Globalization 101

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International Law and Organizations

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Introduction

A vast network of international law and dozens of international organizations make globalization possible. Treaties and other types of agreements among countries set rules for international trade and finance, such as the GATT; foster cooperation on protecting the environment, such as the Kyoto Protocol; and establish basic human rights, such as the International Covenant on Civil and Political Rights. Meanwhile, among many international organizations, the United Nations facilitates international diplomacy, the World Health Organization coordinates international public health and protection, and the International Labor Organization monitors and fosters workers' rights around the world.

The scope and authority of international law have thus expanded dramatically during the era of globalization. Historically, international law addressed only relations between states in certain limited areas (such as war and diplomacy) and was dependent on the sovereignty and territorial boundaries of distinct countries (generally referred to as "states").

But globalization has changed international law in numerous ways. For example, as globalization has accelerated, international law has become a vehicle for states to cooperate regarding new areas of international relations (such as the environment and human rights), many of them requiring states to rethink the previous notions of the inviolable sovereign state. The continued growth of international law is even more remarkable in this sense, since states, having undoubtedly weighed the costs and benefits of the loss of this valuable sovereignty, have still chosen to continue the growth of international law.

Because of the need for enhanced international (or as some call it, "transnational") cooperation, globalization has therefore given new meanings to classic issues. Questions of the authority of a country within its own borders—that is, its state sovereignty—the role of the individual in the international community of nation-states, and the authority of international organizations, have all evolved in light of the forces of globalization.

The following Issue in Depth describes the sources of international law and the subjects it covers; the international organizations that implement international law; and some of the controversial aspects related to international law and organizations as well as their relationships to state sovereignty.

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What Is International Law?

Basically defined, international law is simply the set of rules that countries follow in dealing with each other. There are three distinct legal processes that can be indentified in International Law that include *Public International Law* (The relationship between sovereign states and international entities such as International Criminal Court), *Private International Law* (Addressing questions of jurisdiction in conflict), and *Supranational Law* (The set of collective laws that sovereign states voluntarily yield to). But this basic definition must be supplemented with three more-complex explanations—is international law really law, the way the laws of the United States, enforced by courts and police, are? Where do we find the rules of international law? Are they written down somewhere? Finally, how is international law enforced, if there is no world government?

Is International Law Really "Law"?

There are several ways to think about law. In the domestic legal system, we think of law as the rules that the government issues to control the lives of its citizens. Those rules are generally created by the legislature, interpreted by the judiciary, and enforced by the executive branch, using the police, if necessary, to force citizens to obey. What is law for the international community if there is no one legislature, judiciary, executive branch, or police force?

Imagine a school playground with several children at play. The "law" is the set of playground rules that the teacher tells her students. For example, she might tell them, "Don't hit your classmate." Two different reasons can explain why the children will follow this rule. On the one hand, they may follow the rule only because they are afraid of being punished by the teacher. On the other hand, the students may believe that it is a bad thing to hit their classmates. Since it is a bad thing to do, they will follow the teacher's rule.

In the first case, they will obey the rule only if the teacher is there and ready to punish them. In the second case, students will obey the rule even if the teacher is not there. In fact, even if the teacher is not present, the children may obey the rule because they have become used to not hitting each other and have therefore enjoyed playing with each other.

Just as certain common understandings between children may make it easier for them to play, collective agreement on certain rules can often serve the interests of all the members of a community. Just as on a playground without a teacher, in the international setting there is no central authority. For the most part, however, states will follow the rules they have agreed to follow because it makes these interactions easier for all parties involved.

Thus, the fact that there is no overall authority to force compliance with the rules does not necessarily mean that there is no law. Law still exists in this setting, though it may be practiced and enforced in different ways. International law can therefore be called "real law," but with different characteristics from the law practiced in domestic settings, where there is a legislature, judiciary, executive, and police force.

What Are the Sources of International Law?

Since there is no world government, there is no world Congress or parliament to make international law the way domestic legislatures create laws for one country. As such, there can be significant difficulty in establishing exactly what international law is. Various sources, however—principally treaties between states—are considered authoritative statements of international law. Treaties are the strongest and most binding type because they represent consensual agreements between the countries who sign them. At the same time, as stated in the statute of the International Court of Justice (ICJ), rules of international law can be found in customary state practice, general principles of law common to many countries, domestic judicial decisions, and the legal scholarship.

