to consult with UN specialized agencies and pursue the programme's implementation. In consequence of that, the UN Fund for Population Activities was launched in 1967, later renamed the UN Population Fund (retaining the abbreviation UNFPA). In 1969, the UNDP became responsible for its administration.[43] The UN Economic and Social Council in 1973 defined UNFPA's mandate more closely, stating that its 'aims and purposes' include building up knowledge and promoting co-ordination in population planning and programming, and extending 'systematic and sustained assistance to developing countries at their request in dealing with their population problems'.[44]

4. The 1974 World Population Conference and the World Population Plan of Action

The international activities regarding population growth culminated in the 1974 World Population Conference in Bucharest and the World Population Plan of Action (WPPA) adopted there, but the Conference and the WPPA also exhibited changing perspectives on population developments.

A first initiative regarding a further World Population Conference emerged in the Population Commission in 1968.[45] The proposal for a 'third World Population Conference' was then put forward more explicitly in the Secretary General's report in 1969,[46] under Secretary General U Thant, and after the advice of a group of experts. This Secretary General's report was considered by the Population Commission in its Fifteenth Session, which also 're-evaluated the functions and purposes of conferences on population'.[47] While proposed as 'third', the envisaged conference would eventually differ fundamentally from the previous two World Population Conferences. The Population Commission suggested that the Conference should be devoted, among other topics, to 'population policies and action programmes needed to promote human welfare and development'.[48] Also, the Commission recommended that 'participants at the proposed conference should consist of representatives of Member States' alongside specialists.[49]

Several preparatory phases were proposed by the Population Commission. The Commission's report with draft resolutions was subsequently discussed in the Economic Committee,[50] and the

[42]UN GA, Resolution of 17 December 1966, Population Growth and Economic Development, UN Doc. A/RES/2211(XXI) (1966).

[43]M. Hirsch, 'United Nations Population Fund (UNFPA)', in *Max Planck Encyclopedia of Public International Law* (2006), para. 2.

[44]UN Economic and Social Council, United Nations Fund for Population Activities, UN Doc. E/RES/1763(LIV) (1973).

[45]Coming mainly from the United States; see Taylor, *supra* note 41, at 153.

[46]Population Commission, Question of Holding a Third World Population Conference: Report of the Secretary-General, UN Doc. E/CN.9/224 (1971).

[47]Population Commission, Report of the Fifteenth Session, 3-14 November 1969, UN Economic and Social Council, Official Records: 48th Session, Supplement No. 3, UN Doc. E/4768, E/CN.9/235 (1969), at 32.

[48]Ibid.

[49]Ibid.

[50]This took place at the Economic Committee's 504th to 507th meetings, held on 25 and 31 March and 1 April 1970 (UN Economic and Social Council, Records of the 504th to 507th Meetings of the Economic Committee, UN Doc. E/AC.6/SR.504-507 (1970)).

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

ECOSOC adopted draft resolutions, *inter alia*, on the Third World Population Conference, and on the World Population Year as recommendations to the UN General Assembly.[51] When these drafts were discussed in the Second Committee of the General Assembly, the representative of India, joined by the representatives of Indonesia, Pakistan, Nepal, Philippines, and the United Arab Republic, proposed an alternative draft resolution. The latter one was adopted after a split vote.[52] In comparison to the ECOSOC draft, the one introduced by the six states in the Second Committee stressed state sovereignty regarding population policies and overall emphasized the role of states. This latter draft was adopted, also with a split vote, in the UN General Assembly, designating 1974 as the World Population Year, with the World Population Conference to be held that year.[53] The Resolution recognized the 'progress made' by states and the important work of the UN Fund for Population Activities yet stated that 'varied aspects of the population problem require further attention from member states and international organizations'.[54]

The preparation of the 1974 conference was elaborate. Population conferences in Europe, Africa, Latin America, and Asia had been planned independently from the 1974 Population Conference but were included in the preparation.[55] Furthermore, the Population Division led four technical symposia: on population and development, on population and the environment, on population and the family, as well as on population and human rights. Between 1972 and 1974, the Population Commission met three times as a Preparatory Committee for the Conference.[56] Whereas these preparations focused on technical questions and were not politicized, the Bucharest Conference turned out full of controversies.[57]

