

‘Competent Contestation’: The New International Economic Order and
International Order Change

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April 15, 2022

A thesis submitted to McGill University in partial fulfilment of the requirements of the degree of
Master of Arts in Political Science

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Word Count: 14, 302	

Abstract

In April of 1974, during the sixth special session of the United Nations General Assembly, a coalition of 134 developing states introduced the Declaration for the Establishment of a New International Order (NIEO). This agenda aimed to renegotiate the terms of international trade and law, fiscal policy, and development aid. The NIEO’s proponents were unable to secure a more equitable international economic order. Instead, key industrialized states in the North won key battles in public international law and accorded unprecedented protection to international investment that dismantled the NIEO’s primary drive of granting developing states’ absolute sovereignty over their natural resources. Scholars studying the NIEO posit that that the agenda challenged the very foundations of the postwar liberal order. More recent literature also attributes the failure of the NIEO to the success of the neoliberal agenda of the 1980s. This thesis asks, on what grounds did the NIEO challenge the postwar liberal order and what specifically links the NIEO to global neoliberalism?

Careful primary text analysis of UN archival documents reveals that the NIEO recast the fundamental norm of sovereign equality by designing an international nationalization law framework, by seeking the establishment of a UN Special Fund, and by aiming for the expansion of a generalized system of preferences for developing countries. Thus, a central claim of this thesis is that the NIEO contested the legal and economic foundations of the postwar order. Further analysis of foreign policy communiqués and policy responses from the industrialized Global North suggests that developed countries countered the NIEO with a strategy of policy reformulation. By employing process-tracing, I chart how specific NIEO principles were reformulated by the North to secure policy outcomes antithetical to the NIEO’s original mission. These policy reformulations subsequently facilitated the rise of global neoliberalism in the decades to come.

Finally, by drawing from Antje Wiener’s theory of contestation and practice theory’s notion of competency, I advance the concept of “competent contestation” to capture the theoretical significance of the NIEO. In doing so, I suggest that contestation can be spatially, procedurally, and relationally competent.

Résumé

En avril 1974, le groupe de 77, une coalition composée de 134 pays en développement ont annoncé la Déclaration d'un nouvel ordre économique international (NOEI) pendant la sixième session extraordinaire de l'Assemblée générale des Nations unies. Avant tout, ce programme visait la renégociation des conditions portants sur la loi internationale, l'aide internationale au développement, ainsi que la politique fiscale et du commerce. Les partisans du programme NOEI n'ont pas pu obtenir un ordre économique plus équitable. Certains pays industrialisés du Nord global ont plutôt remporté des victoires décisives dans le domaine du droit international public, accordant ainsi une protection inédite à l'investissement direct à l'étranger dans le Sud global. Sous forme du droit privé transnational, cette protection de l'investissement a effectivement démantelé un but principal du programme NOEI, notamment d'accorder une souveraineté permanente aux pays en développement sur leurs ressources naturelles. Selon les spécialistes en matière de Relations internationales qui se focalisent sur la NOEI, le programme a remis en question les fondations mêmes de l'ordre international libéral issu de la deuxième guerre mondiale. Plus récemment, la littérature portant sur la NOEI attribue l'échec du programme à l'essor du néolibéralisme globale des années 1980. Par conséquent, ce mémoire se pose deux questions de recherche. D'abord, selon quelles bases le programme NOEI s'est-il attaqué à l'ordre international de l'après-guerre ? Deuxièmement, quel est le lien précis entre le programme NOEI et le néolibéralisme global ?

Un dépouillement soigné de textes principaux de l'ONU portant sur la NOEI révèle que le programme a avancé une nouvelle interprétation de la norme de souveraineté en suggérant l'établissement d'un droit international de nationalisation, en tentant d'instituer un fond spécial pour le financement de développement qui serait chapeauté par l'ONU, et en visant l'élargissement du système généralisé de préférences en matière du commerce international. Or, une thèse centrale de ce mémoire suggère que le programme NOEI a contesté les fondations légales et économiques de l'ordre international de l'après-guerre. De plus, une analyse de communications à l'étranger issu du Nord globale ainsi que des changements de pratiques en développement international entrepris par les pays développés, démontre que certains pays du Nord se sont mobilisés contre le programme NOEI à l'aide d'une stratégie de reformulation politique. Donc, ce mémoire se sert de la méthode de la reconstitution du processus, soit le « process tracing », afin d'illustrer de quelle façon les principes du programme NOEI ont été reformulés par le Nord globale avec le but de réaliser des réformes néolibérales, qui ont par la suite engendrées des résultats économiques et légales diamétralement opposés aux buts égalitaires du groupe de 77.

Enfin, en puisant de la théorie de contestation d'Antje Wiener et en adoptant la notion de la compétence avancée par la théorie de la pratique, ce mémoire propose le concept de la « contestation compétente » afin d'illustrer les ramifications théoriques du programme NOEI pour la discipline des Relations internationales. En faisant cela, ce mémoire suggère que la pratique de la contestation peut être plus ou moins spatialement, procéduralement et relationnellement compétente.

Acknowledgements

This thesis was an immense joy to write and alongside running conferences as a Teaching Assistant, made this M.A. degree an incredibly enriching and fulfilling experience. With the guidance of my supervisor, Professor Jennifer Welsh, I was lucky enough to land on a topic that I found genuinely fascinating. It has been an incredible pleasure to learn more about the NIEO and I’m very fortunate to have gotten the chance to start most of my mornings by reading or writing about such a compelling historical case.

I would like to take the time to thank several people who have played an invaluable role in my academic formation. First, I would like to thank Professor Brent Steele for allowing me to enroll in an upper-division course on International Ethics without any prior knowledge of IR and for advising me on my undergraduate research project at the University of Utah. You helped spark my interest in IR in the first place. Second, I would like to thank Professor Catherine Lu and Professor Vincent Pouliot for expanding my understanding of what kind of questions one can ask in IR, and for introducing me to the NIEO and International Political Sociology. Third, I want to extend a very big thank you to Adam Kochanski for being an incredible mentor whose feedback on my work as a Research Assistant always left me feeling valued and confident in my abilities. Lastly, I would like to express my sincerest gratitude to Professor Jennifer Welsh. Thank you for being patient with me as I jumped from one topic to another. The feedback you gave on my work for the POLI 671 seminar on IR theory and on my thesis has been some of the most detailed, incisive, and helpful I have ever received. Your guidance has helped me put together a thesis that I am genuinely proud to submit. Thank you!

I also owe an immense amount of gratitude to my partner, Lexi Kinman, who moved to Montréal with me so that I could attend this program. Along with the numerous friends I have

made in this city over the last two years, Lexi reminded me that school could almost always wait until Monday and that weekends should be spent outside with friends, not behind a screen.

Finally, I would like to dedicate this thesis to the memory of my dear friend Daniel McArthur.

As a teammate, best friend, and roommate for four years, Daniel always believed that I could accomplish anything I set my mind to. I know Daniel would have loved to see me take on such an ambitious research project. I have enjoyed (almost) every minute working on this thesis, which is a tremendous privilege.

Abbreviations (in order of appearance)

PLO: Postwar liberal order

NIEO: New International Economic Order

UNGA: United Nations General Assembly

IR: International Relations (Discipline)

UNITAR: United Nations Institute for Training and Research

IFI: International financial institution

GSP: Generalized system of trade preferences

MFN: Most Favoured Nations principle

IMF: International Monetary Fund

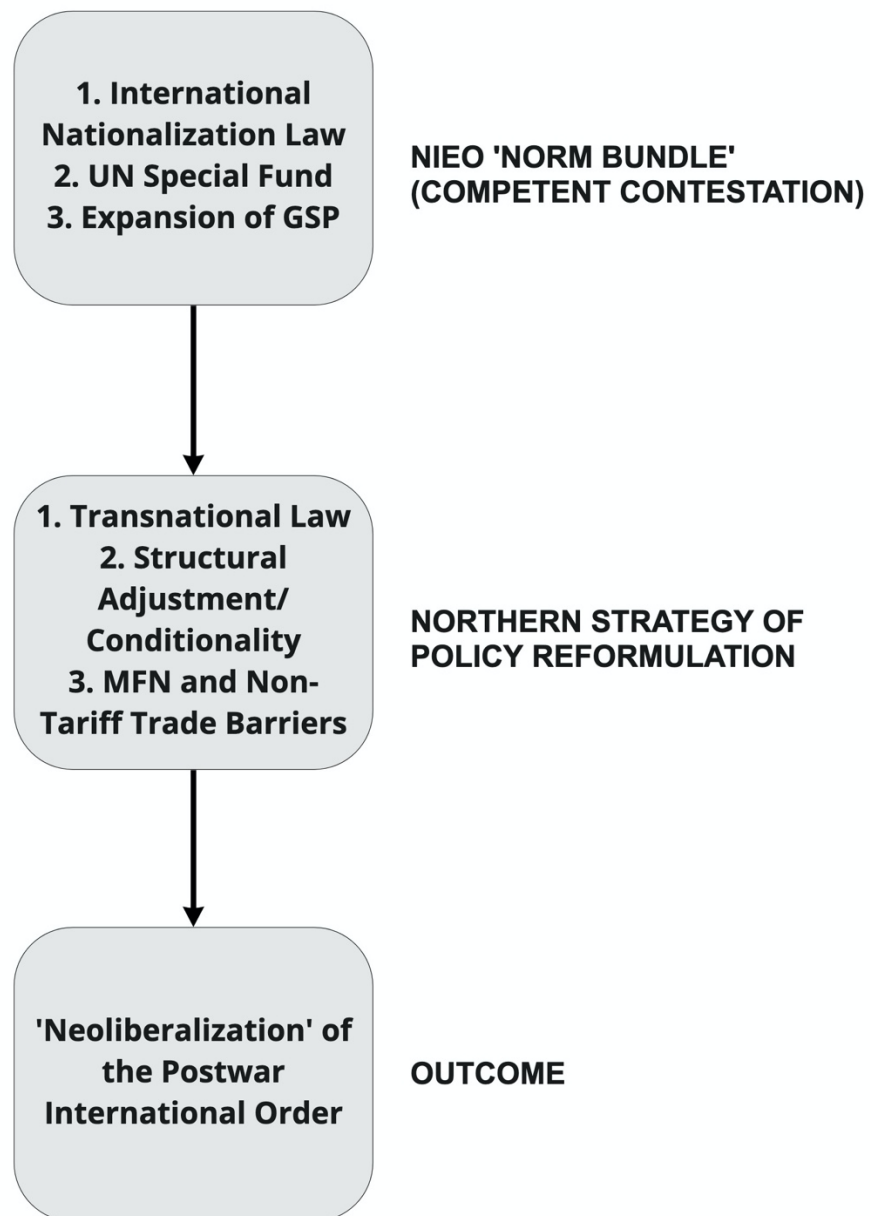
UNCTAD: United Nations Conference on Trade and Development

GATT: General Agreement on Tariffs and Trade

R2P: Responsibility to Protect

Appendix

Figure 1.1: International order change and policy reformulation



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Figure 1.2: The Tripartite structure of sovereign equality

The Tripartite Structure of Legal Sovereign Equality

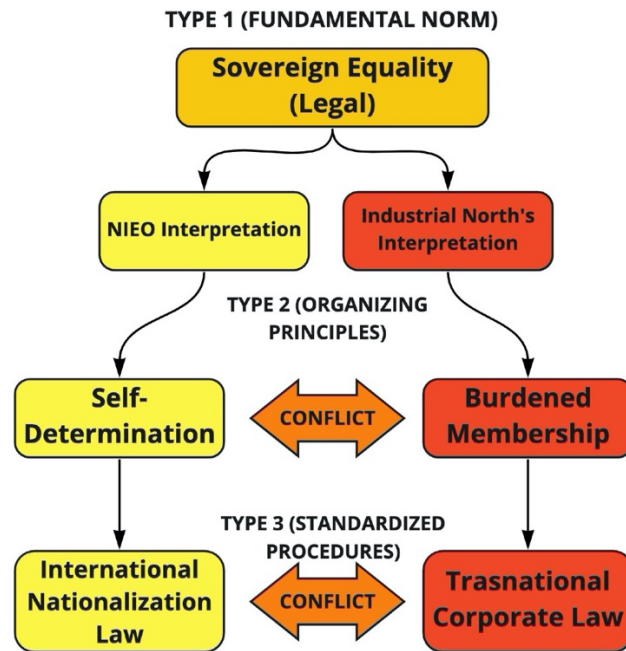
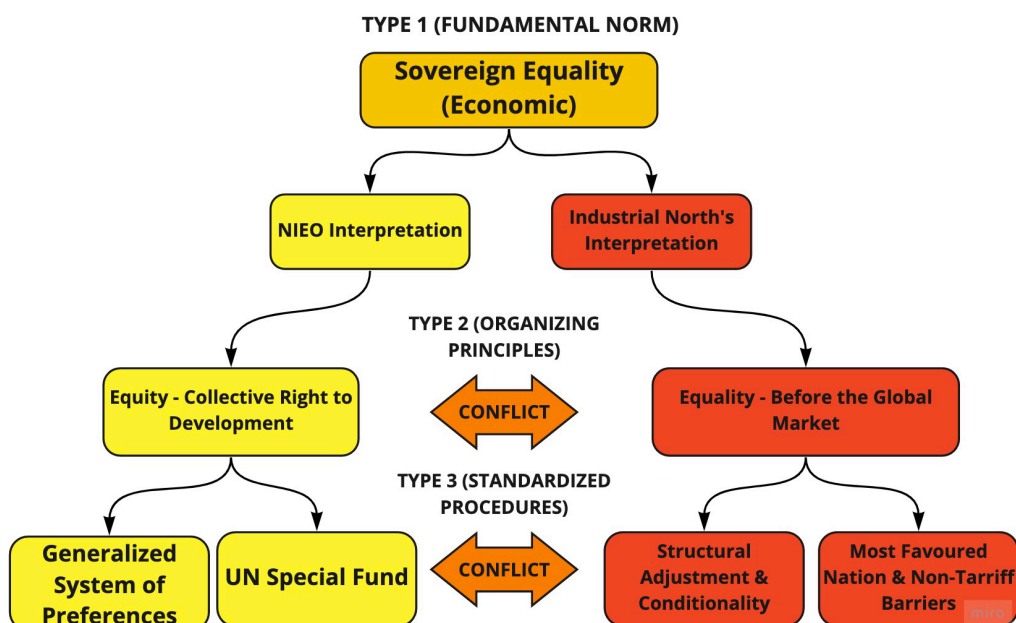


Figure 1.3: The Tripartite structure of economic sovereign equality

The Tripartite Structure of Economic Sovereign Equality



Introduction: The New International Economic Order

[The extraction of natural resources in developing countries] is the basis of the economic order of the world in which we live today. In the eyes of the vast majority of humanity it is an order as unjust and as outdated as the colonial order to which it owes its origin and substance. Inasmuch as it is maintained and consolidated and therefore thrives by virtue of a process which continually impoverishes the poor and enriches the rich, this economic order constitutes the major obstacle standing in the way of any hope of development and progress for all the countries of the third world.¹

This fiery polemic decrying the colonial underpinnings of the postwar liberal order (PLO), delivered by Algerian president Houari Boumédiène, laid much of the rhetorical groundwork of what became the Declaration on the Establishment of a New International Economic Order (NIEO). In April of 1974, during the sixth special session of the United Nations General Assembly (UNGA), the Group of 77, a coalition of 134 developing nations, introduced the NIEO Declaration. *A central claim of this thesis is that the Group of 77, through the NIEO agenda, contested the economic and legal foundations of the PLO.*² The NIEO's call for restructuring the international economic system relied on no less than 20 principles, notable among them the absolute respect for sovereign equality, complete sovereignty over one's own natural resources and economic activities, the regulation and supervision of transnational corporations, and "preferential and non-reciprocal treatment for developing countries".³

Ultimately, the NIEO agenda did not realize its goal of regulating transnational capital, granting preferential trade conditions for developing states and on the whole, was incapable of "globalizing the welfare state".⁴ Instead, key industrialized states⁵ won important legal battles in

¹ Houari Boumediène, "Address to UN General Assembly, Sixth Special Session. 2208th Plenary Session." (UN, 1974), <https://digitallibrary.un.org/record/727153>.