Treaties: Treaties are similar to contracts between countries; promises between States are exchanged, finalized in writing, and signed. States may debate the interpretation or implementation of a treaty, but the written provisions of a treaty are binding. Treaties can address any number of fields, such as trade relations, like the North American Free Trade Agreement,

or control of nuclear weapons, such as the Nuclear Non-Proliferation Treaty. They can be either bilateral (between two countries) or multilateral (between many countries). They can have their own rules for enforcement, such as arbitration, or refer enforcement concerns to another agency, such as the International Court of Justice. The rules concerning how to decide disputes relating to treaties are even found in a treaty themselves—the Vienna Convention on the Law of Treaties (United Nations, 1969).

Custom: Customary international law (CIL) is more difficult to ascertain than the provisions of a written treaty. CIL is created by the actual actions of states (called "state practice") when they demonstrate that those states believe that acting otherwise would be illegal. Even if the rule of CIL is not written down, it still binds states, requiring them to follow it (Dinstein, 2004).

For example, for thousands of years, countries have given protection to ambassadors. As far back as ancient Greece and Rome, ambassadors from another country were not harmed while on their diplomatic missions, even if they represented a country at war with the country they were located in. Throughout history, many countries have publicly stated that they believe that ambassadors should be given this protection. Therefore, today, if a country harmed an ambassador it would be violating customary international law.

Similarly, throughout modern history, states have acknowledged through their actions and their statements that intentionally killing civilians during wartime is illegal in international law. Determining CIL is difficult, however, because, unlike a treaty, it is not written down. Some rules are so widely practiced and acknowledged by many states to be law, that there is little doubt that CIL exists regarding them; but other rules are not as universally recognized and disputes exists about whether they are truly CIL or not.

General Principles of Law: The third source of international law is based on the theory of "natural law," which argues that laws are a reflection of the instinctual belief that some acts are right while other acts are wrong. "The general principles of law recognized by civilized nations" are certain legal beliefs and practices that are common to all developed legal systems (United Nations, 1945).

For instance, most legal systems value "good faith," that is, the concept that everyone intends to comply with agreements they make. Courts in many countries will examine whether the parties to a case acted in good faith, and take this issue into consideration when deciding a matter. The very fact that many different countries take good faith into consideration in their domestic judicial systems indicates that "good faith" may be considered a standard of international law. General principles are most useful as sources of law when no treaty or CIL has conclusively addressed an issue.

Judicial Decisions and Legal Scholarship: The last two sources of international law are considered "subsidiary means for the determination of rules of law." While these sources are not by themselves international law, when coupled with evidence of international custom or general principles of law, they may help to prove the existence of a particular rule of international law.

Especially influential are judicial decisions, both of the International Court of Justice (ICJ) and of national courts. The ICJ, as the principal legal body of the Untied Nations, is considered an authoritative expounder of law, and when the national courts of many countries begin accepting a certain principle as legal justification, this may signal a developing acceptance of that principle on a wide basis such that it may be considered part of international law.

Legal scholarship, on the other hand, is not really authoritative in itself, but may describe rules of law that are widely followed around the world. Thus, articles and books by law professors can be consulted to find out what international law is.

How Is International Law Enforced?

A treaty may have incorporated into its own text enforcement provisions, such as arbitration of disputes or referral to the ICJ. However, some treaties may not expressly include such enforcement mechanisms. Especially in situations where the international law in question is not explicitly written out in a treaty, one can question how this unwritten law can be enforced.

In an international system where there is no overarching authoritative enforcer, punishment for non-compliance functions differently. States are more likely to fear tactics used by other states, such as reciprocity, collective action, and shaming.

Reciprocity: Reciprocity is a type of enforcement by which states are assured that if they offend another state, the other state will respond by returning the same behavior. Guarantees of reciprocal reactions encourage states to think twice about which of their actions they would like imposed upon them. For example, during a war, one state will refrain from killing the prisoners of another state because it does not want the other state to kill its own prisoners. In a trade dispute, one state will be reluctant to impose high tariffs on another state's goods because the other state could do the same in return.