The oppositions among states had become more marked. Those states that had been pushing for population control policies in the years before intended the Conference in Bucharest to consolidate and increase these policies.[58] Instead, however, the Conference marked a turning point in the treatment of population development. Representatives of 136 states met from 19 to 30 August 1974 in Bucharest. The WPPA stood at the centre of the debates. Its draft had been prepared by the UNFPA with the assistance of an advisory committee of experts, it had been reviewed by the Population Commission and been discussed at the regional meetings. The working groups then amended the draft WPPA.

At the Bucharest Conference, more than 300 amendments were still introduced and debated. Considerable controversies concerned the understanding of population growth and adequate reactions.[59] Conflicts arose around gender issues, with the few female delegates pushing back against men dictating population policies and using women's rights rhetorically in their interests.[60] Yet the most significant oppositions regarded the link between population growth and economic development. Calls for more equitable international economic relations permeated the deliberations.[61]

[51]UN Economic and Social Council, Resolution of 3 April 1970, Third World Population Conference, UN Doc. E/RES/1484(XLVIII) (1970) and UN Economic and Social Council, Resolution of 3 April 1970, World Population Year, UN Doc. E/RES/1485(XLVIII) (1970).

[52]With 53 votes in favor, 9 votes against – mainly states of the Soviet Union – and 33 abstentions.

[53]UN GA, Resolution of 11 December 1970, World Population Year, UN Doc. A/RES/2683(XXV) (1970).

[54]Ibid.

[55]See Taylor, *supra* note 41, at 152.

[56]This task was conferred by UN Economic and Social Council, Resolution of 2 June 1972, 1672 (LII) Population and Development, UN Doc. E/5183 (1972).

[57]See Taylor, *supra* note 41, at 163.

[58]J. L. Finkle and B. B. Crane, 'The Politics of Bucharest: Population, Development and the New International Economic Order', (1975) 1 *Population and Development Review* 87.

[59]See Isaacs, *supra* note 4, at 362.

[60]See Frey, *supra* note 2, at 492.

[61]C. A. Miro, 'The World Population Plan of Action: A Political Instrument Whose Potential Has Not Been Realized', (1977) 3 *Population and Development Review* 421, at 422.

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

Several changes were introduced by states of the Global South,[62] especially by Algeria and Argentina, that connected the Plan's policies with a demand for a new economic order.[63] Whereas the link of population growth and economic development was generally accepted, the direction of causalities was contested: Most states of the Global South demanded measures that would help economic development and thereby lead to lower birth rates. States of the Global North, by contrast, mainly took the view that the lowering of birth rates should be actively pursued and would contribute to economic development. The former explicitly based their claims on the 'Declaration for the Establishment of a New International Economic Order' adopted by the UN General Assembly that same year.[64]

Ultimately, the WPPA that was adopted by the plenary, together with several Resolutions and Recommendations, was a compromise.[65] It begins by stressing that a 'consideration of population problems cannot be reduced to the analysis of population trends' and suggesting that 'the present situation of the developing countries originates in the unequal processes of socio-economic development which have divided peoples since the beginning of the modern era'.[66] It also underlines the interrelations of population and development in both directions, as 'population variables influence development variables and are also influenced by them'.[67]

Overall, the World Population Plan of Action differed in language and framing from prior documents regarding population. While in some sense a cumulation of international activities regarding population developments, it also heralded a turn.[68] Its primary aim, the Plan stated, was

> to expand and deepen the capacities of countries to deal effectively with their national and subnational population problems and to promote an appropriate international response to their needs by increasing international activity in research, the exchange of information, and the provision of assistance on request.[69]

The idea was that the Plan would serve as a basis for a shared understanding, laying down insights about the causes and effects of population growth, and providing guidelines for action. In that endeavor, Part A of the Plan is a description of causal relations, regarding migration pressures, brain drain, age structure in the population, and more. Part B lists principles and objectives, Part C, the recommendations for action, and Part D, recommendations for implementation.