² In literal terms, this thesis acknowledges that the relevant agent with respect to the NIEO is the Group of 77. Nevertheless, this thesis will often attribute an 'aim, goal, or vision' to the NIEO, which is justified because the NIEO had a demonstrable impact on international politics, as this thesis endeavours to explain.

³ UN General Assembly, "Declaration on the Establishment of a New International Economic Order.," (UN, 1974), <https://digitallibrary.un.org/record/218450>.

⁴ Samuel Moyn, *Not Enough: Human Rights in an Unequal World* (Harvard University Press, 2018).

⁵ Orfeo Fioretos (2020) argues that a "small coalition of industrialized states" made up of Belgium, Denmark, the Federal Republic of Germany, Luxembourg, the United States, and the United Kingdom were the main detractors of

international courts that privileged an interpretation of public international law that subsequently accorded unprecedented protection to international investment under the banner of an emerging transnational law, thereby dismantling the NIEO’s primary drive of granting developing states’ sovereignty over their natural resources.⁶ Orfeo Fioretos’ recent work is instructive in detailing the concrete strategies key industrialized powers employed to limit the NIEO’s reformist reach. He notes that, “a small coalition of industrialized countries adopted strategies of cooptation that entailed ‘case-by-case’ cooperation with developing countries with the goal of limiting overall reforms”.⁷ These legal victories and strategies of cooptation displaced and absorbed much of the NIEO’s proposals and reformulated them to reflect the interests of industrialized Northern states. *Thus, this thesis suggests that the NIEO failed due to a concerted effort among key Northern states to reformulate the NIEO’s content to secure economic and legal outcomes that were antithetical to the agenda’s original vision.* This process subsequently secured greater access to raw materials in the Global South for transnational capital, paved the way for corporatist reforms to global economic governance, and ushered in an era of debilitating debt and structural adjustment policies, culminating with South America and Africa’s ‘lost decade’.⁸

By the late 1970s, debates on the NIEO and any mention of radically altering the structure of international trade and fiscal policy were mired in a North-South stalemate.⁹ Dialogues held between the North and South were leading nowhere; the implementation of the

the NIEO. These 6 states were the only ones to vote against the 1975 NIEO resolution on the Charter of Economic rights and Duties of States.

⁶ Antony Anghie, “Legal Aspects of the New International Economic Order,” *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 6, no. 1 (2015): 145–58, p. 152.

⁷ Orfeo Fioretos, “Rhetorical Appeals and Strategic Cooptation in the Rise and Fall of The New International Economic Order,” *Global Policy* 11, no. 3 (2020): 73–82, p. 73.

⁸ Larry Elliott, “The Lost Decade,” *The Guardian*, July 9, 2003, sec. World news, <https://www.theguardian.com/world/2003/jul/09/population.aids>.

⁹ Michael W. Doyle, “Stalemate in the North-South Debate: Strategies and the New International Economic Order,” *World Politics* 35, no. 3 (1983): 426–64.

NIEO’s Programme of Action seemed less and less likely with every round of unproductive negotiations.¹⁰ With the election of Ronald Reagan in the US and Margaret Thatcher in the UK, the neoliberal movement secured decisive electoral victories that would dramatically alter the foreign policy of two powerful Northern states and pave the way for a dissemination of neoliberal thought and policy throughout the world. By the mid 1980s, there seemed to be ‘no alternative’ to the neoliberal project of what Quinn Slobodian calls “militant globalism”, which erected a “set of institutional safeguards and legal constraints to prevent nation-states from transgressing their commitments to the world economic order”.¹¹ Views within parts of the industrialized North at the time agreed that the NIEO had been dead on arrival and would soon be fated to obsolescence.¹² In sum, the NIEO failed in its bid to reorder international legal, trade, and fiscal policy.

So why study the NIEO? As Nils Gilman explains, the NIEO is best seen as an “unfailure”, or the “paradox that many seemingly failed political movements, even though they did not realize their ambitions in their own movement, often live on as prophetic visions”. Gilman further maintains that the NIEO’s “undead spirit...continues to haunt international relations”.¹³ I contend that this spirit is that of international order contestation, and one that warrants further excavation.

¹⁰ William N. Oatis and The Associated Press, “A New Clash between the Industrialized Nations and the Third World Is Brewing over a Resolution Assessing Their 18-Month ‘North-South’ Negotiations in Paris.,” *Associated Press*, September 14, 1977, sec. International news; Hugh O’Shaughnessy and The Globe and Mail Canada, “Troubled but Promising Latin American Nations Probe Economic Future.,” *The Globe and Mail*, June 4, 1979; Edith M. Lederer and The Associated Press, “Third World Nations Demanding a Greater Voice in the World Economy Went Home Disappointed Sunday after a Month of U.N.-Sponsored Talks Here with Industrialized Nations.,” *Associated Press*, June 3, 1979, sec. International news; Robert A. Manning, “UN General Assembly Launches ‘development Decade’ with Renewed North-South Dialogue,” *The Christian Science Monitor*, August 26, 1980.

¹¹ Quinn Slobodian, *Globalists: The End of Empire and the Birth of Neoliberalism*, Globalists (Harvard University Press, 2018), p.13.

¹² Nils Gilman, “The New International Economic Order: A Reintroduction,” *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 6, no. 1 (2015): 1–16, p. 9.

¹³ *Ibid.*

Research Questions and Plan of the Thesis

International Relations (IR) scholars studying the NIEO, especially those doing so in the 1980s, generally agree that the agenda challenged the very foundations of the PLO.¹⁴ More recent contributions also posit a link between the NIEO and global neoliberalism, where the failure of the NIEO agenda is attributed to the success of the neoliberal agenda of the 1980s.¹⁵ Nevertheless, these views invite two research questions which this thesis aims to address. First, on what *grounds* did the NIEO challenge the PLO? Second, how did global neoliberalism *specifically* contribute to the failure of the NIEO?

Guided by the goal of specifying the programmatic grounds of the NIEO’s challenge and its subsequent relationship with global neoliberalism, this thesis will be divided into seven sections. First, I provide an overview of my research methods. Second, I analyze primary texts to determine the legal and economic content of the NIEO. Third, I examine official state discourse and policy responses to the agenda from Northern states to illustrate how the NIEO was received in the industrialized world. Fourth, I illustrate how the reformulation of the NIEO’s agenda contributed to international order change, from the postwar liberal order to the neoliberal global order of the 1980s. Fifth, I turn to extant IR literature and generate predictions from materialism, rational bargaining, and constructivism to see if these theoretical approaches can explain multiple important dimensions of the NIEO, namely its emergence, shape, and the response it

¹⁴ Stephen D. Krasner, *Structural Conflict: The Third World against Global Liberalism*, (Berkeley: University of California Press, 1985); David A. Lake, “Review Essay: Power and the Third World: Toward a Realist Political Economy of North-South Relations,” *International Studies Quarterly* 31, no. 2 (1987): 217–34; Hedley Bull, “Justice in International Relations: The 1983 Hagey Lectures (1984),” in *Hedley Bull on International Society*, ed. Kai Alderson and Andrew Hurrell (London: Palgrave Macmillan UK, 2000), 206–45; Fioretos 2020.

¹⁵ Jennifer Bair, “Taking Aim at the New International Economic Order,” in *The Road from Mont Pèlerin* (Harvard University Press, 2015), 347–85; Moyn 2018; Antony Anghie, “Inequality, Human Rights, and the New International Economic Order,” *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 10, no. 3 (2019): 429–42; Adom Getachew, *Worldmaking after Empire: The Rise and Fall of Self-Determination*, *Worldmaking after Empire* (Princeton University Press, 2019).

elicited from Northern states. Sixth, I provide my own theoretical concept of ‘competent contestation’ to explain why key Northern states responded to the NIEO with a strategy of policy reformulation, among other possible responses, such as rejection or accommodation. Seventh, I provide a summary of my empirical findings and theoretical conclusions. Finally, I discuss the NIEO’s broader significance for the discipline and our contemporary historical moment.

Section 1: Methodology

This thesis employs a within-case historical analysis of the NIEO and an inductive approach to process-tracing.¹⁶ I make use of process-tracing in two steps. First, I used process-tracing to sketch a general outline of the NIEO and ensuing debates over the agenda. To accomplish this task, I conducted a document analysis of primary texts found in the UN digital archives to determine the content of the NIEO as a set of economic and legal proposals.¹⁷ These UN documents were supplemented by an analysis of secondary sources. Specifically, publications and speeches by some of the NIEO’s leading ideological proponents¹⁸ alongside a series of retrospectives gauging the significance of the NIEO published by the United Nations Institute for Training and Research (UNITAR).¹⁹

With the goal of analyzing official state responses to the NIEO from the industrialized North, I also conducted a search of primary newspaper sources using the Nexis Uni search

¹⁶ Collier, David. “Understanding Process Tracing.” *Political Science & Politics* 44, no. 4 (2011): 823–30.

¹⁷ UN General Assembly. “Declaration on the Establishment of a New International Economic Order.” 1974. <https://digitallibrary.un.org/record/218450>; “Programme of Action on the Establishment of a New International Economic Order.” 1974. <https://digitallibrary.un.org/record/218451>; “Charter of Economic Rights and Duties of States.” 1975. <https://legal.un.org/avl/ha/cerds/cerds.html>; Boumediène 1974.

¹⁸ Bedjaoui, Mohammed. *Towards a New International Economic Order*. New York: Holmes & Meier, 1979; Nyerere, Julius K. “Unity for a New Order.” *The Black Scholar* 11, no. 5 (1980): 55–63.

¹⁹ Laszlo, Ervin, and Joel Kurtzman. *Political and Institutional Issues of the New International Economic Order*. Pergamon Policy Studies on the New International Economic Order. New York: Pergamon Press, 1981; Laszlo et al., *The United States, Canada, and the New International Economic Order; Eastern Europe and the New International Economic Order: Representative Samples of Socialist Perspectives; Western Europe and the New International Economic Order: Representative Samples of European Perspectives*; Agarwala, P. N., United Nations Institute for Training and Research. *The New International Economic Order: An Overview*. Pergamon Policy Studies on the New International Economic Order. New York: Pergamon Press, 1983.

engine. More precisely, I ran a search of “New International Economic Order” for newspaper articles published between January 1, 1970, and December 31, 1980 (inclusive). This search produced 893 sources that were an exact match for these terms. I analyzed all these matches and retained 199 newspaper articles. These sources were sorted into different folders depending on the states mentioned in the article. I did so with the help of the Zotero reference management software. Articles were retained and sorted if they met the following three conditions: the article contained (1) a foreign policy communiqué by government officials pertaining directly to the NIEO; (2) elucidated North-South negotiations over the NIEO agenda; or (3) contained editorials that were reflective of a country’s particular stance on the NIEO. Analysis of primary and secondary texts enabled me to better understand the content of the NIEO, the response it generated from the industrialized North, and the negotiations that followed. The overarching goal of this document analysis was to gain a stronger sense of the NIEO as a reform programme as well as a site of debate and negotiation. Moreover, this review of archival materials builds a picture of the historical processes that designates the NIEO as an ‘event’, in the sense of a “relatively rare subclass of happenings that significantly transform[s] structures”.²⁰ Thus, this effort at inductive process-tracing yielded a better sense of the NIEO’s shape as a historical process and event.

Second, process-tracing also enabled me to identify a mechanism that links the content of the NIEO to the process of international order change explored in the fourth section of this thesis. In determining the content of the NIEO and in analyzing the policy responses of Northern states, this thesis uncovers a strategy of policy reformulation employed by powerful state actors and international financial institutions (IFI) in response to the demands of the Group of 77. In

²⁰ Sewell JR., William H. “Three Temporalities: Toward an Eventful Sociology.” In *Logics of History*. Chicago: University of Chicago Press, 2005, p. 100.

other words, I matched the NIEO’s legal and economic content to the reforms undertaken in international law, trade and monetary policy in the years following the NIEO Declaration and identified policy reformulation as a mechanism that influenced a particular instance of international order change. This process is covered in the fourth section in greater detail and is also captured in Figure 1.1, found in the appendix.

