

IS THE INDIVIDUAL A SUBJECT OF INTERNATIONAL LAW?

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Abstract: This article analyzes the issue of recognizing individuals as subjects of international law. Traditional approaches recognize only states as subjects of international law, while modern international law strengthens the legal status of individuals in the fields of human rights, international criminal law, and investment law. Based on international tribunal decisions and conventions, the expansion of individuals' international responsibility and rights is demonstrated.

Keywords: international law, individual, legal subject, international criminal law, human rights, investment law, international tribunal.

Introduction

Although at various stages of the development of international law the primary focus was directed toward regulating relations between states, in recent centuries [1, B.15-16] the role of the individual within the international legal system has increasingly expanded. In traditional theories of international law, the state was recognized as the sole and principal subject of international law. However, the development of human rights law, international criminal law, and international investment law has transformed the individual into an active participant in international legal relations.

The recognition of the individual as a subject of international law has been a matter of extensive scholarly debate. Some theorists (Evans, Lukashuk) have advanced the view that only states and international organizations can be considered general subjects of international law [2, 3], whereas others (Lauterpacht, Scelle, Higgins) emphasize that an individual can possess full rights and obligations under international law. Within the framework of international criminal law, issues of criminal responsibility for crimes against humanity, war crimes, and genocide serve as compelling evidence of the expanding role of the individual in international law. Moreover, international legal mechanisms concerning human rights also play a crucial role in acknowledging individuals as subjects of international law. The United Nations and regional human rights courts, in certain instances, have enabled individuals to directly petition international bodies. Additionally, in the sphere of international economic relations and investment law, the right of investors to approach international arbitration tribunals further indicates the growing recognition of individuals' status within the international legal order.

Main body.



In the early stages of international law, individuals were not recognized as independent subjects. During this period, international law was primarily aimed at regulating interstate relations, with sovereignty accepted as the fundamental principle. According to traditional international law doctrine, individuals were regarded merely as persons possessing certain rights and obligations within the domestic legal framework of the state. In the initial phases of international legal history, emphasis was placed primarily on peace treaties, commercial agreements, and diplomatic relations. Nevertheless, some international treaties of that era contained provisions affecting the rights of individuals. For instance, international agreements prohibiting the slave trade and treaties establishing humanitarian protections for prisoners of war influenced conceptions regarding the legal status of persons [4, B.37-39].

Concurrently, in the nineteenth century, states began to grant individuals limited rights at the international level. The concept of diplomatic protection emerged, enabling foreign states to intervene diplomatically to protect their nationals. However, even in this context, the individual was not regarded as a direct subject of international law.

During the first half of the twentieth century, the status of individuals in international law underwent a significant transformation. Following the Second World War, the establishment of the United Nations and the adoption of the Universal Declaration of Human Rights (1948) reinforced the international legal standing of individuals. The Nuremberg and Tokyo Tribunals where war criminals were prosecuted under international criminal law demonstrated that subjectivity in international law was not confined solely to states. Tribunal decisions explicitly established that individuals could bear personal responsibility for international crimes. International human rights instruments notably the 1948 Universal Declaration of Human Rights and subsequent International Covenants (on Civil and Political Rights, on Economic, Social, and Cultural Rights) facilitated the recognition of individuals as subjects of international law. Additionally, the development of international criminal law contributed significantly to this process, exemplified by the establishment of the International Criminal Court (ICC) in 1998, which reinforced the international legal accountability of individuals. Individuals can now be held internationally responsible for war crimes, genocide, and crimes against humanity.

Furthermore, specialized United Nations bodies have contributed to the acknowledgment of individuals as subjects of international law [5]. For example, the UN Committees Against Torture, the Committee on the Elimination of Racial Discrimination, and the Human Rights Committee possess, in certain cases, the competence to consider individual complaints, thereby consolidating individuals' standing in international law.

In contemporary international law, the role and legal status of individuals continue to expand. International human rights covenants, such as the International Covenant on Civil and Political Rights (1966), have broadened individuals' capacity to lodge complaints with international bodies. Moreover, investors' rights to access international arbitration tribunals (for instance, through the International Centre for Settlement of Investment Disputes — ICSID) further reinforce the participation of individuals in international legal processes. Notably, investment treaties grant investors the right to initiate claims against states, strengthening their status as subjects of international law. Likewise, contemporary international law addresses individuals' environmental obligations, including the accountability of transnational corporations for ecological violations.