The WPPA reiterated the 'sovereign right of each nation' to determine its population policies,[70] but it stressed individual rights. The Plan mentions the 'right of couples to have the number of children they desire', basing population policies on the concern that 'many couples in the world are unable to exercise that right effectively'.[71] It emphasizes that policies must be consistent with the 'human rights of individual freedom, justice, and the survival of national, regional and minority groups'.[72] Individual rights in that sense constitute the boundaries within which

[62]I am using the terms Global South and Global North here, although they were not common at the time of the events. The terms in use at the time, developing and developed states, are directly based on the notion of development, which the article seeks to critically reflect about. The more terms of Global North and Global South, while ambiguous themselves, allow thinking about the opposition along more varied lines such as the colonial history, economic power, and level of industrialization, without equating industrialization necessarily with development.

[63]See Finkle and Crane, *supra* note 58, at 88; see also Connelly, *supra* note 2, at 313.

[64]UN GA, Resolution of 1 May 1974, Declaration on the Establishment of a New International Economic Order, UN Doc. A/RES/3201(S-VI) (1974).

[65]United Nations, Report of the United Nations World Population Conference, UN Doc. E/CONF.60/19 (1975).

[66]Ibid., World Population Plan of Action, para. 4.

[67]Ibid., World Population Plan of Action, para. 14(c).

[68]Matthew Connelly speaks of the 'Waterloo of the population control movement', see Connelly, *supra* note 2, at 316.

[69]See UN, World Population Plan of Action, *supra* note 65, para. 15.

[70]Ibid., para. 14.

[71]Ibid., para. 6.

[72]Ibid., para. 14(d).

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

population policies must remain.[73] The Plan states that 'individual reproductive behavior and the needs and aspirations of society should be reconciled'.[74] Accordingly, the 'right to decide freely and responsibly the number and spacing of ... children and to have the information, education and means to do so' is followed by the 'responsibility of couples and individuals in the exercise of this right [to take] into account the needs of their living and future children, and their responsibilities towards the community'.[75] The status of women is addressed in the part containing recommendations, with a call for securing equality of women and their participation on all levels.[76]

Overall, the WPPA reflected a growing awareness that population developments could not be detached from other political and economic circumstances in the respective states. Moreover, the Plan recognized the complex normative questions of population policies. In that sense, the Bucharest Conference can be seen as initiating a new approach to population developments, that moved away from a simple focus on control to a more nuanced perspective on population planning and a stronger emphasis on individual rights.[77]

5. Human rights and population control – an ambivalent relationship

Human rights as boundaries for population programmes were significant not only on the level of the UN, but also with view to the extensive activities of non-governmental organizations in that area. In India, the Rockefeller Foundation and the Ford Foundation were strongly involved in family planning initiatives, contributing to large-scale sterilization campaigns in the 1960s and 1970s.[78] During the so-called emergency in 1976 alone, 6.2 million men were sterilized. The sterilization campaigns operated with substantive pressure such as salary payments depending on having obtained a sterilization certificate,[79] and were partly accompanied by open violence.[80] Invasive population policies, such as forced or heavily incentivized sterilizations, faced increased criticism in the years that followed.[81] Human rights offered the vocabulary and the legal tools for challenging the invasive practices.

Yet the rhetoric of human rights in relation to population policies was twofold. On the one hand, human rights were referenced as boundaries for permissible policies. On the other hand, population planning was also seen as an aspect of human rights protection. One episode that illustrates the latter perspective was the 'Declaration on Population: The World Leaders Statement'. The initiative for the declaration came from John D. Rockefeller III, the drafting of the text was done by the Population Council, which Rockefeller had founded. Twelve heads of states signed the declaration[82] and presented it to the UN Secretary General U Thant on Human Rights Day, 10 December 1966. The Declaration stated, *inter alia*, that 'the population problem must be recognized as a principal element in long-range national planning if governments are to achieve

[73]Cf. also Eisenhauer, *supra* note 3, at 12.

[74]See UN, World Population Plan of Action, *supra* note 65, para. 7.

[75]Ibid., para. 14(f).

[76]Ibid., para. 41.

[77]See May, *supra* note 4, at 94.