Section 2: Determining Vision and Content

What was it All For? On the Group of 77’s Vision of Sovereign Equality

At base, the NIEO was a programmatic attempt to renegotiate the economic and legal terms of the PLO and restructure international relations between developed countries in the Global North, and less developed countries in the Global South. According to Adom Getachew, anticolonial proponents of the NIEO, such as Tanzanian President Julius Nyerere and Jamaican Prime Minister Michael Manley, assumed central roles in shaping the agenda. Most importantly, they used the NIEO to “recast” sovereign equality to make the right to self-determination a substantive legal and economic reality that extended beyond a formal right to self-government.²¹ Getachew goes on to detail that the NIEO contained a *particular* interpretation of sovereign equality that rested on a normative adherence to global redistributive justice.²² The Group of 77 then sought to promote their interpretation of sovereign equality in multilateral arenas, such as the UNGA. While global justice has drawn some persuasive links between the NIEO and sovereign equality,²³ this scholarship has not given sufficient attention to the question of what the Group of 77’s particular vision of the norm would look like in terms of changing specific policies governing the economic relations between states. This leads me to ask the following

²¹ Getachew 2019, p. 12.

²² Ibid., p. 3.

²³ Bull 2000; Moyn 2018; Getachew 2019.

question: what were the policy proposals that grounded the NIEO’s vision of sovereign equality?

The upshot of asking this question is considerable because it allows me to more specific about the NIEO’s ontological nature. This is because abstract norms like sovereign equality are often best grasped by examining attempts at implementing them. As the instantiation of the sovereign equality norm, I suggest that establishing the “oughtness”²⁴ of the NIEO agenda requires that we understand what the Group of 77 argued sovereign equality *should* look like in practical, policy terms by examining efforts to implement the NIEO agenda in the areas of international law, finance, and trade. Moreover, analyzing the NIEO agenda through the norm of sovereign equality justifies the application of both conventional and critical approaches to constructivism in subsequent sections of this thesis.

In sum, the NIEO is best understood as a normative agenda bound together by the norm of sovereign equality, which acts as a core “principle norm”. According to Alexander Betts and Phil Orchard, principle norms are generally less formal, often uncoded, reflect shared understandings, and enjoy some level of institutionalization, which are generally secured by international assent through United Nations resolutions or declarations.²⁵ Although it is plausible to conclude that the Group of 77’s vision of sovereign equality reflected a shared understanding held by a vast majority of UNGA members,²⁶ the principle itself is quite abstract and its codification could reasonably entail a whole slew of policy strategies to reapportion wealth and power from North to South. By consulting a series of primary sources and secondary sources, I trace how redistributive justice entailed a commitment to equity and self-determination on a

²⁴ March, James G., and Johan P. Olsen. “The Institutional Dynamics of International Political Orders.” *International Organization* 52, no. 4 (1998): 943–69. <https://doi.org/10.1162/002081898550699>.

²⁵ Betts, Alexander, and Phil Orchard, eds. *Implementation and World Politics: How International Norms Change Practice*. First edition. 1 online resource (xvii, 329 pages) vols. Oxford: Oxford University Press, 2014. <https://doi.org/10.1093/acprof:oso/9780198712787.001.0001>.

²⁶ There were a total of 115 votes for, 6 votes against, and 10 abstentions with respect to the 1974 NIEO Declaration.

broad level, and a programme of preferential trade, increased international liquidity, and the internationalization of domestic nationalization laws on a more granular level. In other words, what was the legal and economic content of the NIEO?

Legal Content of the NIEO

“The right to self-determination that [UNGA resolution 1514 (XV)] conveyed constitutes an essential and primary legal principle in the hierarchy of norms, from which spring the other principles that govern the international community”.²⁷

A key proponent of the NIEO, Algerian legal scholar Mohamed Bedjaoui argued that the right to self-determination constituted a fundamental legal principle in the conduct of international relations that could serve to justify the establishment of a new international economic order. Tracking earlier debates within the Non-Aligned Movement in the 1960s and early 70s, the NIEO positioned self-determination, generally understood in political terms as entailing freedom from the imposition of alien forms of colonial rule, in *economic* terms.²⁸ The Group of 77 articulated the notion of economic self-determination to explain how the historical – and contemporary – pillaging of natural resources and labour in colonial holdings, along with the systematic underdevelopment of the Global South to bankroll Northern prosperity, constituted a fundamental contravention of sovereign equality and self-determination. In making this observation, the Group of 77 sought to wield international law, a weapon historically deployed at the behest of empire,²⁹ to make self-determination a legally binding reality. The Group of 77 did so by attempting to internationalize domestic nationalization laws.

International Nationalization Law

²⁷ Bedjaoui 1979, p. 184.

²⁸ Bair 2015, p. 350.

²⁹ Antony Anghie, *Imperialism, Sovereignty and the Making of International Law*, Cambridge Studies in International and Comparative Law (Cambridge: Cambridge University Press, 2005); Jennifer Pitts, *Boundaries of the International* (Harvard University Press, 2018).

In a departure from conventional approaches to the regulation of transnational corporations, where foreign capital was often subject to disaggregated anti-trust laws and lax institutional oversight,³⁰ the Group of 77 sought to subject capital to domestic nationalization laws. Self-determination, as it pertained to natural resources, meant a sovereign right of developing nations to nationalize domestic industries in a manner consistent with their economic interests. In no uncertain terms, proposal *e.* of the NIEO Declaration stipulates that:

“Each State is entitled to exercise effective control over [natural resources] and their exploitation with means suitable to its own situation, *including the right to nationalization or transfer of ownership to its nationals*, this right being an expression of the full permanent sovereignty of the State. No State may be subjected to economic, political or any other type of coercion to prevent the free and full exercise of this inalienable right”.³¹

This view of self-determination entailed the internationalization of domestic nationalization laws, or a drive to erect an “international nationalization law” framework,³² which would have immense implications in terms of the financial compensation that developing nations would have to provide upon expropriating domestic industries under the control of foreign private and state actors. Previously, to remain compliant with international law, nationalization necessitated “prompt, adequate, and effective compensation”.³³ In a radical departure from the legal status-quo, the NIEO and the Charter of Economic Rights and Duties of States that followed, attempted to make matters of compensation a question of national, *not* international, law. Put differently, juridical oversight on compensation would fall under the purview of the state engaging in nationalizing efforts. Even more ambitious was the NIEO’s introduction of legal indemnity for certain outstanding cases, where expropriation might not incur any requirement for compensation whatsoever. Thus, the NIEO and Charter “emphasized

³⁰ Slobodian 2018, p. 209.

³¹ UN General Assembly 1974, “NIEO Declaration”, my emphasis.

³² Anghie 2015.

³³ Francesco Francioni, “Compensation for Nationalisation of Foreign Property: The Borderland Between Law and Equity,” *International & Comparative Law Quarterly* 24, no. 2 (April 1975): 255–83.

the right of each State to set the amount of a “possible indemnity” and the form of its payment. It was understood that any litigation that might result would be settled according to the domestic legislation of the nationalizing States and by the competent legal authorities of that State”.³⁴

Economic Content of the NIEO

“Perhaps the authors of the NIEO understood that human rights law, to the extent that it focused on the rights of the individual opposable to the state, might serve the purpose of enhancing welfare at the national level, but could not itself bring about the global redistribution that the NIEO sought. For that purpose, the NIEO focused instead on collective rights, the rights of states and peoples, such as the right to permanent sovereignty over natural resources as an economic corollary of the political right of self-determination”.³⁵

At a time when individual human rights law was enjoying a prodigious rise within the industrialized North and in international non-governmental circles,³⁶ the collective right to development constituted an alternative guiding economic principle that oriented much of the NIEO’s trade and monetary reforms. As Anthony Anghie points out, the Group of 77 were adamant that self-determination could not remain relegated to the political sphere.³⁷ Instead, it required an economic programme of equal importance. Within the NIEO’s Programme of Action document, I identify a two-pronged approach to reforming fiscal and trade policies.

Fiscal Reform

First, in a bid to facilitate efficient and timely access to international liquidity for development financing, the NIEO sought the immediate establishment of a UN Special Fund and called for the International Monetary Fund (IMF) to institute a series of special drawing rights for developing economies.³⁸ The funding structure of the Special Fund underscores the collective aspect of the NIEO’s vision. Departing from bi-lateral aid agreements between developed and

³⁴ Bedjaoui 1979, p. 173.

³⁵ Anghie 2019, p. 438.

³⁶ Moyn, Samuel, J. Andrew, and A.M. Elizabeth. *The Last Utopia: Human Rights in History* (London, UK: Harvard University Press, 2010).

³⁷ Anghie 2019, p. 432.

³⁸ UN General Assembly 1974, “NIEO Programme of Action”, p. 12.

developing states, where aid flows generally followed former colonial ties or mirrored ideological cleavages,³⁹ the Special Fund would pool contributions from the industrialized North and more advanced Southern economies to finance development projects among least developed nations. In the short-term, the Fund sought an “equitable distribution of its resources” to all states requiring emergency debt relief. In the long-term, the Group of 77 had a more ambitious goal of progressively turning the Fund into an “alternative channel for normal assistance after the emergency period”.⁴⁰ In line with the guiding economic principle of collective development, the Special Fund sought universal access and equitable disbursement of development funding. It did so by shifting procedural aspects of development financing from bi-lateral – and neocolonial – agreements, to multilateral agreements, and by entrusting the General Assembly with the discretion to distribute and allocate funds.

Trade Reform

Alongside these monetary policies, the Programme of Action also called for an expansion of existing Generalized System of Preferences (GSP) trade programmes. This measure sought greater competitiveness for developing economies, especially as it related to the export of raw materials as well as processed and semi-processed primary commodities, by reducing existing tariffs or removing them altogether.⁴¹ Strengthening GSP was also meant to challenge rising protectionism among industrialized capitalist economies – specifically the US and the European Economic Communities trading bloc – which NIEO proponents and sympathizers agreed was

³⁹ Laszlo et al. 1980, *Western Europe and the New International Economic Order*, p. 14.

⁴⁰ UN General Assembly 1974, “NIEO Programme of Action”, p. 12.

⁴¹ Ibid., p. 6.

fostering chronic trade imbalances in the global commodity market.⁴² This attempt to address

Northern protectionism is found in recommendation V, Section 3, of the Programme of Action:

“Where products of developing countries compete with the domestic production in developed countries, each developed country should facilitate the expansion of imports from developing countries and provide a fair and reasonable opportunity to the developing countries to share in the growth of the market”.⁴³

What the Programme of Action’s section on general trade underscores above all, is that trade patterns and market forces had to be rebalanced for collective development to take place in the Global South. Efforts led by the Group of 77 in seeking to establish a Special Fund and an expansion of GSP best exemplify this effort at leveling the international economic playing field.

Section 3: Examining Public Statements and Policy Responses from the North

What was the response within the industrialized North to the NIEO, particularly from North America and Western Europe? Overall, state rhetoric was receptive in the North; an important caveat being that overall, the U.S. was a vocal detractor of the NIEO. Due to considerations of scope and the fact that the NIEO was primarily aimed at the US and Western/Northern Europe, receptivity within Eastern Europe, the USSR, and China are not central to my analysis. Nevertheless, three general observations can be made about this latter group of states: (1) certain Eastern European states, especially Yugoslavia, played a prominent role in promoting the agenda; ⁴⁴ (2) the Soviets repeatedly attempted to remove themselves from

⁴² Speaking at the 1979 UNCTAD conference, Pakistani finance, planning and commerce minister Ghulam Ishaq Khan was categorical in his assessment of Northern protectionism and its effects on international trade during the 1970s. “The proliferation of protectionist trade policies in industrialized countries has emerged as a most disruptive element in international economic relations in recent years...the balance of trade in manufactured goods between industrialised countries and the developing countries remains overwhelmingly in favour of the industrialised countries” (The Xinhua General Overseas News 1979, “New Trade Protectionism Denounced at Unctad”).

⁴³ UN General Assembly 1974, “NIEO Programme of Action”, p. 6.

⁴⁴ BBC Summary of World Broadcasts, “Greek Premier in Yugoslavia,” *The British Broadcasting Corporation*, March 19, 1979, sec. International affairs; BBC Summary of World Broadcasts, “Japanese Deputy Foreign Minister in Yugoslavia,” *The British Broadcasting Corporation*, March 20, 1979, sec. International affairs.

the debate by laying blame at the feet of the US and Western capital;⁴⁵ and (3) China used the agenda to argue for its postcolonial bona fides and chide the USSR for its lack of commitment to socialist praxis.⁴⁶

State Discourse: Europe and Canada

For many western commentators, the framing of the NIEO by the Group of 77 as a 'global labour' movement was an effective and evocative choice of imagery, given the relatively recent establishment of the modern welfare state in industrialized Northern democracies. Among Western European countries, the NIEO proved especially popular in Germany, prompting visits to discuss the agenda in Mozambique and Peru by West German chancellor Helmut Schmidt and East German Chairman of the State Council Erich Honecker.⁴⁷ Although the Group of 77's declaration of the NIEO coincided with the departure of Willy Brandt as West German chancellor in May of 1974, Brandt's own writings at the helm of the Independent Commission on International Development Issues exemplifies an especially strong commitment to the promotion of NIEO principles. In framing the drive for a new international order as a literal 'programme for survival', the Brandt Commission recognized the right to permanent sovereignty over natural resources and nationalization of domestic industries, called for a more rigorous application of GSP, and highlighted an urgent need to make available an "adequate flow of international liquidity".⁴⁸ Most remarkably, the Brandt Commission went *beyond* the Programme

⁴⁵ BBC Summary of World Broadcasts, "The USSR; Soviet UNCTAD Delegate on Detente and World Economy," *The British Broadcasting Corporation*, May 10, 1979, sec. International Affairs.

⁴⁶ The Xinhua General Overseas News, "Han Nianlong Condemns Soviet Sabotage of Non-Aligned Movement," *ServiceXinhua General News Service*, September 28, 1979, sec. Overseas news; The Xinhua General Overseas News, "Ye Jianying on China's Foreign Policy," *ServiceXinhua General News Service*, September 29, 1979, sec. Overseas news.

⁴⁷ The Xinhua General Overseas News, "West German Chancellor Ends Visit to Peru," *ServiceXinhua General News Service*, April 12, 1979, sec. Overseas news; BBC Summary of World Broadcasts, "Erich Honecker in Mozambique," *The British Broadcasting Corporation*, February 26, 1979, sec. International affairs.