Today, the recognition of individuals as subjects of international law represents a key trend in the evolution of international law. Consequently, it is foreseeable that in the future, the legal status of persons may expand further, enabling them, alongside states, to become significant subjects of international law [6]. Mechanisms that define individuals' legal status as subjects of



international law vary. These include international human rights courts (the European Court of Human Rights, the Inter-American Court of Human Rights), as well as the International Criminal Court and UN human rights committees, which serve as key institutions confirming the growing role of individuals. Recognition of individuals as subjects of international law constitutes one of the most important evolutionary processes in contemporary international law. Whereas initially only states were considered primary subjects, today the role of persons in the international arena has expanded substantially. Participation of individuals in international criminal law, human rights mechanisms, and international economic law is increasingly evident. International criminal law has established systems to hold persons accountable for international crimes [7, B.23-27].

This process began with the Nuremberg and Tokyo Tribunals, which for the first time in international law established that individuals could be held responsible for war crimes and crimes against humanity. The significance of the Nuremberg Tribunal lies in its recognition that state officials may be personally accountable for international crimes. Claims of “I was only following orders” were not accepted, and each individual was held responsible for their own actions. The tribunal contributed to the development of international criminal law, subsequently leading to the adoption of the Genocide Convention (1948) and the Universal Declaration of Human Rights (1948).

At the end of the twentieth century, to strengthen international criminal accountability, the International Criminal Court was established under the Rome Statute in 1998. Numerous factors underpin the ICC’s role in recognizing individuals as subjects of international law. Persons who commit war crimes, crimes against humanity, and genocide are entitled to be held accountable. The Court is the first permanent international tribunal capable of rendering judgments against individuals independent of states. The prosecution of high-ranking leaders, such as former Sudanese President Omar al-Bashir, demonstrates the Court’s effectiveness.

In the field of human rights, the adoption of the Universal Declaration of Human Rights in 1948 marked a pivotal step in consolidating the international legal status of individuals. This document established that the fundamental rights and freedoms of every person are protected under international law. First, the Human Rights Committee monitors compliance with the International Covenant on Civil and Political Rights, granting individuals the right to lodge complaints against states for violations of these rights. Second, the Committee Against Torture establishes an international monitoring system aimed at preventing torture and protecting individuals. Third, the Committee on the Elimination of Racial Discrimination ensures international protection of individuals against racial discrimination. Moreover, the European Court of Human Rights (ECHR) operates under the European Convention on Human Rights, allowing individuals to directly petition the Court. Court rulings establish that states incur international responsibility when violating the human rights of their nationals. Decisions against countries such as Russia and Turkey have further strengthened the international legal standing of individuals.

In addition, individuals’ international legal status is reinforced within international economic law, particularly in the domains of investment and trade law. Numerous states guarantee investor protection under international investment agreements. In certain investment disputes, individuals may submit claims against states to international arbitration tribunals. The International Centre for Settlement of Investment Disputes (ICSID), which resolves investment disputes between private persons or companies and states, plays a central role in this context. Investors may seek legal remedies at the international level against unlawful state actions [8]. For instance, the arbitration victory of YUKOS against Russia exemplifies the increasing role of individuals in



international economic law, while dispute settlement mechanisms under the World Trade Organization (WTO) further contribute to the development of individuals and private companies as subjects of international law.

The international legal status of individuals is steadily reinforced across various fields of law. In the realm of international criminal law, persons may be held accountable for crimes against humanity and war crimes. International human rights mechanisms guarantee every individual the right to access international courts. Investment and trade law provide individuals with the ability to approach tribunals and arbitration mechanisms to resolve international economic disputes. Moreover, contemporary international law recognizes individuals not only as bearers of rights but also as subjects obliged to fulfill international duties, representing a fundamental trajectory in the evolution of international law.

The question of whether individuals possess only rights or also assume international obligations has been a longstanding subject of debate among international legal scholars. While traditional international law doctrines considered states as the primary subjects, modern legal approaches increasingly advocate that individuals may bear international obligations. Andrew Clapham, a leading scholar in international law [9], emphasizes that individuals are not only holders of rights but must also fulfill international duties. According to him, although traditional international law was grounded in interstate relations, contemporary international law has developed the notion of personal accountability. Within international criminal law, individuals may be held directly responsible for crimes against humanity, war crimes, and genocide. In human rights law, although states are obliged to protect the rights of their nationals, in some cases, individuals may assume obligations at the international level. Clapham further contends that international law imposes duties alongside rights for individuals, such as criminal accountability for violations under international criminal law, environmental obligations in environmental law, or adherence to investment agreements under international economic law. In certain cases, states may hold individuals directly accountable for fulfilling international obligations.