[78]Ibid.; see also G. Prakash, *Emergency Chronicles: Indira Gandhi and India's Turning Point* (2019); see Frey, *supra* note 2, at 81.

[79]D. Gwatkin, 'Political Will and Family Planning: The Implications of India's Emergency Experience', (1979) 5 *Population and Development Review* 29.

[80]P. R. Gupte, 'India: "The Emergency" and the Politics of Mass Sterilization', (2017) 22 *Education About Asia* 40.

[81]With an overview P. R. Reilly, 'Eugenics and Involuntary Sterilization: 1907–2015', (2015) 16 *Annual Review of Genomics and Human Genetics* 351.

[82]Those were the heads of state from Colombia, Finland, India, Korea, Malaysia, Morocco, Nepal, Singapore, Sweden, Tunisia, the United Arab Republic, and Yugoslavia.

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

their economic goals and fulfill the aspirations of their people'.[83] The choice of date sought to highlight the connection of population policies with human rights protection, and U Thant also confirmed this link in his speech. He emphasized the right of parents to determine the number of their children and the concern with 'the quality of human life as well as with the number of human beings on earth'.[84] A year later, when 18 more heads of state had signed the Declaration, another meeting with the UN Secretary General was convened. At this occasion, the UK representative, Lord Caradon, spoke of the 'banner of human rights', under which the campaign stood, the campaign to 'prevent human waste, the utterly unforgiveable waste of the most precious thing in the world, the potentiality of the human personality'.[85]

References to human rights in relation to population planning can be found in several other places, too. In the mandate of the UN Population fund, the purpose to promote awareness for 'the human rights aspects of family planning' is mentioned.[86] The final act of the Teheran Conference on Human Rights in 1968 includes a section on 'human rights aspects of family planning', referencing the 1966 Declaration on Population.[87] This section finds, *inter alia*, that the

> present rapid rate of population growth in some areas of the world hampers the struggle against hunger and poverty, and in particular reduces the possibilities of rapidly achieving adequate standards of living, including food, clothing, housing, medical care, social security, education and social services, thereby impairing the full realization of human rights.[88]

Overall, human rights were a vocabulary used both in supporting population planning and for limiting excessive interventions.

In the following years, the discussion of population changed its vocabulary entirely, from a framing of population policies to a framing of reproductive rights. The women's movement was crucial for that change. The promotion of family planning had also come with a decidedly feminist agenda in parts.[89] In the 1970s, the women's movement had grown diverse, including liberal and radical feminists, proponents of population control and opponents.[90] Despite those internal differences, the influence of feminist voices changed the focus of the discussion to the situation of women and the term 'reproductive rights' entered the spotlight.[91] The early women's movement in late nineteenth and early twentieth century had advanced claims to birth control, including the right to abortion. Opposing this narrow focus on preventing births, the notion of reproductive rights now referred to the range of rights and choices surrounding reproduction, including the choice of preventing conception or having children. In the years after, the term was understood to

[83]Population Council, 'Declaration on Population: The World Leaders Statement', (1968) 1(26) *Studies in Family Planning* 1, at 3.

[84]Population Council, 'Declaration of Population', (1967) 16 *Studies in Family Planning* 1; referred to in the Commission on the Status of Women, Report on the 20th Session, UN Doc. E/CN.6/487 (1967), para. 343.

[85]See Population Council, *supra* note 83, at 3.

[86]See UNFPA, *supra* note 44.

[87]United Nations, Final Act of the International Conference on Human Rights, UN Doc. A/CONF.32/41 (1968), at 14.

[88]Ibid.

[89]The work of Helvi Sipilä, who was a member of the Commission on the Status of Women and who became Special Rapporteur on Family Planning and the Status of Women is a primary example. Cf. R. Lintonen, 'Helvi Sipilä: Advocating Women's Rights at the UN', in I. Tallgren (ed.), *Portraits of Women in International Law: New Names and Forgotten Faces?* (2023), 209 at 213.

[90]D. Hodgson and S. C. Watkins, 'Feminists and Neo-Malthusians: Past and Present Alliances', (1997) 23 *Population and Development Review* 469, at 488.