⁴⁸ Independent Commission on International Development Issues and Willy Brandt, *North-South, a Programme for Survival*, First edition, (Pan Books, 1980), pp. 4, 103, 146.

of Action’s call to erect a Special Fund under the auspices of UNGA control. Instead, the Brandt report recommended the establishment of a new, supranational body, the ‘World Development Fund,’ which would enjoy universal membership and voting, as opposed to the IMF and the World Bank’s weighted decision-making structures. The Fund would address the “unmet needs” of international funding structures for development projects.⁴⁹ Similarly, French, Spanish, Italian, and Greek foreign communiqués and diplomatic visits echoed much of Germany’s reception of the NIEO.⁵⁰

Statements from Canada and Northern Europe at the time were also supportive of the NIEO agenda. Reflecting on international calls to boost development aid, Canadian Prime Minister Pierre Elliott Trudeau announced the need for a “global ethic” and stressed the importance of “an equitable distribution, worldwide, of resources and opportunities” which necessitated an effort “global in scope and universal in application”.⁵¹ The Canadian PM and Swedish Prime Minister Thorbjorn Faellidin met as late as 1980 to discuss Trudeau’s ‘global ethic’ and what the establishment of a new international economic order might look like.⁵² Likewise, official Swedish foreign policy statements in 1978 stated that, as it pertained to the NIEO, “the self-reliance, independence and influence of the developing countries must be strengthened”.⁵³ In declarative terms, therefore, the NIEO appeared to have made significant inroads in parts of Europe and Canada.

⁴⁹ Ibid., p. 213.

⁵⁰ BBC Summary of World Broadcasts, “President Giscard in Romania,” *The British Broadcasting Corporation*, March 12, 1979, sec. International affairs; The Xinhua General Overseas News, “Spanish Foreign Minister on Foreign Policy,” *ServiceXinhua General News Service*, April 15, 1978, sec. Overseas News; The Xinhua General Overseas News, “Venezuelan, Italian Foreign Ministers Issue Joint Communique,” *ServiceXinhua General News Service*, April 27, 1979, sec. Overseas News; BBC Summary of World Broadcasts, “Greek Premier in Yugoslavia.”

⁵¹ Ervin Laszlo et al. 1979, *The United States, Canada, and the New International Economic Order*, p. 74.

⁵² Wayne Cheveldayoff and The Globe and Mail Canada, “PM’s Talks in Sweden Focus on Poor Nations,” *The Globe and Mail*, June 27, 1980.

⁵³ Quoted in The Xinhua General Overseas News, “Swedish Foreign Minister Issues Foreign Policy Statement,” *ServiceXinhua General News Service*, March 18, 1978, sec. Overseas News.

Policy Responses: Europe and Canada

To what degree did policy match these declarations of support? Instead of devoting 0.7% of its gross national product (GNP) to development aid as recommended by the UN, Canada saw fluctuating rates of assistance from 1971 to 1977 that never climbed above 0.58% of GNP. In fact, the Government at the time even projected that aid would drop to 0.45% of GNP by 1979.⁵⁴ Likewise, Ervin Laszlo and Joel Kurtzman observe that much like Canada and Western Europe more broadly, there was a “considerable discrepancy between words and deeds” in Northern Europe when it came to implementing NIEO principles.⁵⁵ Despite being ‘mixed’ economies, Nordic states remained “as much the assistant of capital as its master”.⁵⁶ Most strikingly, Nordic countries, including Norway (which nationalized its oil industry in 1972), were apparently “prepared to adopt a defensive, even completely negative attitude” on questions of nationalization.⁵⁷ *What therefore emerges is a pattern of discursive recognition of the NIEO coupled with policy measures that directly contradict stated government positions.* Laszlo and Kurtzman, in reviewing institutional and political impediments to the NIEO in Europe, conclude that while foreign communiqués and press tours gestured towards the implementation of NIEO principles, global redistribution did not even crack the top five economic issues in the industrialized North during the 1970s.⁵⁸

The US Stance

Resistance to the NIEO was, on average, more pronounced among US foreign officials. This tendency is best captured in US Ambassador to the UN Daniel Moynihan’s obstinate

⁵⁴ Laszlo et al. 1979, *The United States, Canada, and the New International Economic Order*, p. 78.

⁵⁵ Ervin Laszlo et al. 1980, *Western Europe and the New International Economic Order*, p. 46.

⁵⁶ Ibid., p.70.

⁵⁷ Ibid., p. 71.

⁵⁸ Ibid., p. 108.

resistance to the NIEO and the South's development politics of the 1970s. At the behest of President Gerald Ford, Moynihan replaced former Ambassador John A. Scali. Moynihan explained that the change in personnel was a reaction to a "massive failure of American diplomacy" in dealing with "new nations".⁵⁹ Arguing that the NIEO agenda demonstrated an unwillingness by the Group of 77 to produce anything of value themselves, Moynihan called for an "end to excuses" on the part of developing countries, going on to say that "the time has come for the spokesman of the United States to quit apologizing for this country and start challenging Third World nations to help feed themselves, build up their own economies - and make their own Governments more democratic".⁶⁰ Nevertheless, Moynihan's outwardly derisive stance was also coupled with a more conciliatory approach on the part of the Ford administration. Careful archival work by Fioretos illustrates how Secretary of State Henry Kissinger was wary of taking the NIEO head-on, which he perceived to enjoy near unanimous support in the Global South and rising support among key European allies. Rather than challenge the NIEO on substantive grounds, Kissinger advocated for a strategy of cooptation, avoidance, and stalling. President Gerald Ford was persuaded by this approach, confessing: "I see no reason to talk theory when we can in a practical way just screw up the negotiations".⁶¹

Broadly speaking, there were two response patterns from the industrialized North. First, Canada, and much of Western and Northern Europe, paid considerable lip service to the NIEO in external communiqués while keeping in place similar policy measures. In some cases, these Northern states actively reduced foreign aid, increased tariff and non-tariff barriers on imports

⁵⁹ Moynihan, Daniel P., quoted in Peter Kihss, "Moynihan Is Selected to Replace Scali," *The New York Times*, April 21, 1975, sec. Archives, <https://www.nytimes.com/1975/04/21/archives/moynihan-is-selected-to-replace-scali.html>.

⁶⁰ Moynihan, Daniel P., quoted in U.S. News & World Report, "Moynihan to the U.N. - A Signal of Tougher Line by U.S.," *U.S. News & World Report*, May 5, 1975, sec. People of the Week.

⁶¹ Fioretos 2020, p. 77.

from developing economies,⁶² and remained deeply opposed to nationalization efforts. Second, the US stood out among other Northern states by adopting a blend of outright dismissal and covert institutional cooptation and sabotage. Where these responses met, however, is vital in understanding the NIEO’s significance. Despite a considerable lack of material clout, proponents of the NIEO were nonetheless capable of generating a high degree of recognition, both favourable and deeply opposed, from the North. While ‘subaltern’ confidence in the early 70s was at an all-time high following OPEC’s economic show of force, there was nevertheless a considerable asymmetry in economic, military, and institutional power that could have precluded the NIEO from even registering on the North’s radar. Nevertheless, by deploying their voting majority within the UN and wielding the structures of international law and multilateralism, the Group of 77 provoked, at the very least, a significant public response from the North, and as the next section details, a veritable neoliberal counterrevolution. This counterrevolution, carried out by a coalition of powerful Northern states and IFIs, entailed a comprehensive strategy of *policy reformulation* that had immense impacts on international law, finance, and trade.

The Neoliberal ‘Counterrevolution’

There was an observable discrepancy between generally favourable public statements on the NIEO by Northern states and the policy responses that followed. How can we explain this discrepancy? One possibility is that supportive states in the North simply lacked the political will to act on the imperatives associated with the NIEO. John Toyé’s work on neoliberal development policy suggests otherwise. Southern states’ inability to forge a new international order was not due to an inability to sway disinterested states in the North to muster the willpower to implement the program. Rather, “the threat of an NIEO, particularly one imposed by the South and

⁶² Joseph M. Grieco, The Tokyo Round Regime on Non-Tariff Barriers to Trade,” in *The Tokyo Round Regime on Non-Tariff Barriers to Trade* (Cornell University Press, 2018), 51–68.

supported on moral grounds by influential public opinion in the North, acted as a strong spur to the counterrevolution in development policy”.⁶³ This indicates that Northern states were neither disinterested in the NIEO, nor lacking in the political will to radically alter existing international development policies. It is more accurate to suggest that decision-makers in the North were swayed by contending theories of international development emanating from neoliberal intellectual and policy circles, such as the Mont Pèlerin Society, which mobilized in decisive ways against the NIEO agenda.⁶⁴ Thus, the next section demonstrates how the industrialized North fought back against the NIEO with a series of countermeasures that made use of the same legal and economic avenues by which the NIEO was advanced, all with the goal of securing policy outcomes that were antithetical to global redistribution.

The Birth of Transnational Law

As I suggested in the previous section, the NIEO recast the sovereign equality norm as a one on the legal grounds of self-determination, guided by the policy of national ownership through international nationalization law. Conversely, Northern states had often understood sovereign equality as *conditional* and subservient to special “great power responsibilities”.⁶⁵ Historically, postcolonial states were granted burdened membership, most notoriously through the League of Nation’s Mandate System, which gave legal cover to the West in violating the sovereign borders of developing and post-colonial states.⁶⁶ Hierarchy, once an explicit principle, then became an implicit one in the UN’s decision-making structures as evidenced by the Security Council’s exclusive ability to pass legally binding mandates.⁶⁷

⁶³ John Toye, *Dilemmas of Development: Reflections on the Counter-Revolution in Development Economics*, Second edition (Oxford, UK: Blackwell Pub, 1993), p. 180, quoted in Bair 2015, p. 348.

⁶⁴ Bair 2015, pp. 357, 374, 375.

⁶⁵ Mlada Bukovansky et al., *Special Responsibilities: Global Problems and American Power* (Cambridge: Cambridge University Press, 2012), p. 6.

⁶⁶ Anghie 2005, p. 179.

⁶⁷ Getachew 2019, p. 99.

At the level of international jurisprudence then, key industrialized states reformulated the NIEO's drive for nationalization into an opportunity to sharpen and entrench a burgeoning field of international law: transnational law. In the late 1970s and early 1980s, key industrialized states, alongside transnational corporations, took several Middle Eastern countries to court over their attempts to nationalize their resources and expropriate domestic industries from foreign private control.⁶⁸ From these international arbitrations emerged a key facet of transnational law: that corporations not only enjoyed sovereign status comparable to states, but that nationalization efforts that restricted their ability to turn a profit constituted an affront to their property rights and entitled them to significant forms of compensation.⁶⁹ In short, the industrialized North responded to the NIEO's international nationalization law with its own set of legal mechanisms that secured an outcome antithetical to the Group of 77's vision. In this sense, the birth of transnational law constituted a profound victory for the neoliberal counterrevolution in international public law. As Anghie argues, this victory formulated a “set of technologies that were fundamental for the later development of the legal infrastructure of neoliberalism”.⁷⁰

Imposing Structural Adjustment and Conditionality

The NIEO's fiscal reforms were reformulated on three fronts. First, rather than collaborate with the Group of 77 to create a Special Fund controlled by UNGA majority voting, the North turned to the IMF and the World Bank, both of which had weighted-voting structures, to assume responsibility for fund disbursement.⁷¹ Second, increases in international liquidity and special drawing rights, initially allocated to finance development projects, would facilitate a

⁶⁸ Anghie 2015, p. 154.

⁶⁹ Ibid., p. 155.

⁷⁰ Ibid., p. 154.

⁷¹ Tony Killick, *IMF Programmes in Developing Countries: Design and Impact* (London, UK: Taylor & Francis Group, 1995).

different goal: servicing Southern debt. Third, the disbursement of IFI funds was tied to a series of increasingly onerous structural adjustment policies, in the form of the Extended Fund Facility, Structural Adjustment Facility, and Enhanced Structural Adjustment Facility programmes.⁷² Altogether, neoliberal development policy displaced a drive to increase international liquidity and democratize its allocation for collective development purposes by investing the IMF and the World Bank with lending responsibilities, all while ramping up their imposition of conditionality in a bid to severely curtail economic sovereign equality.⁷³ This is because structural adjustment has largely entailed the privatization of essential public sector enterprises and comprehensive market reforms to trade and payment systems.⁷⁴ Thus, the policy of conditionality aimed to restructure much of the internal political frameworks of developing states, thereby standing in clear contravention of the NIEO’s goal of securing the “right of every country to adopt the economic and social system that it deems the most appropriate for its own development and not to be subjected to discrimination of any kind as a result”.⁷⁵

Entrenching Most Favoured Nation and Non-Tariff Barriers

In addition to the formal debates on the NIEO, several rounds of negotiations held by the United Nations Conference on Trade and Development (UNCTAD) contributed to intensifying calls for an expansion and enforcement of non-reciprocal GSP programmes during the early 1970s. In light of these demands, the General Agreement on Tariffs and Trade (GATT) Tokyo Round (1973-1979) was launched due in large part to the “importance of maintaining and

⁷² Julio A. Santaella and Peter Wickham, “Four Decades of Fund Arrangements: Macroeconomic Stylized Facts Before the Adjustment Programs,” *IMF Working Papers* 1995, no. 074 (July 1, 1995).

⁷³ Stephen D. Krasner, *Sovereignty: Organized Hypocrisy*, *Sovereignty* (Princeton University Press, 1999).

⁷⁴ Tony Killick, *Aid and the Political Economy of Policy Change* (London: Routledge, 1998), pp. 1, 2.