This process manifests in several domains: first, international sanctions and personal accountability. International law sanctions may include freezing personal assets, economic restrictions, or travel bans. For instance, pursuant to UN Security Council resolutions, individuals involved in terrorist activities are subject to international sanctions. Second, human rights violations and civil liability: some states have the capacity to hold individuals accountable internationally for human rights infringements. The United States' Alien Tort Statute allows foreign individuals to lodge complaints in U.S. courts regarding violations of international law. Third, environmental and economic obligations: certain international legal agreements, such as the Paris Agreement, aim to reinforce the environmental responsibilities of transnational corporations and major investors. Some states hold corporations accountable under international law for environmental harm. Collectively, these developments indicate that international law may, in certain circumstances, impose civil and legal obligations upon individuals [10].

Contemporary international law ensures that individuals are recognized not only as bearers of rights but also as subjects obliged to fulfill duties. While traditional international law was state-centered, in the twenty-first century, individual accountability in international law is steadily expanding. The principle of personal responsibility in international criminal law has been consolidated. Human rights mechanisms provide individuals with the right to petition international courts. International economic law strengthens both personal and corporate accountability. In the future, the scope of individual accountability in international law is expected to broaden further. International criminal courts, human rights courts, and investment



arbitration mechanisms play a pivotal role in consolidating individuals as subjects obliged to fulfill international obligations.

Debates regarding the full recognition of individuals as subjects of international law have persisted in theory and practice for decades. According to the traditional approach, international law was a system regulating interstate relations, with individuals considered merely as objects within this system. However, contemporary legal developments have significantly expanded the international legal status of individuals.

Traditional Approach: Limited Subjectivity of Individuals
In traditional international law theory, individuals were not recognized as independent subjects. This approach prevailed throughout the nineteenth century and early twentieth century and was based on the following principles: the central role of states international law primarily regulated state sovereignty and interstate relations; recognition of individuals solely as objects of law individuals could only acquire international legal protection through states [11]; and the state-centric basis of international treaties only states were considered entitled to conclude, join, and implement international legal agreements. According to the traditional approach, international law regulated interstate relations and limited direct participation of individuals. For example, the Treaty of Versailles (1919) and the Covenant of the League of Nations affirmed that international law pertained solely to states.

However, from the second half of the twentieth century, this approach gradually lost relevance, giving rise to new legal trends. First, development of the Human Rights System - The Universal Declaration of Human Rights (1948) was the first document guaranteeing the fundamental rights of each person under international law. The European Court of Human Rights and other international tribunals laid the foundation for recognizing individuals as subjects of international law. Second, progress of International Criminal Law - From the Nuremberg Tribunal to the establishment of the International Criminal Court, the practice of holding individuals accountable for international crimes developed. Individuals committing international crimes can now be brought to trial. For instance, former Sudanese President Omar al-Bashir was among the first heads of state held accountable for international crimes. Third, participation of Individuals in International Economic Law - Within investment and trade law, investors and corporations gained the right to access international arbitration tribunals. Private companies can initiate claims against states through ICSID. Fourth, environmental Law and Transnational Corporate Responsibility - Modern international law also addresses the environmental obligations of individuals. Under the Paris Agreement (2015), corporate obligations related to climate change are established.

Based on these factors, the subjectivity of individuals in contemporary international law is significantly expanding. While debates over the full recognition of individuals as subjects persist, modern legal developments confirm that individuals possess both rights and obligations at the international level. Traditional approaches regarded individuals merely as objects of law, whereas contemporary law allows their recognition as full subjects. Human rights mechanisms, international criminal law, and investment law continuously reinforce the international legal status of individuals. In the future, the role and legal standing of individuals in international law are expected to expand further. Consequently, the position of the individual within the evolution of international law is increasingly significant, and this trend is likely to deepen.

CONCLUSION

The recognition of individuals as subjects of international law represents one of the most significant developments in modern international law. While initially international law primarily



regulated interstate relations, individuals have now become active participants in international legal processes. Since the second half of the twentieth century, their recognition has advanced markedly. Under international criminal law, individuals can be held accountable for crimes against humanity, genocide, and war crimes. International human rights mechanisms have reinforced the right of individuals to access international courts. In the fields of investment and trade law, individuals can submit claims to international arbitration tribunals. Modern international law increasingly recognizes individuals not only as rights holders but also as subjects obliged to fulfill international duties. Current trends indicate that the recognition of individuals as subjects will continue to expand [12].

This development promotes a more democratic and just legal system. Key measures include: expanding individuals' access to international courts, strengthening the jurisdiction of international criminal tribunals, and clearly defining individual liability in investment and economic law. International courts, human rights mechanisms, and arbitration processes have accelerated the recognition of individuals as independent subjects of international law. In the future, their role is expected to broaden further, new judicial mechanisms may emerge, and the accountability of transnational corporations is likely to increase. Accordingly, further research is necessary to consolidate the legal status of individuals in international law.

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