[91]To mention one highly influential work: E. Boserup, *Women's Role in Economic Development* (1970). Boserup was opposed to Malthusian ideas and published a book (*The Conditions of Agricultural Growth: The Economics of Agrarian Change Under Population Pressure*) in 1965, which offered an alternative argumentation regarding food supply in the context of growing population. Cf. M. Bak Mckenna, 'Ester Boserup: Women and Development on the Margins', in I. Tallgren (ed.), *Portraits of Women in International Law. New Names and Forgotten Faces?* (2023), 196 at 199.

include additional aspects like access to information and medication, safe birth conditions and surrounding support.[92]

In summary, the discussion on population growth had a two-sided connection with human rights, one side that focused on the collective dimension of population planning to ensure the enjoyment of rights, and the other side that focused on the individual conditions and choices. The latter one clearly turned out more lasting. Yet in the ambivalent relation with human rights, the general question emerged of how to understand the role of law in population developments. A Symposium on Law and Population took place in Tunis in June 1974, sponsored by UNFPA in cooperation with several other international organizations. In the meeting with experts from over 50 states, specific recommendations for legal reform in relation to population developments were adopted.[93]

6. The narrative authority of UN procedures and documents regarding population

As the approach to population became more policy-oriented in the UN, controversial debates arose about what kind of population policies were reasonable and legitimate. Underlying these questions was a level of knowledge production. For a topic as complex and multifaceted as population growth and its social effects, there had to be certain shared assumptions about causalities in order to base policy recommendations on them. Concerns such as economic growth, social well-being, or environmental protection all depended on several other factors, too. Claims about the effects of population growth had to be weighed against other policy endeavors: measures to otherwise further economic growth and social well-being, or to ensure environmental protection. This process of knowledge production and a preliminary ordering of causes, relations, and concepts also took place within the UN.

The involved actors were by no means unequivocal about causalities and factors surrounding population, economic inequality, and development. Their positions were often diverse and competing, the results in joint documents represented compromises. Nonetheless, in the processes of the UN, a certain focus and dominant interpretation was formed, which can be summarized as the population-development-nexus. Drawing together population with the overarching concept of development, the question of birth rates was treated from a specific angle. The authority of the UN forums, whether it was the General Assembly, the Commission on the Status of Women, the World Population Conference, the Human Rights Conference or others, contributed to the dominance of this interpretation.

The result of these processes can be understood as narrative authority. Narrative authority means the authority exercised by framing issues through continuous narration. Narrative authority is indirect. It introduces connections and suggests causalities, but it does not necessarily claim that those would be the only possible connections or causalities. The concept of narrative authority is a specific version of knowledge production.[94] The various UN documents produced around population growth narrated causalities and correlations, reasons, and responsibilities. The UN General Assembly Resolutions, ECOSOC Resolutions, Proceedings of the World Population Conference, and the World Population Plan of Action developed an understanding of what the central issues of population growth are and what normative questions arise. While often not legally binding, the authority of issuing institutions supplied the outcome documents with authority.[95]

[92]See Hodgson and Watkins, *supra* note 90, at 491.

[93]L. T. Lee, 'Legal Implications of the World Population Plan of Action', (1974) 9 *Journal of International Law and Economics* 375, at 381.

[94]It is different from the insight that narratives play an important role for law's normativity, although this, too, is an aspect in narrative authority; see R. Cover, 'Nomos and Narrative', (1983) 97 *Harvard Law Review* 4.

[95]Cf. the considerations of public authority by A. von Bogdandy, P. Dann and M. Goldmann, 'Developing the Publicness of Public International Law: Towards a Legal Framework for Global Governance Activities', in A. von Bogdandy et al. (eds.), *The Exercise of Public Authority by International Institutions: Advancing International Institutional Law* (2010), 3.