⁷⁵ UN General Assembly 1974, “NIEO Declaration”.

improving the Generalized System of Preferences".⁷⁶ Spearheaded by Brazil, a proposal formulated by developing economies sought to make "preferential treatment irrevocable, or subject to compensation if withdrawn, and non-discriminatory", no matter the political system chosen by developing countries.⁷⁷ Much like the 1968 UNCTAD II negotiations in New Delhi, where the US introduced schemes to exclude communist states and countries seeking to expropriate American capital from enjoying GSP rights, the Tokyo Round produced legal outcomes that undermined much of the original thrust of the negotiations. The Brazilian proposal was rejected out of hand, with Northern detractors citing concerns over the degradation of existing Most Favoured Nation (MFN) principles. Instead, the industrialized North secured a different "graduation" clause that would provide greater discretion and leeway for developed countries to determine when certain developing economies had progressed far enough to no longer qualify for GSP rights.⁷⁸ Entrenchment of MFN principles was coupled with a spike in Non-Tariff Trade Barriers, which indicates a *rise* in protectionism on the North's part during the late 70s and early 80s.⁷⁹ By April of 1985, 11 years after Boumediène railed against the postwar order, the Group of 77 lamented that "most of the features of GSP programmes were changed in a way that made them "almost unrecognizable".⁸⁰

Section 4: Exploring International Order Change

What effect did the North's strategy of policy reformulation have on international politics? Apart from a detailed exploration of how and why the NIEO agenda failed to gain traction in the North, this thesis suggests that the North's reformulation of the NIEO contributed

⁷⁶ Quoted in Norma Breda dos Santos and Raphael Cunha, "Generalized System of Preferences in General Agreement on Tariffs and Trade/World Trade Organization; History and Current Issues," *Journal of World Trade* 39, no. 4 (August 1, 2005), p. 652.

⁷⁷ *Ibid.*

⁷⁸ *Ibid.*, pp. 649, 652.

⁷⁹ Grieco 2018.

⁸⁰ Santos and Cunha 2005, p. 654.

to a form of international order change, from the postwar liberal order to the neoliberal global order of the 1980s and 90s.⁸¹ More precisely, efforts by the Group of 77 to contest the PLO prompted an effort by Northern states to ‘neoliberalize’ existing legal, monetary and trade regimes. To elaborate on this argument, this section has two main tasks. First, it specifies what the postwar system resembled before the declaration of a new international economic order, and furthermore, elaborates on key dimensions of the neoliberal global order that followed the NIEO’s collapse. Second, this section explores what it means to say that the legal, fiscal, and trade regimes that made up the PLO were ‘neoliberalized’. Specifically, I demonstrate what this entails in terms of concrete policy initiatives, by suggesting that the reformulation of the NIEO contributed to the emergence of global neoliberalism.

The Postwar Liberal Order and ‘Embedded Liberalism’

Rather surprisingly, American President Richard Nixon uttered “we are all Keynesians now” when justifying the White House’s decision to approve legislation on a set of regulatory reforms during the early 1970s.⁸² While the balancing act of state economic dirigisme alongside fixed exchange rates and the gold standard had mostly crumbled by this time, Nixon’s rhetorical gesturing towards Keynesianism illustrates the marked difference between the economic orthodoxy of postwar liberalism and global neoliberalism. Before the 1980s, and even among the most partisan of Republicans, economic orthodoxy in the North maintained that some form of state interventionism was necessary to curb inflation and ensure full employment.⁸³ Driven by the goal of dampening the recessionary effects of cyclical economic downturns that accompanied

⁸¹ This thesis does not attempt to put forward a generalizable theory of international order change. Instead, this thesis aims to detail a *particular* change in world ordering from postwar liberalism to global neoliberalism, and to draw differences between these two systems to justify the suggestion that international order change occurred during the 1970s and 80s. Hence my decision not to engage with Robert Gilpin’s theory of international order change or more recent contributions in T.V. Paul et al.’s edited volume on peaceful change.

⁸² Harvey, David. *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2005), p. 13.

⁸³ *Ibid.*, p. 11.

state-sponsored capitalism, adherence to Keynesianism also featured on the international stage during the postwar era. Although heavily contested in Europe from the Right, Center, and Left, the emergence of ‘embedded liberalism’ rested on a dual compromise of multilateralism and domestic interventionism.⁸⁴ Thus, the prevailing view within the North was that liberalized trade and rapid economic growth should operate in the service of domestic social welfare. Until the mid-1960s, postwar Fordism had secured rising wages and strong economic growth domestically, along with a reconstructed Europe and Japan internationally.⁸⁵ Nevertheless, because “the compromise of embedded liberalism [had not been] fully extended to developing countries”, the Group of 77 largely viewed postwar economic regimes as illegitimate.⁸⁶ This is because these regimes had enabled the North to secure rapid economic growth through specialization and industrialization that favoured their comparative advantage while relegating the periphery to adopt often harmful forms of export-intensive modes of production.⁸⁷ As John Ruggie observed in the 1980s, developing countries had been “disproportionately subject to the orthodox stabilization measures of the IMF, often with no beneficial results in export earnings but substantial increases in import bills and consequent increases in domestic prices. Moreover, the liberalization produced by the GATT [had] benefited relatively few among them”.⁸⁸

While far more complex than what I have presented here, the PLO contained three key dimensions. First, some level of state dirigisme was deemed necessary at the domestic and international level to guarantee a modicum of social welfare. As Quinn Slobodian explains, “policy autonomy – the ability to tailor economic policy toward the goal of the welfare state –

⁸⁴ Ruggie, John Gerard. “International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order.” *International Organization* 36, no. 2 (1982): 379–415, p. 393.

⁸⁵ Harvey 2005, p. 11.

⁸⁶ Ruggie 1982, p. 413.

⁸⁷ *Ibid.*, p. 414.

⁸⁸ *Ibid.*

was the hallmark of what was called the Bretton Woods system”.⁸⁹ Second, ‘embedded liberalism’ emerged through a compromise between the US and Europe and relied heavily on multilateralism to justify its legitimacy. Third, the benefits of embedded liberalism, as well as access to multilateral spaces within it, were unevenly distributed: the Global South was given comparatively little material ‘payoff’ and voice within the IMF and GATT.

The Neoliberal Global Order and the *Washington Consensus*

As a constellation of macroeconomic policies seeking to “restore economic stability and a set of liberalization policies aimed at structural reform”, the *Washington Consensus* embodied neoliberalism, both as ideology, and as state and institutional practice.⁹⁰ According to Dieter Plehwe, “Williamson’s [a key architect of the *Washington Consensus* who coined the term] ten policy instruments included reduction of federal deficits, privatization of state-run enterprises, deregulation of key industries, and trade and financial sector liberalization”.⁹¹ Within the US and UK alone, these policy instruments were rigorously applied by the Reagan and Thatcher administration during the 80s, and by the Clinton and Blair governments a decade later. In this sense, neoliberal economic policy guided state practice. However, insofar as the neoliberal philosophy promoted by the Mont Pèlerin Society had direct influence on the content of the *Washington Consensus*, macroeconomic policies adopted in the 1980s and 90s are also illustrative of the broader influence of neoliberal ideology on international politics.⁹² The broader themes of deregulation, privatization, and liberalization embodied in the *Washington Consensus* constituted a marked departure from the economic and trade regimes of the postwar order, where domestic policy autonomy was seen as an important counterweight to the adoption of market

⁸⁹ Slobodian 2018, p. 119.

⁹⁰ Plehwe, Dieter. “Introduction.” In *The Road from Mont Pèlerin* (Harvard University Press, 2015), 1–42, p. 7.

⁹¹ *Ibid.*

⁹² *Ibid.*, 8.

fundamentalism. There was thus a palpable shift from notions of ‘embedded liberalism’ to the *Washington Consensus* from the tail-end of the 1960s to the 1990s. The North’s reformulation of the NIEO was an important contributor to this process of international order change.

In putting forward a more rigorous definition of neoliberalism that moves beyond the caricature of a dogmatic adherence to economic *laissez-faire*, Philip Morowski argues that neoliberalism contains several key doctrines. Of the many that are put forward, three are of particular interest to this thesis. First, and contrary to classical liberalism, a neoliberal ‘utopia’ will only triumph if “it becomes reconciled to the fact that the conditions for its existence must be *constructed* and will not come about naturally in the absence of concerted political effort and organization”.⁹³ Second, capital, unlike labour, has an absolute right to traverse international boundaries and the marketisation of state functions must necessarily follow to facilitate this movement.⁹⁴ Third, democracy must be rendered as impotent as is necessary to ensure that civil society has little influence over state economic policy.⁹⁵ I now illustrate how the industrialized North’s reformulation of the NIEO constitutes an attempt at achieving these three goals.

‘Neoliberalizing’ Law

The NIEO attempted to bring nationalization under the jurisdiction of national courts, specifically the courts of states seeking to expropriate domestic industries. Instead, the North built a system of transnational law, which strengthened and emboldened extractive practices by transnational capital in developing countries. This demonstrates that protecting access to foreign markets for corporations required that their economic activities be protected from legal and political threats emanating from the Global South, which the NIEO agenda embodied. This

⁹³ Mirowski, Philip. “Postface: Defining Neoliberalism.” In *The Road from Mont Pèlerin* (Harvard University Press, 2015), 417–56, p. 434.

⁹⁴ Ibid., 438.

⁹⁵ Ibid., p. 436.

meant that the “essence of the project of *neoliberalism* was that defending the world economy could not be a simply negative project but had to be a proactive project”.⁹⁶ This created a “new role for law” where the “expansion of international investment law was designed to protect foreign investors from diverse forms of expropriation and to provide a *parallel global legal system known as the transnational law merchant*”.⁹⁷ Key neoliberal thought leaders, especially within the Austrian school, believed that transnational capital and global markets should not be “liberated” in a *laissez-faire* sense. Rather they should be “encased” within legal frameworks amenable to elite control and neoliberal design.⁹⁸

As this thesis suggested, transnational law sought to accomplish two things. First, it aimed to delimit the authority of national courts on questions of nationalization. Second, it sought to confer corporations a legal sovereign right to maximize profits and determine an international legal framework capable of exercising supranational authority on questions of expropriation, among other matters. Calling for the “dethronement of politics” in a 1979 publication, neoliberal Austrian economist Friedrich Hayek argued that a “true international law” should “limit the powers of national governments to the highest common rules but also the highest authority should essentially be *limited to prohibitions*”.⁹⁹ For Hayek, international law’s main objective should be to limit the reach of domestic courts, all while exercising as little constraint on international economic activities as possible, like those of transnational capital. With respect to the NIEO, Slobodian makes it clear that the intention among neoliberal thought leaders and politicians was always to “fight law with law”. In line with the first doctrine

⁹⁶ Slobodian 2018, p. 89.

⁹⁷ Ibid., p. 4, emphasis added.

⁹⁸ Ibid., p. 5.

⁹⁹ Hayek, Friedrich, quoted in Slobodian 2018, p. 240, author’s emphasis.

introduced above, efforts to reformulate the NIEO and create transnational law constitutes an effort at building legal structures to safeguard conditions favourable to global neoliberalism.

‘Neoliberalizing’ Capital Flows

Originally, the NIEO sought to facilitate economic growth among developing countries on redistributive grounds that apportioned greater access to international liquidity and expanded preferential trade agreements. Crucially, these were interventions at the interstate level, which reflected the NIEO’s aim of securing development among states with different political and economic systems, be they market-based, command-based, or mixed economies. Thus, the collective right to development held “irrespective of [states’] economic and social systems”.¹⁰⁰ For key decision-makers in the industrialized, capitalist North, such ambivalence towards economic and social systems was problematic. This is because the development program which informed IMF and World Bank lending blamed poor economic performance within the developing world on: (1) public sector overreach; (2) an over-reliance on physical capital-formation; and (3) distorting government economic controls.¹⁰¹ These critiques form the core of what John Toye terms the “counter-revolution in development policy”, which specifically sought to neutralize the NIEO, and which critiqued international redistributive agendas and efforts to increase development aid more broadly. The corollary of this conclusion, namely that poor economic performance can be attributed to government-led inefficiencies by developing states, is an effort to “ ‘roll-back’ the over-expanded public sectors in developing countries”, which has historically led to the large-scale privatization of critical state industries in debtor countries.¹⁰² By tying the disbursement of aid to the marketisation and privatisation of state functions along

¹⁰⁰ UN General Assembly 1974, “NIEO Declaration”.

¹⁰¹ Toye, J. F. J. *Dilemmas of Development: Reflections on the Counter-Revolution in Development Theory and Policy* (Oxford, UK ; Blackwell, 1987) pp. 48, 49.

¹⁰² Ibid., p. 56; Killick 1998, pp. 1, 2.

with the adoption of an export-oriented growth strategy, IMF and World Bank loans were “increasingly used in the 1980s as the *quid pro quo* for adopting the counter-revolutionary programme”.¹⁰³ While a complex relationship to establish, there is compelling evidence that there was not only an emergence of neoliberal ideas within the IMF during the 1980s, but that the Fund had a statistically significant impact on the liberalization of capital flows among countries implementing IMF programmes, such as structural adjustment.¹⁰⁴ Keeping in mind the second neoliberal doctrine that capital flows be unimpeded by state policy and that state functions be marketized, international lending practices by the IMF and the World Bank represent an adherence to neoliberal economic orthodoxy. More to the point, policies of conditionality and structural adjustment served as an instrument for IFIs and certain Northern countries to liberalize capital controls in debtor countries. In this sense, the reformulation of the NIEO’s fiscal programme accomplished a ‘neoliberalization’ of state functions among debtor countries all while securing the liberalization of capital controls across much of the world.

‘Neoliberalizing’ International Institutions

“In fact, neoliberals merely claim, in effect, that as much as possible ought to be left to the market or other processes which individuals freely choose to take part in, and consequently that as little as possible ought to be subjected to *genuinely* political processes. Proponents of neoliberalism are therefore often in the ‘critical literature’ portrayed as skeptics of democracy: if the democratic process slows down neoliberal reforms, or threatens individual and commercial liberty...then democracy ought to be sidestepped and replaced by the rule of experts or legal instruments designed for that purpose”.¹⁰⁵

The NIEO, the related Programme of Action, and the Charter of Economic Rights and Duties of States owe their emergence to majority-style, universal voting procedures within the UNGA. Likewise, the NIEO agenda registered as a threat among some in the industrialized

¹⁰³ Toye 1987, p. 156.

¹⁰⁴ Chwieroth, Jeffrey M. “Testing and Measuring the Role of Ideas: The Case of Neoliberalism in the International Monetary Fund.” *International Studies Quarterly* 51, no. 1 (March 1, 2007): 5–30, p. 24.

¹⁰⁵ Thorsen, Dag Einar, and Amund Lie. “What Is Neoliberalism.” *Oslo, University of Oslo, Department of Political Science, Manuscript*, 2006, 1–21, p. 15.