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

The international processes involved a handling and connecting of knowledge, in which some factors and interrelations, by necessity, were highlighted and others left aside.[96] The debates built on statistical and demographic knowledge about overall population numbers in a state, distribution of age groups, average life expectancy, but also statistics on education and access to health services. As the focus in the UN turned to the relationship of population growth and economic development, it took into calculation knowledge about factors for macroeconomic growth. The interpretation of the concept of development has been a broad topic in itself.[97] Moreover, empirical sociological knowledge was part of the reasoning about the relationship of education, economic standing, and reproductive choices, and about the potential influence of legal rules and political incentives on those choices. Each of these fields of demography, sociology, economics, or behavioral sciences includes debates and disagreements on certain findings; the international actors and institutions were faced with the challenge of handling those complex bodies of knowledge. Moreover, international decision-making required combining the findings from various fields into conclusions and describing causalities that law and politics could subsequently seek to shape.

This handling of complex bodies of science and knowledge unavoidably came with specific choices and interpretations. The documents did not stipulate outcomes as the only possible conclusions. However, through the repeated references and institutional underpinnings, ideas regarding the meaning and significant of population growth were established. Problems such as poverty, food insecurity, or planetary boundaries had significant other factors. While this does not rule out the significance of demographic developments, international trade law, and international investment law – factors of the set-up of an international economic order – played a vital role, too, for food security or economic growth in the states concerned.[98] The historian Marc Frey speaks of an 'epistemic community' regarding the interpretation of population issues at the time: a community strongly committed to liberalism, which on the one hand sought to ameliorate conditions of inequality while on the other hand working to retain privileges that 'cemented inequalities'.[99]

Ecological concerns in the 1960s and 1970s, as voiced by the Club of Rome[100] or in the 'Global 2000 Report to the President'[101] were in some way far-sighted. Yet the strong focus on population numbers turned out misleading. The wealthiest one per cent accounts for 16.9 per cent of world-wide emissions today, the wealthiest ten percent for 50 per cent of the emissions. The inequality in causing emissions has been growing over the last decades.[102] The concept of development as such included questions of economy, ecology, and well-being in society – and some interpretations of development have been validly criticized.[103] In thinking critically about the paths that international law took, the contingencies of those concepts and the authority exercised in giving them concrete shape deserves attention.

[96]Cf. S. Baer, 'Juristische Biopolitik: Das Wissensproblem im Recht am Beispiel "des" demografischen Wandels', in M. Cottier et al. (eds.), *Wie wirkt Recht?* (2010), 181.

[97]Cf. Gillespie, *supra* note 34.

[98]Cf. A. Orford, 'Food Security, Free Trade, and the Battle for the State', (2015) 11 *Journal of International Law and International Relations* 1.

[99]See Frey, *supra* note 2, at 77.

[100]D. H. Meadows et al., *The Limits to Growth* (1972).

[101]G. O. Barney, *Global 2000 Report to the President* (1988).

[102]Lucas Chancel has shown that the wealthiest per cent accounts for 23 per cent of growth in emissions from 1990 until 2019, whereas the poorer 50 per cent of the global population account for only 16 per cent, see L. Chancel, 'Global Carbon Inequality over 1990-2019', (2022) 5 *Nature Sustainability* 931.

[103]A. Escobar, *Encountering Development: The Making and Unmaking of the Third World* (1995); J. Nederveen Pieterse, *Development Theory: Deconstructions/Reconstructions* (2001); D. Jain, *Women, Development, and the UN: A Sixty-Year Quest for Equality and Justice* (2005), 74.

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

7. Considering effects of the population-focus on the struggle for a New International Economic Order

The focus on population growth and its connection with development especially of formerly colonized states had an impact on population policies in those states, including regulations that incentivized a lower number of children. India has been mentioned as an example for international influence on domestic population policies. In Ghana, the Ford Foundation played an important role in advising the creation of the National Family Planning Programme, which was launched in 1970 despite considerable opposition.[104] In Egypt, USAID exercised pressure during the late 1970s and early 1980s on the direction of the national population program, pushing towards more direct fertility-control.[105] Also in other African states, the conditions attached to development aid as well as the advocacy of non-governmental organizations played a role for population policies.[106]

Yet beyond the influence on population policies, the population growth discourse also came with a specific interpretation of the reasons for poverty and food shortages. In that sense, the population-development-nexus affected not only what laws were made – but also what laws were not made. While it is impossible to establish clear causalities, the population focus likely remained not without influence on the controversies around a reform of international economic rules at the time.