North for this same reason. The push to establish a UN Special Fund was not only meant to accord international lending responsibilities to the UNGA but constituted a more fundamental attempt at democratizing global economic governance. The crux of the issue for neoliberals and powerful states at the time was therefore procedural in nature: the principle of one-nation one-vote was incompatible with the ability of elite authorities to “say no”.¹⁰⁶ The NIEO, if given sufficient legal authority to actually implement the Programme of Action, would have created a dangerous precedent where majority voting would become enforceable, all without the recourse of a minority veto for powerful state actors.

The Group of 77 understood that considerable alterations to the voting procedures of existing international institutions, especially IFIs, was necessary to secure a more equitable international economic order. As Quinn Slobodian explains, the NIEO and the broader agenda of the postwar decolonial movement was driven by a desire to “scale up democracy” to the international level and make global governance and its associated institutional structures, procedures, and personnel, more representative and accountable.¹⁰⁷ In fact, to prominent neoliberal practitioners, such as John H. Jackson, who had an indelible impact on the legal framework of GATT and international trade law, universal voting procedures inhibited the effective exercise of authority. ““There is virtually no chance of significant rule-making authority developing in any international body today”, he said, “which bases its procedures on the one-nation one-vote system””.¹⁰⁸ As Slobodian’s work demonstrates, there are important parallels between neoliberalism’s mistrust of “thick” democracy at the domestic level and at the international level. Insofar as the NIEO was limited to the status of a non-binding declaration

¹⁰⁶ Slobodian 2018, p. 144.

¹⁰⁷ Ibid., p. 220.

¹⁰⁸ Jackson, John H., quoted in Slobodian 2018, p. 242.

with as little policy impact as possible, the epigraph by Thorsen and Lie included at the beginning of this section rings true. Global economic governance was never designed to be “subjected to *genuinely* political processes.”¹⁰⁹ Reformulating the NIEO and squashing any attempt to scale-up democracy ensured that this trend would persist.

Section 5: IR Theory and Explaining the NIEO Challenge and Policy Reformulation

How can we explain (1) the emergence of the NIEO agenda; (2) the nature and scope of the challenge the NIEO presented; and (3) the strategy of policy reformulation it produced? While I have provided provisional answers to some of these questions in introducing the NIEO, I now turn to extant IR literature that might be able to capture much of the NIEO’s shape and its significance for international politics. In order to account for the emergence and shape of the NIEO, as well as the response it generated in the North, I apply theoretical approaches from materialism, rational bargaining, and constructivism to assess their comparative explanatory power when applied to the NIEO case. To do this, I formulate predictions from these approaches and then determine whether they can ‘jump through’ the three ‘hoops tests’ related to the NIEO case.¹¹⁰ These approaches need to jump through hoops related to the emergence, shape, and response to the NIEO. Crucially, failing to jump through a hoop does not ‘disprove’ a particular theoretical approach. However, if one theoretical approach can jump through more hoops than others, it can be said to have comparatively more value in explaining dimensions of the NIEO relating to its emergence, shape, and the response it generated.¹¹¹ By systematically subjecting the NIEO to alternative explanations, this thesis also increases its internal validity and fulfills a

¹⁰⁹ Thorsen and Lie 2006, p. 15.

¹¹⁰ Collier 2011.

¹¹¹ Thelen, Kathleen, and James Mahoney. “Comparative-Historical Analysis in Contemporary Political Science.” In *Advances in Comparative-Historical Analysis* (Cambridge: Cambridge University Press, 2015), 3–36.

requirement of a Master's level research project by demonstrating a strong grasp of foundational literature from the IR discipline.

As I demonstrate below, materialism, rational bargaining, and conventional constructivism fall short in capturing various important dimensions of the NIEO.¹¹² For the predominantly materialist account proffered by Stephen Krasner, relative lack of military or economic power behind the NIEO precludes it from being seen as an important challenge, yet archival evidence suggests it was seen as enough of a threat to spark a neoliberal counterrevolution. For rational bargaining arguments, like the ones put forward by John J. Ikenberry and David Lake, the North responded to an attempt at renegotiating the terms of international ordering in a wholly irrational manner, risking the further de-stabilizing of a contested system. For conventional constructivist arguments, like the ones given by Martha Finnemore and Kathryn Sikkink, the industrialized North's response of policy reformulation is equally puzzling. This is because the NIEO agenda followed all the 'West's rules': it was justified on the basis of the fundamental norm of sovereign equality, presented within the legitimate multilateral institutions of the UNGA, and sought implementation by way of international public law. And yet, Northern states were not 'socialized' into accommodating the Group of 77's interpretation of sovereign equality, as conventional constructivists drawing from the norm life cycle model might expect. While Antje Wiener's critical constructivist theory of contestation fares better than others, it has limitations. Although Wiener and critical constructivists anticipate normative conflict and disagreement over the NIEO between the North

¹¹² It is important to note that apart from Stephen Krasner's book on the NIEO which reflects a predominantly materialist approach with respect to the NIEO agenda, none of the authors discussed in this section (apart from a short review essay by David Lake) wrote about the NIEO. Thus, I am formulating predictions from rational bargaining, as well as conventional and critical constructivism and attempting to determine how a given theoretical approach *might* explain the NIEO.

and South, the theoretical approach of norm contestation does not help us understand why Northern states chose to reformulate the agenda, among other policy responses.

Hoop Test 1: Emergence

Krasner’s account of the NIEO’s emergence focuses on the stark differences in material capabilities between North and South. On Krasner’s view, the NIEO stands as an attempt by the South to maximize its security by reducing global economic power disparities. More concretely, the NIEO pushed for international institutions and international law to take what Krasner calls an ‘authoritative’, rather than a market-based approach to economic global governance. This would provide the Global South with greater control over internal and external economic matters, reapportion wealth, and by extension, maximize economic security.¹¹³ In this sense, amendments to existing international institutions and legal practices, or what Krasner calls “relational power behaviour”, were discarded in favour of forms of “meta-power behaviour”, wherein states from the Global South sought to “change institutions themselves” and to alter the “rules of the game” in a bid to dramatically alter the distribution of economic power in the international system.¹¹⁴ The NIEO declaration reflects this effort to minimize economic power differentials, insofar as the NIEO would “make it possible to eliminate the widening gap between the developed and developing countries” and secure a “removal of the disequilibrium that exists between them”.¹¹⁵ Overall then, Krasner clears the first hurdle: the NIEO emerged to fill gaps in economic power differentials in the Global South’s favour.

Lake and Ikenberry both argue that the postwar system was hierarchical in nature and built to institutionalize US preferences. This postwar order was granted legitimacy by

¹¹³ Krasner 1985, p. 5.

¹¹⁴ Ibid., pp. 14, 15.

¹¹⁵ UN General Assembly 1974, “NIEO Declaration”.

subordinated states in exchange for the provision of public goods by the US and its allies. On this view, international ordering obtains through rational bargaining between the hegemon and weaker states.¹¹⁶ From here, a rational bargaining perspective might plausibly expect that a challenge to the PLO, such as the NIEO, would emerge because subordinated states perceived the hegemon to be coming up short on its end of a mutually beneficial bargain. In the case of the NIEO, the Group of 77 mounted their challenge because they believed the postwar system had institutionalized an unfair economic bargain wherein sovereign equality, self-determination, and the right to collective development had been undermined to the point where the benefits of legitimating the PLO no longer outweighed the prospective costs of challenging it.

That developing countries, and post-colonial states in particular, felt ‘ripped off’ by existing international bargains is an understatement. This sentiment is reflected in various statements by leaders from the Global South, including Jamaican Ambassador to the UN and Chairman of the Group of 77, Donald O. Mills. Mills attributed the global economic injustices of the 1970s directly to the legacy of colonial extraction.

“Developed nations, particularly during the period of colonialism, carved out relationships and a global economic system that operate to our disadvantage. Whatever the motivation behind the colonial system might have been in the beginning, we ended up with a system in which the colonies were used as plantations, by and large, to produce certain materials and supplies for the benefit of metropolitan countries”.¹¹⁷

These sentiments suggest that it is plausible to argue that the NIEO arose from an attempt by the South to renegotiate its economic bargain with the North. Thus, the rational bargaining approach passes the first hoop test.

¹¹⁶ Lake, David A. *Hierarchy in International Relations* (Cornell University Press, 2011), p. 15.; Ikenberry, G. John. *Liberal Leviathan*. *Liberal Leviathan* (Princeton University Press, 2011), p. 2.

¹¹⁷ U.S. News & World Report. “Cry From Third World: ‘Listen to Us!’” *U.S. News & World Report*. July 31, 1978.

The NIEO agenda was designed and first promulgated by a constellation of international lawyers, diplomats, and scholars, the majority of which worked within or alongside UNCTAD. Figures like Algerian jurist Mohammed Bedjaoui, and Swedish economist Gunnar Myrdal, produced much of the legal and economic thinking in the 60s and 70s used to craft the NIEO.¹¹⁸ Their work on development theory provided the ideological framing necessary for ‘norm entrepreneurs’ to push the NIEO agenda, as reflected by Finnemore and Sikkink’s norm life cycle model (NLCM).¹¹⁹ In this regard, the founding director of UNCTAD, Raúl Prebisch, played an instrumental role in developing much of the content of the NIEO and using his institutional position to lend the agenda credence. As Anghie notes, the content of the NIEO, which emphasized reforming “international trading and investment law regimes”, was consistent with the fact that the NIEO began as an UNCTAD initiative.¹²⁰ Most notably, UNCTAD’s campaign on behalf of the NIEO was explicitly centered around the norm of sovereign equality in order to better appeal to Southern and post-colonial sensibilities and priorities.¹²¹ This further justifies viewing the NIEO as a normative agenda that instantiates a particular interpretation of the sovereign equality norm. Thus, the emergence of the NIEO agenda could therefore be explained by constructivist accounts of the NLCM, which might stress that norm entrepreneurs, such as Raúl Prebisch, who had organizational access to international politics through institutions like UNCTAD, exercised considerable agency in creating new normative agendas and ‘issue-areas’ akin to the NIEO.¹²² In specifying the importance of UNCTAD as an important institutional site, theorists who adhere to the NLCM could point to Prebisch and UNCTAD’s

¹¹⁸ Anghie 2019, p. 429; Getachew 2019, p. 143.

¹¹⁹ Finnemore, Martha, and Kathryn Sikkink. “International Norm Dynamics and Political Change.” *International Organization* 52, no. 4 (1998): 887–917, p. 898.

¹²⁰ Anghie 2015, p. 431.

¹²¹ Ibid., 432.

¹²² Keck, Margaret E., and Kathryn Sikkink. *Activists beyond Borders: Advocacy Networks in International Politics*. First Edition. (Ithaca: Cornell University Press, 1998).

ability to persuade a critical mass of states to adopt the NIEO agenda and bring it into larger multilateral settings, such as the UNGA. Conventional constructivist accounts of norm diffusion provide a compelling picture of the NIEO's emergence and therefore, pass the first hoop test.

Critical constructivist scholars such as Wiener argue that practices of normative contestation occur within international arenas when key stakeholders perceive global governance arrangements to be illegitimate. In the case of the NIEO, a strong argument can be made that the Group of 77 began contesting the PLO because they viewed the existing international order and its governance by Northern states as suffering from a legitimacy deficit. Evidence of these legitimacy concerns can be found in the NIEO's Declaration document. Specifically, the NIEO's preamble states that "the present international economic order is in direct conflict with current developments in international political and economic relations" owing to the increased share of global production and exporting by developing nations.¹²³ During the late 1960s and early 1970s, the developing South began taking on a larger role in international economic cooperation and as a result, was subjected to the crises and de-stabilizing impacts of global capitalism that came with greater economic integration, all *without* a seat at the governance table. This situation was thus viewed as illegitimate and a source of "disequilibrium" in the system.¹²⁴ In response to this perceived legitimacy gap, critical constructivists, like Wiener, might argue that the Group of 77, through the NIEO agenda, attempted to infuse international economic governance and its associated institutions with greater 'contestedness'. Otherwise put, 'contestedness', which owes its conceptual origins to democratic constitutionalism, is the idea that "the norms, rules and principles of governance ought to be contestable at any time by those governed by them".¹²⁵ This

¹²³ Un General Assembly 1974, "NIEO Declaration".

¹²⁴ *Ibid.*

¹²⁵ Wiener, Antje. *A Theory of Contestation* (Berlin, Heidelberg: Springer, 2014), p. 4.

desire to render international institutions more representative and amenable to the input of developing economies is reflected in the NIEO Programme of Action’s mission to democratize international funding structures by creating a UN Special Fund.

For critical constructivists like Wiener, “establishing and maintaining legitimacy in global governance” is a crucial aspect of contestation and serves as a “meta-organizing principle” that ensures greater stability and international buy-in with respect to global governance practices.¹²⁶ There is also an important distinction made between the *practice* of contestation and the *principle* of ‘contestedness’. The emergence of the NIEO might therefore be understood as both a programmatic manifestation of the practice of contestation, and an attempt at imbuing the PLO with greater ‘contestedness’.

Hoop Test 2: Shape

In answering the question of why the NIEO challenged certain parts of the PLO, Krasner analyzes the content of the NIEO through the lens of regime theory. For Krasner, regimes are made up of “explicit principles, norms, rules, and decision-making procedures”.¹²⁷ The NIEO targeted all four of these components of existing international regimes that made up the PLO. First, the NIEO introduced the principle of “authoritative economic global governance” to challenge the PLO’s principle of undifferentiated economic interdependence that prioritized market allocation of wealth.¹²⁸ Second, the NIEO’s normative commitment to collective development challenged the PLO’s commitment to a liberal trading regime, in which the “basic norm” of equality before the global market rested on the prioritization of MFN principles over a programme of GSP.¹²⁹ Third, the NIEO sought to counter practices of resource extraction

¹²⁶ *Ibid.*

¹²⁷ Krasner, Stephen D. *International Regimes* (Ithaca: Cornell University Press, 1983), p. 2.

¹²⁸ Krasner 1985, p. 59.

¹²⁹ *Ibid.*, p. 4.

through the implementation of international rules that would facilitate expropriation of domestic industries as a legal right.¹³⁰ Fourth, the NIEO sought to alter global governance decision-making procedures, by investing the UNGA with similar powers enjoyed by the Security Council, namely the ability to issue binding declarations and resolutions.¹³¹ Viewing the NIEO through the lens of regime theory is valuable and goes a long way in specifying why particular principles, norms, rules, and decision-making procedures of the PLO were challenged. In this respect, Krasner’s application of regime theory is instructive and passes the second hoop test.

Often radical in its rhetoric, the NIEO was nevertheless reformist at base. This is because the NIEO did not advocate for the replacement or the overthrow of international institutions but rather tried to make them more representative. So, although NIEO measures might have decreased the relative institutional and economic power of the US and the North more broadly, the agenda would still have kept the existing postwar constitutional order in place by reforming, rather than replacing, the existing ecosystem of postwar international institutions.

As Ikenberry explains, the US built the postwar system to make its commitment to self-restraint credible. It did so by binding itself to institutions that would limit its ability to maintain hegemony through coercion alone.¹³² Similarly, Lake contends that hegemony rests on a social contract wherein the ‘ruler’ builds a global political order of value to subordinated parties.¹³³ What is important to note is that changing the voting structures of existing institutions would not necessarily have removed the US from its position as a hegemon. In fact, a rational bargaining approach might argue that it could have provided the U.S. with the opportunity to further legitimize its hegemonic position. This could have been done by accommodating institutional

¹³⁰ Ibid., p. 181.

¹³¹ Bedjaoui 1979, p. 176.

¹³² Ikenberry 2011, p. 31.

¹³³ Lake 2011, p. 3.

and policy pressures, since the NIEO’s proposals had the potential to *strengthen* the ‘constitutional’ aspects of the PLO and produce greater buy-in from the Global South. Thus, when asking the question: why did the NIEO take a largely reformist, rule-based, and legal approach as opposed to a militarized, revolutionary, and revisionist one? A rational bargaining approach may suggest that the Group of 77 aimed to rock the boat just enough to extract concessions from the hegemon, but not enough to plunge the US, and the world, into a sea of disorder by abolishing international legal, fiscal, and trade regimes altogether. Consequently, rational bargaining passes the second hoop test relating to the NIEO’s shape and content.

As seen above, the emergence of the NIEO tracks the first stage of the NLCM. Likewise, the declaration of the NIEO within the UNGA and its subsequent championing by the Group of 77 could be seen as exemplifying the ‘norm cascade’ stage of the model. Conventional constructivists might argue that the near unanimous acceptance of the NIEO among developing states demonstrates that a critical mass of them were effectively ‘socialized’ into supporting the NIEO agenda thanks to the work of norm entrepreneurs, such as Raúl Prebisch. For conventional constructivists, institutionalization is seen as critical, “for an emergent norm [in our case a normative agenda] to reach a threshold and move towards the second stage, it must become institutionalized in specific sets of international rules and institutions”.¹³⁴ From here, the efforts of individual norm entrepreneurs and the Group of 77 to persuade Northern states into adopting the agenda to engender a system-wide norm cascade is apparent in the decision to advocate for the NIEO within multilateral institutional settings and to codify and institutionalize its proposals. With respect to the second hoop test, we might ask: why was the NIEO articulated through the UNGA and UNCTAD and why did it employ the instruments of international law and

¹³⁴ Finnemore and Sikkink 1998, p. 900.

multilateralism? Conventional constructivists could potentially provide a compelling answer: socialization and persuasion rest on the effective use of social sanction to promote norm compliance.¹³⁵ It is imperative to note that introducing the NIEO in the right institutional settings, through the use of ‘correct procedures’, and on the basis of a universally recognized norm like sovereign equality, was meant to provide the NIEO with an air of normative and procedural legitimacy capable of redefining what standards of appropriate economic behaviour resemble. The NLCM provides a strong argument for why the content of the NIEO prioritized increasing institutional representation for developing countries and why the agenda was legitimized through international institutions, with international law and multilateralism.

In *A Theory of Contestation*, Wiener advances a typology that specifies three ‘types’ of norms. ‘Type 1’ or ‘fundamental norms’ are widely shared and orient much of international behaviour. These fundamental norms play a key role in determining what constitute legitimate global governance practices.¹³⁶ Fundamental norms are organized at two levels, at the meso-level as ‘Type 2’ norms or ‘organizing principles’, and at the micro-level, as ‘Type 3’ norms or ‘standardized procedures’.¹³⁷ Where fundamental norms are often vague, enjoy comparatively high robustness, and are often used to justify a variety of global governance practices, how a fundamental norm is then implemented at an organizational level, through legal, economic, and institutional principles and at a procedural level, through specific rules, treaties, and agreements, often engenders considerable political conflict. In essence, where the implementation of fundamental norms falters, gaps in the legitimacy of global governance become apparent.

¹³⁵ Ibid., 902.

¹³⁶ Wiener 2014, p. 7.

¹³⁷ Ibid., p. 60.

So, how useful is it to conceive of the NIEO as the practice of contestation? Which fundamental norm of global governance does the NIEO’s agenda contest? What does it have to say on the implementation of contested norms? In fact, organizing the NIEO agenda along the lines of Type 1, 2, and 3 norms is eminently valuable in capturing the shape of the NIEO. Through the NIEO, the Group of 77 contested and ‘recast’ the fundamental legal norm of sovereign equality (a “Type 1” norm). The fundamental norm of sovereign equality was then organized through the legal principle of self-determination, and the economic principle of collective development, both of which are “Type 2” norms. Finally, the Group of 77 specified legal procedures to internationalize domestic nationalization laws, and an economic programme of expanding international liquidity and trade preferences, both of which serve as “Type 3” norms or “standardized procedures”. Critical constructivist approaches to norm contestation pass the second hoop test by explaining why the NIEO agenda focused on certain emerging norms and policy areas, and how these norms and policies were interrelated. The structure of the NIEO agenda is captured in figures 1.2 and 1.3, found in the appendix.

Hoop Test 3: Response

Krasner observed that “few Northern commentators have perceived the NIEO as a challenge to the basic nature of the liberal regime. Rather, the Third World has been understood to be calling for adjustments within an existing set of principles and norms”.¹³⁸ Although Krasner himself appreciated the transformative nature of the NIEO as an instance of “meta-power behaviour”, he argues that the NIEO did not register in a similar way among decision-makers in the North, who were largely indifferent. Krasner suggests that this lack of substantive engagement with the NIEO was part of the Global North’s waning interest in international

¹³⁸ Krasner 1985, p. 25.

institutions taking place during the mid-1970s and early 1980s, which extended to the North’s fiduciary responsibilities. “If major industrialized states do not pay attention to what happens at the United Nations, or do not fund its activities, the South will have a program [NIEO] without an audience”.¹³⁹ In light of the Group of 77’s comparative weakness in material capabilities, Krasner argues that “the North [was and would continue to] increasingly treat such institutions with indifference”.¹⁴⁰ However, in the 35 years since the publication of *Structural Conflict*, Fioretos has uncovered new archival material that throws much of Krasner’s argument about the Northern states’ indifference into question. Northern states perceived the NIEO as a threat because they “feared they would carry a larger economic burden and lose their privileged voices within the legacy organizations of the 1940s”.¹⁴¹ Krasner’s account therefore does not clear the third hoop test, by failing to identify or explain Northern states’ perception of the NIEO as a threat worthy of a deliberate policy response.

For those adopting a rational bargaining perspective, the NIEO, while muting the comparative economic and institutional reach of US hegemony, would not have been perceived as a revisionist agenda, and therefore, would not pose an existential threat to American interests. Moreover, consent of the governed is paramount in legitimating hegemonic authority for a rational bargaining approach. Therefore, accommodating at least some of the NIEO’s demands stands as the rational strategy for the US and its allies to follow. In fact, when determining what actions to take in response to the NIEO, several US officials appreciated that adopting a “confrontational strategy [against the Group of 77] would alienate European governments, especially in Germany, the Netherlands, and the UK, but also in France and Italy”.¹⁴² With the

¹³⁹ Ibid., p. 269.

¹⁴⁰ Ibid., pp. 269, 270.

¹⁴¹ Fioretos 2020, p. 76.

¹⁴² Ibid.

comparatively recent construction of the modern European welfare state as a key point of reference, important decision-makers in the industrialized North felt compelled to grant concessions to leftist political mobilization on issues of economic redistribution, if not due to ideological sympathy, then at the very least to safeguard the continued stability of the postwar system.¹⁴³ Accommodation of the NIEO was always a possibility, even within certain American intellectual circles and among particular US sectors, such as mining and agriculture.¹⁴⁴

Yet the NIEO was displaced, co-opted, and eventually, reformulated – rather than accommodated - all at the cost of aggravating Southern grievances. On a rational bargaining view, where mutual aid and a social contract are viewed as necessary components of a well-designed international order,¹⁴⁵ and where the postwar system was ostensibly built on deliberative and democratic grounds,¹⁴⁶ the decision by the industrialized North to reformulate the NIEO and use the agenda against itself appears *irrational*. As a result, rational bargaining would struggle to explain why the US and the North would jeopardize order and stability by further radicalizing a set of disaffected bargaining partners. Rational bargaining is thus unable to pass the third hoop test, as it would not expect or be able to explain why the North employed a strategy of policy reformulation instead of accommodation.

Turning to conventional constructivist accounts, the NLCM appears to have some explanatory value: the NIEO could be viewed as having emerged due to norm entrepreneurship because a critical mass of Southern states was persuaded into adopting the agenda. This coalition went on to push for the NIEO’s institutionalization in multilateral spaces. Given the resounding success and ideological coherence of the NIEO project up to this point, the NLCM might expect

¹⁴³ The Independent Commission on International Development Issues and Brandt 1980, p. 177.

¹⁴⁴ Laszlo et al. 1979, *The United States, Canada, and the New International Economic Order*, p. 8.

¹⁴⁵ Lake 2011, p. 10.

¹⁴⁶ Ikenberry 2011, p. 19.

a second, global, norm cascade to occur, through accommodation in some form from Northern states. Indeed, the NIEO agenda and mobilization from the Group of 77 could be seen as checking many of the right ‘liberal’ boxes of legal-rationalism and institutionalism that should have been key in persuading the industrialized North to implement the NIEO.

Yet the North was *not* persuaded enough to take concrete political action to implement the NIEO and went on to dismantle several components of the agenda. Even more problematic for conventional constructivists would be that Northern states held a fundamentally different view of sovereign equality than the one contained in the NIEO. On a procedural level, the NIEO amplified the call for self-determination on a one-state one-vote basis, whereas Northern states pushed back with a view of conditional sovereign equality where “great power responsibilities” trumped universal voting procedures, especially in the event that US financial interests were under threat. This Great Power view of how sovereign equality ought to inform economic and legal policy, alongside UN voting procedures, is difficult for the NLCM to address. This is because there is no “regression” or “counter-diffusion” stage developed in the NLCM which would allow for a better understanding of how different actors can hold conflictual views of the same norm and explain why some actors may try to undermine or replace contending views of a given norm.¹⁴⁷ The North challenged the NIEO’s reading of sovereign equality by entrenching weighted voting and implicitly justifying a hierarchical approach to global governance by arguing that sovereign equality was not absolute, but conditional. At best, this behaviour problematizes the conventional constructivist view of norms as stable “social facts” and “shared

¹⁴⁷ McKeown, Ryder. “Norm Regress: US Revisionism and the Slow Death of the Torture Norm.” *International Relations* 23, no. 1 (2009): 5–25; Iommi, Lucrecia García. “Norm Internalisation Revisited: Norm Contestation and the Life of Norms at the Extreme of the Norm Cascade.” *Global Constitutionalism* 9, no. 1 (2020): 76–116.

understandings”.¹⁴⁸ At worst, this strategy points to a propensity among Northern states to adopt illiberal and undemocratic measures to halt the diffusion of certain normative agendas, and counters the claims of conventional constructivists, like Finnemore and Sikkink, who suggest that the West has historically been *the* creator of “good liberal norms”.¹⁴⁹ Broadly speaking, conventional constructivists relying on theories like the NLCM have a difficult time explaining why Northern states responded to the NIEO with a policy reformulation instead of accommodation. More fundamentally, conventional constructivism struggles to expect the presence of normative conflict in the first place.

In dealing with the third hoop test, a more critical approach to constructivism has greater explanatory potential. On the view that the NIEO constitutes a struggle over the meaning of sovereign equality, conventional constructivists have difficulty explaining how two different parties can so vehemently disagree on how norms should be implemented through specific organizing principles (‘Type 2’ norm) and concrete standardized procedures (‘Type 3’ norm). Given conventional constructivism’s predilection for reifying norms as stable social facts,¹⁵⁰ it holds that a norm’s meaning emerges through a shared understanding of what the norm entails. Agreement, not disagreement, is what gives norms their shape and effect in international politics. Critical constructivists such as Wiener, however, take political conflict as their analytical *point de départ* by viewing norms, like sovereign equality, which the NIEO instantiates, as *inherently* contested concepts.¹⁵¹ The implication of treating norms as inherently contested is that their

¹⁴⁸ Katzenstein, Peter J., ed. *The Culture of National Security: Norms and Identity in World Politics* (New York: Columbia University Press, 1996); Niemann, Holger, and Henrik Schillinger. “Contestation ‘All the Way down’? The Grammar of Contestation in Norm Research.” *Review of International Studies* 43, no. 1 (2017): 29–49.

¹⁴⁹ Wolff, Jonas, and Lisbeth Zimmermann. “Between Banyans and Battle Scenes: Liberal Norms, Contestation, and the Limits of Critique.” *Review of International Studies* 42, no. 3 (2016): 513–34.

¹⁵⁰ Krook, Mona L., and Jacqui True. “Rethinking the Life Cycles of International Norms: The United Nations and the Global Promotion of Gender Equality.” *European Journal of International Relations* 18, no. 1 (2012): 103–27.

¹⁵¹ Wiener, Antje. *Contestation and Constitution of Norms in Global International Relations* (Cambridge: Cambridge University Press, 2018), p. 4.

meaning only becomes apparent through practice. This reflects conclusions drawn by Vincent Pouliot and Jean-Philippe Thérien that while the positions taken during global governance debates by international actors are often couched in the idioms of universal values, such as sovereign equality, peace, and poverty reduction, that the deployment of these idioms reveal conflictual views on what the substance of these idioms actually entail in practice.¹⁵² Thus, norms are not shared understandings, but unstable concepts whose substance can only be grasped through efforts at state implementation. Hence Wiener’s view that norms derive their supposed “facticity” from “meaning-in-use”.¹⁵³ Furthermore, critical constructivists suggest that the meaning of norms is often most salient during instances of intense disagreement over how norms should guide state behaviour and global governance practices.¹⁵⁴ This emphasis on contestation allows critical constructivists to answer the question of why the North was not persuaded by the Group of 77, even though the NIEO checked many of the right institutional and procedural boxes.