In the 1960s, a coalition of developing countries had formed, among them many newly independent states, protesting the persistent domination of former colonial powers and wealthy states in the international order. Centre of this coalition was what became known as the Group 77. In 1964, the UN Conference on Trade and Development (UNCTAD) was established as a forum for debating how international trade law could account better for the aim of economic development.[107] At the conclusion of the first UNCTAD meeting, 77 developing states issued a Joint Declaration, in which they recognized 'the United Nations Conference on Trade and Development as a significant step towards creating a new and just world economic order'.[108] The Group 77, which retained that name despite the membership subsequently rising to 130 states, became the framework for a shared agenda.

The significance of this coalition was visible in several UN activities and documents. Economic relations were at the core, yet the oppositions also extended to questions for instance of environmental law. Contestations around trade relations concerned the international division of labor, in which states of the Global South were mainly supplying primary commodities, while the industrialized economies of the Global North were manufacturing goods.[109] More generally, the claims for a New International Economic Order (NIEO) criticized an approach that ignored historical circumstances and applied legal principles of non-discrimination and reciprocity, as well as most-favored-nation clauses and national treatment clauses. Those principles operated with the assumption that states could participate on equal footing in free competition and free trade in goods and capital, which was not actually the case.

[104]H. Ashford, 'Population Control, Development, and Ghana's National Family Planning Programme, 1960-1972', (2020) 63 *The Historical Journal* 469, at 483.

[105]K. A. Ali, 'Faulty Deployments: Persuading Women and Constructing Choice in Egypt', (2002) 44 *Comparative Studies in Society and History* 370, at 373.

[106]M. Dornemann, 'Seeing Population as a Problem: Influences on the Construction of Population Knowledge on Kenyan Politics (1940s–1980s)', in H. Hartmann and C. Unger (eds.), *A World of Populations: Transnational Perspectives on Demography in the Twentieth Century* (2014), 201.

[107]UN GA, Resolution of 30 December 1964, Establishment of the United Nations Conference on Trade and Development as an Organ of the General Assembly, UN Doc. A/RES/1995(XIX) (1964).

[108]Joint Declaration of the Seventy-Seven Developing Countries, 15 June 1964, Final Act and Report of the First United Nations Conference on Trade and Development - UNCTAD I, UN Doc. E/CONF.46/141 (1964), Vol. I, Annex B.

[109]O. de Rivero, *New Economic Order and International Development Law* (1980), 5.

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

In 1974, the UN General Assembly adopted the 'Declaration for the Establishment of a New International Economic Order'.[110] The controversies around fair principles of international economic relations were present during the World Population Conference in the same year. On the one hand, they became part of the discussions on population policies. On the other hand, the focus on population growth in newly independent states operated as an explanation for economic inequality the reasons of which could also have been seen, at least partly, in international trade relations.

Overall, the endeavours for a New International Economic Order were of little success.[111] Fundamental reforms did not happen. Claims for substantial redistribution, for a new interpretation of national sovereignty regarding resources, or for a stronger regulation of transnational companies remained without effect. Instead, the international economic structures continued to develop along existing assumptions and relations of power, i.a. with the 'Washington Consensus' based on liberalization and regularization.

In that sense, the negotiations around a NIEO can be compared to the way that inequalities during early industrialization had been negotiated in England and other parts of Europe. There too, the concern to mitigate poverty merged with the Malthusian explanation of poverty as a result of excessive birth rates. Shifting responsibility to individual reproductive choices allowed the wealthy to advocate against poverty while avoiding radical social reforms. Economic inequality could not be ignored, but the focus on childbearing was more easily compatible with the self-interests of those in power than reforms in the economic system that would have reduced profits. Similarly, the global wealthy were not oblivious to the striking inequalities, yet rather than measures that would have fundamentally redistributed access to resources, opened migration pathways or required reparations for colonial exploitation, the focus on population developments largely kept the power balance in place.