Nevertheless, critical constructivism and Wiener’s theory of contestation is limited in two ways when attempting to capture the multiple dimensions of the North’s response to the NIEO. First, while critical constructivist theories of contestation expect normative conflict to occur when two parties struggle over the implementation of fundamental norms, they are less capable of explaining why there was a discrepancy between official state discourse and the policy measures undertaken by multiple developed countries, such as Canada, Germany, and Sweden. Certainly, discursive battles over the content of sovereign equality are important, insofar as they

¹⁵² Pouliot, Vincent, and Jean-Philippe Thérien. “Global Governance: A Struggle over Universal Values.” *International Studies Review* 20, no. 1 (2018): 55–73. <https://doi.org/10.1093/isr/vix025>, p. 65.

¹⁵³ Wiener, Antje. *The Invisible Constitution of Politics: Contested Norms and International Encounters* (Cambridge: Cambridge University Press, 2008), p. 9.

¹⁵⁴ Wiener 2018, p. 15.

legitimize and lend authority to a particular approach to global governance.¹⁵⁵ However, contestation through other means, such as withholding votes, and engaging in forms of bi-lateral deal-making and co-optation, were more significant in explaining why the NIEO eventually fizzled out.¹⁵⁶ It is thus imperative to pull from practice theory to explore the *non-discursive* forms of contestation as well. In doing so, I draw heavily from an *International Affairs* special-issue on the ‘dynamics of dissent’ edited by Annette Stimmer and Lea Wisken. In short, Stimmer and Wisken distinguish discursive forms of contestation from behavioural ones.¹⁵⁷ This shift from discourse to behaviour accomplishes two things. First, it shifts the “ontological focus from ‘norms’ to ‘practices’”.¹⁵⁸ Second, indicators of behavioural contestation are largely found in the *implementation* of norms. In this context, implementation refers to a process where an “international norm’s precepts” are introduced “into formal legal and policy mechanisms”.¹⁵⁹

For instance, Emily Paddhon Roads and Jennifer Welsh illustrate how China has previously drawn on certain documents relating to the Responsibility to Protect (R2P) doctrine to advance a “statist” interpretation of the R2P norm, which emphasized “the pre-eminent role of *national* authorities in the implementation of R2P” that effectively de-emphasized the role of the international community in halting or responding to large-scale atrocities.¹⁶⁰ Thus, much like Northern states’ response to the Group of 77’s interpretation of sovereign equality, China’s approach to R2P was not to ignore the norm. Rather, China chose to reformulate the norm along a particular interpretation that would actually reinforce state sovereignty and provide

¹⁵⁵ Zürn, Michael. *A Theory of Global Governance* (Oxford: Oxford University Press, 2018).

¹⁵⁶ Fioretos 2020.

¹⁵⁷ Stimmer, Anette, and Lea Wisken. “The Dynamics of Dissent: When Actions Are Louder than Words.” *International Affairs* 95, no. 3 (2019): 515–33.

¹⁵⁸ True and Wiener 2019, p. 553.

¹⁵⁹ Betts, Alexander, and Phil Orchard, eds. *Implementation and World Politics: How International Norms Change Practice*. First edition. (Oxford: Oxford University Press, 2014), p. 3, quoted in Stimmer and Wisken 2019, p. 521.

¹⁶⁰ Paddon Rhoads, Emily, and Jennifer Welsh. “Close Cousins in Protection: The Evolution of Two Norms.” *International Affairs* 95, no. 3 (2019): 597–617, p. 612.

justifications for state actors failing to protect their own populations from human rights violations to prohibit the involvement of international actors in their domestic affairs.¹⁶¹ In sum, this re-interpretation of R2P by China was antithetical to the norm’s stated objective of making sovereignty conditional on protecting domestic populations from human rights violations.¹⁶² This is a problem for critical constructivists who exclusively focus on norms and is evidenced by Wiener’s original theory of contestation, which leaves little room for non-discursive contestation by viewing it as a “critical *discursive* practice”.¹⁶³ In essence, the industrialized North’s choice to pay lip service to the NIEO while simultaneously sabotaging it through a strategy of policy reformulation demonstrates that there is a considerable non-discursive, practical form of contestation being exercised by Northern states.¹⁶⁴

Second, it is important to highlight that Northern states neither rejected nor accommodated the NIEO. Instead, they selected a strategy of policy reformulation. More concretely, this means that the NIEO’s emphasis on international public law, alongside fiscal and trade policy, was taken up by the North to secure outcomes that were antithetical to the Group of 77’s vision. In short, the North used the NIEO against itself to accord *greater*, not lesser freedom to transnational capital, *more* privilege for developed economies, and *more* leeway for the North to violate Southern sovereignty. This raises the question of why the NIEO appeared to present the industrialized North with a blueprint for launching its neoliberal counterrevolution. With respect to Wiener’s theory in particular, contestation on its own is less well-equipped to answer the question of what happens, in policy terms, once normative conflict between parties has

¹⁶¹ *Ibid.*

¹⁶² Welsh, Jennifer M. “Norm Contestation and the Responsibility to Protect.” *Global Responsibility to Protect* 5, no. 4 (2013): 365–96, p. 369.

¹⁶³ Wiener 2014, p. 15, my emphasis.

¹⁶⁴ Schneiker, Andrea. “Norm Sabotage: Conceptual Reflection on a Phenomenon That Challenges Well-Established Norms.” *International Studies Perspectives* 22, no. 1 (2021): 106–23.

occurred. This is because Wiener views contestation as a “practice of agency” that has important ramifications for international institutions and global governance. In doing so, she develops a normative argument about institutional access: when the practice of contestation is made available within global institutional settings, these institutions are infused with greater procedural legitimacy. However, this understanding of contestation does not analyze how ‘well’ actors perform contestation. As I argue below, by approaching contestation through the lens of competency, I am better able to explain why Northern states saw it as necessary to publicly recognize the NIEO, and why the agenda provided an excellent avenue through which the North could entrench international economic inequality. Far from being discarded, the NIEO was recognized by Northern states as a skillful challenge to the PLO that could be absorbed and reformulated to introduce global neoliberal reforms. In other words, the NIEO, in ‘competently contesting’ the PLO, shaped the legal, financial, and trade terrain on which the struggle for international ordering would be waged.

Section 6: The Concept of ‘Competent Contestation’

This thesis advances an analytical view of contestation as *competent* practice. As I outline below, the competent practice of contestation, or ‘competent contestation’, rests on the effective use of institutions and social recognition. Scholars studying the dynamics of norm contestation argue that strategies seeking to change the meaning of norms, replace existing norms, or introduce new norms are more likely to succeed when they are situated in recognized institutions, and when they wield respected instruments, such as international law and multilateralism.¹⁶⁵ Key industrial states took the NIEO seriously not only because it articulated a compelling vision of global redistributive justice, but also and particularly because the Group of

¹⁶⁵ Diana Panke and Ulrich Petersohn, “Norm Challenges and Norm Death: The Inexplicable?,” *Cooperation and Conflict* 51, no. 1 (2016): 3–19.

77 competently used procedural and institutional aspects of the PLO *against itself*. Indeed, the NIEO was introduced in the General Assembly, adopted by near unanimity (115 votes to 6, with 10 abstentions), attempted to shift lending responsibilities enjoyed by IFIs like the IMF under the purview of the UNGA, and specified a series of legal and economic policies that would reform the PLO. The Group of 77 then used international law to argue that this institutional majority gave them the legal imperative to implement the NIEO’s agenda.¹⁶⁶ As a result of those strategies, key industrial powers found it difficult *not* to recognize this challenge as a competent use of existing institutional and procedural structures. This suggests the need to analyze how practices of contestation can be embedded within existing institutional settings and how they might make use of specific instruments such as international law and coalition-style politics in multilateral arenas. In short, *contestation can be spatially and procedurally competent*.

Emmanuel Adler and Vincent Pouliot note that “practice is more or less *competent* in a socially meaningful and recognizable way” and therefore, “social recognition is thus a fundamental aspect of practice”.¹⁶⁷ We can therefore conceive of contestation as an iterative social process. In the case of the NIEO agenda, this included an initial practice of contestation by the Group of 77 on the one hand, and a discursive response by Northern states followed by the practice of non-discursive contestation in the form of policy reformulation on the other. Thus, for the NIEO agenda to count as ‘competent’, an element of recognition among the agenda’s target audience should be observed.

The NIEO reflects this aspect of competency, insofar as the agenda prompted the public announcement of a “global ethic” by Pierre Elliott Trudeau to deal with global economic disparities alongside a slew of foreign visits in developing countries by other Northern states to

¹⁶⁶ Pitts, *Boundaries of the International*, p.189.

¹⁶⁷ Emanuel Adler and Vincent Pouliot, *International Practices*, (Cambridge: CUP, 2011)

explicitly discuss the establishment of the NIEO. Though these public statements and foreign visits amounted to little more than elaborate lip service, they nonetheless underscore that the industrialized North recognized that the NIEO warranted a public demonstration of recognition. As scholars of practice theory who draw from sociology and linguistic philosophy argue, performances and rhetoric, even if they do not lead to concrete political change, are nonetheless meaningful outcomes that warrant investigation.¹⁶⁸ This is because the announcement of a “global ethic” by Trudeau is evidence that a particular “social transaction” took place between the Group of 77 and the Prime Minister of a leading developed country. As Daniel H. Nexon explains, social transactions are important because structures in international politics, such as global economic governance, “exist by virtue of ongoing processes of interaction”.¹⁶⁹ In other words, that the NIEO elicited a public display of recognition on the part of Northern countries is important because global economic governance, which the NIEO agenda sought to reform, is essentially a “*relational* structure” that reproduces itself through debate and negotiation, i.e., through concrete examples of social interactions.¹⁷⁰ The elaborate foreign visits and foreign policy communiqués issued by Northern states were far from epiphenomenal. Instead, they stand as evidence that the NIEO was able to secure socially meaningful outcomes. The response from Northern states therefore demonstrates that contestation is not only spatially and procedurally competent, but *relationally* competent as well.

Section 7: Summary of Empirical Findings and Theoretical Conclusions

This thesis asked two research questions. First, on what *grounds* did the NIEO challenge the PLO? Second, how did global neoliberalism *specifically* contribute to the failure of the

¹⁶⁸ Pouliot, Vincent. *International Pecking Orders* (Cambridge: Cambridge University Press, 2016), p. 8.

¹⁶⁹ Nexon, Daniel H. *The Struggle for Power in Early Modern Europe: Religious Conflict, Dynastic Empires, and International Change* (Princeton: Princeton University Press, 2011), p. 14.

¹⁷⁰ Ibid., p. 15, my emphasis.

NIEO? Analysis of primary archival documents and secondary sources revealed that the Group of 77 challenged the NIEO on legal grounds by attempting to erect an international nationalization law, and on economic grounds by seeking to create a UN Special Fund and by expanding a generalized system of trade preferences for developing countries. This thesis also found that the industrialized North and IFIs responded to the NIEO with a strategy of policy reformulation that created a new transnational corporate law, introduced the imposition of structural adjustment and conditionality, and entrenched MFN principles and NTBs. This strategy of policy reformulation subsequently contributed to a particular form of international order change, from the postwar liberal order to the neoliberal global order of the 1980s.

This thesis also generated predictions from materialism, rational bargaining, and constructivism to see if extant IR theory could capture the NIEO. Although critical constructivist approaches to contestation fared better than other accounts, they were limited in their ability to explain the non-discursive forms of contestation and the strategy of policy reformulation employed by the North. This thesis argued that the industrialized North’s decision to engage in behavioural contestation by selecting a strategy of policy reformulation, rather than rejection or accommodation, can be explained by the concept of ‘competent contestation’.

Section 8: So What? On the Significance of the NIEO

To conclude, the NIEO is of immense importance to the field of IR for three reasons. First, although the topic is enjoying a resurgence among IR-affiliated disciplines, such as international law and global justice, the NIEO has received scant attention from IR. This thesis aims to fill this gap. Second, scholars studying contestation often delimit their inquiries to studying norms as the only relevant unit of analysis. Instead, and in the same vein as Colin Chia’s recent work, the NIEO demonstrates how a larger constellation of norms, practices, and

institutions can be challenged by way of international order contestation.¹⁷¹ Third, this examination of the NIEO can help to strengthen the theoretical bridge that exists between scholars of norm contestation and practice theorists. It accomplishes this third task by advancing the concept of ‘competent contestation’ and three criteria that help determine whether practices of contestation are spatially, procedurally, and relationally competent.

In light of observations that the current international liberal order is facing its greatest crisis since its postwar inception,¹⁷² this study could help scholars identify historical patterns of contestation relevant to contemporary practices performed by far-right nationalists. By analyzing the discourse and policy actions of figures like Trump, Bolsonaro, and Orbán, scholars could ask whether these practices are also ‘competent’. In other words, are these contestation practices conducted in recognized institutional spaces, do they employ international law and multilateralism, and what discursive and policy responses do these practices prompt from those seeking to defend international liberalism? The concept of ‘competent contestation’ constitutes a contribution to knowledge by enabling scholars to ask specific questions about the practice of contestation. In doing so, scholars could nevertheless seek to distinguish the xenophobic and reactionary formulations of contemporary international order contestation among the far-right from the emancipatory and redistributive - if not self-interested - aims of the NIEO’s most fervent ideologues. Indeed, that the Group of 77 proposed an alternative blueprint for world ordering reminds us that international orders, while stubborn and inflexible, are still capable of change.

¹⁷¹ Colin Chia, “Social Positioning and International Order Contestation in Early Modern Southeast Asia,” *International Organization*, 2021, 1–32.

¹⁷² G. John Ikenberry, “The End of Liberal International Order?,” *International Affairs* 94, no. 1 (January 1, 2018): 7–23; Emanuel Adler and Alena Drieschova, “The Epistemological Challenge of Truth Subversion to the Liberal International Order,” *International Organization* 75, no. 2 (2021): 359–86.

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