8. Population, development, and international law – An outlook

The present article has examined the population discourse in the United Nations between 1945 and 1980, with a focus on its relationship with international law. In the 1980s, much of the alarm around 'overpopulation' or the 'population explosion' cooled down. The mentioned re-focusing on reproductive rights took place within the UNFPA, as well as within other international organizations such as the World Bank, where in the respective divisions, a focus on decreasing high population growth was replaced with a focus on reproductive health.[112] The World Health Organization, already involved in prior population conferences and debates on population, now became a more central actor.[113] In 1984, the International Conference on Population took place in Mexico City,[114] with states declaring that the 'experience with population policies in recent years [was] encouraging',[115] and noting that the demographic situation in many developing countries had improved. The role and status of women occupied a central place in Mexico City, and states adopted 'Recommendations for the Further Implementation of the World Population Plan of Action'. The International Conference on Population and Development in Cairo in 1994 was even

[110]See UN GA, *supra* note 64.

[111]For a historical overview, see N. Gilman, 'The New International Economic Order: A Reintroduction', (2015) 6 *Humanity* 1, with further contributions such as A. Anghie, 'Legal Aspects of the New International Economic Order', (2015) 6 *Humanity* 145 or V. McFarland, 'The New International Economic Order, Interdependence, and Globalization', (2015) 6 *Humanity* 217.

[112]L. Hammer, 'World Population', in *Max Planck Encyclopedia of Public International Law* (2019), para. 41.

[113]See Cueto, Brown and Fee, *supra* note 29, at 167.

[114]United Nations, Report of the International Conference on Population, UN Doc. E/CONF.76/19 (1984).

[115]Ibid., Mexico City Declaration on Population and Development, para. 9.

https://doi.org/10.1017/S0922156524000621 Published online by Cambridge University Press

more explicit in its focus on the role of women and on women's rights, viewing the improvement of women's status as a prerequisite for population stabilization.[116]

Humanity has kept growing since, yet the growth rate is continuously decreasing. When the world reached a population of 8 billion in November 2022, the attention was limited. Many of the reports highlighted that the global population is expected to grow to around 10 billion within the twenty-first century and will then shrink again. Concerns about depopulation have become prominent in states such as South Korea or Japan. The UNFPA State of the World Population Report 2023 mentions those fears of depopulation and calls for avoiding specific population goals in either direction.[117]

The debates summarized in this paper took place in a complex field of actors. Besides concerns over individual rights, non-interference, development, and economic equality, there were also factors such as religious traditions and religious power, which played a role for regulations of family planning. Several specific political circumstances such as autocratic heads of state influenced the approach to population growth. The demographic profiles of states were manifold.

The purpose of the article has been to trace how the international population growth discourse developed, and to reflect about its influence – not just on population policies but on international law more broadly. Such historical analysis remains significant for the theoretical debates in the field. It contributes to understanding the evolution of international law in those decades of decolonization and a growing international community. And it offers a critical perspective on interpretations of international law today.

The struggles around population growth and equality are not over. With view to continuous economic inequalities,[118] the effects of a 'birth rate distractionism' remain acute. And with the ever more urgent action on climate change mitigation, the attention to the number of human beings who share the planet grows again. In the coming decades, the effects of climate change, the endeavours to limit it, and the normative contentions about distributing the corresponding burdens will shape human co-existence on this planet. The awareness of prior fallacies about population numbers is crucial for a critical perspective on the arising normative questions regarding the use of resources, international assistance, and migration.

[116]See Hodgson and Watkins, *supra* note 90, at 470.

[117]United Nations Population Fund, State of World Population Report 2023: 8 Billion Lives, Infinite Possibilities: The Case for Rights and Choice (2023), at 13, 65.

[118]Measuring global economic inequality is difficult, but it is at least suggested that the economic inequality between states has not diminished but grown since the 1960s: see J. Hickel, 'Is Global Inequality Getting Better or Worse? A Critique of the World Bank's Convergence Narrative', (2017) 38 *Third World Quarterly* 2208.

Cite this article: Schmalz D (2025). The population growth discourse in the first decades of the United Nations: Interpretations of global economic inequality and the struggles for a just international legal order. *Leiden Journal of International Law*. https://doi.org/10.1017/S0922156524000621