Collective Action: Through collective action, several states act together against one state to produce what is usually a punitive result. For example, Iraq's 1990 invasion of Kuwait was opposed by most states, and they organized through the United Nations to condemn it and to initiate joint military action to remove Iraq. Similarly, the United Nations imposed joint economic sanctions, such as restrictions on trade, on South Africa in the 1980s to force that country to end the practice of racial segregation known as apartheid.

Shaming: (Also known as the "name and shame" approach) Most states dislike negative publicity and will actively try to avoid it, so the threat of shaming a state with public statements regarding their offending behavior is often an effective enforcement mechanism. This method is particularly effective in the field of human rights where states, not wanting to intervene directly into the domestic affairs of another state, may use media attention to highlight violations of international law. In turn, negative public attention may serve as a catalyst to having an international organization address the issue; it may align international grassroots movements on an issue; or it may give a state the political will needed from its populace to authorize further action. A recent example of this strategic tactic was seen in May 2010, when the U.N. named the groups most persistently associated with using child soldiers in Asia, Africa, and Latin America (United Nations, 2010).

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The Issue of Sovereignty

State sovereignty is the concept that states are in complete and exclusive control of all the people and property within their territory. State sovereignty also includes the idea that all states are equal as states. In other words, despite their different land masses, population sizes, or financial capabilities, all states, ranging from tiny islands of Micronesia to the vast expanse of Russia, have an equal right to function as a state and make decisions about what occurs within their own borders. Since all states are equal in this sense, one State does not have the right to interfere with the internal affairs of another state.

Practically, sovereignty means that one state cannot demand that another state take any particular internal action. For example, if Canada did not approve of a Brazilian plan to turn a large section of Brazil's rainforest into an amusement park, the Canadian reaction is limited by Brazil's sovereignty. Canada may meet with the Brazilian government to try to convince them to halt the project. Canada may bring the issue before the UN to survey the world's opinion of the project. Canada may even make politically embarrassing public complaints in the world media. However, Canada cannot simply tell Brazil to stop the rainforest project and expect Brazil to obey.

Under the concept of state sovereignty, no state has the authority to tell another state how to control its internal affairs. Sovereignty both grants and limits power: it gives states complete control over their own territory while restricting the influence that states have on one another. In this example, sovereignty gives the power to Brazil to ultimately decide what to do with its rainforest resources, and limits the power of Canada to impact this decision.

Globalization is changing this view of sovereignty, however. In the case of the Brazilian rainforest, Brazil may consider a rainforest located wholly within its property an issue solely of internal concern. Canada may claim that the world community has a valid claim on all limited rainforest resources, regardless of where the rainforest is located, especially in consideration of issues like endangered species and air pollution.

Similarly, states no longer view the treatment of citizens of one state as only the exclusive concern of that state. International human rights law is based on the idea that the entire global community is responsible for the rights of every individual.

International treaties, therefore, bind states to give their own citizens rights that are agreed on at a global level. In some cases, other countries can even monitor and enforce human rights treaties against a state for the treatment of the offending state's own citizens.

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What Does International Law Address?

International law has developed certain areas of practice, guided by their own principles, documents, and institutions. Even though these areas of expertise can stand alone, to a certain extent, boundaries drawn in international law are arbitrary because the underlying principles of each field both inform and compete with one another.

For example, both the laws of armed conflict and human rights support each other in the belief that state official torture is condemnable. The condemnation is doubly reinforced by its affirmation in both fields. On the other hand, principles of international economic law may counteract principles in international environmental law, as evidenced by the possible conflicts between industrial development and environmental preservation.

International issues also do not often fit neatly into a single category; the treaty on Trade-Related Aspects of Intellectual Property Rights (TRIPs), for example, combines concerns in both economic and human rights fields, with the principles of each field dictating different results. The following sections of this Issue Brief address some of the major areas addressed by international law.

Law of Armed Conflict

The law of armed conflict (also called the "law of war") can be divided into two categories. The first concerns the legitimate reasons for starting a war, known by its Latin terminology, *jus ad bellum ("Right to Wage War")*. The laws during war, *jus in bello ("Justice in War")*, are also called international humanitarian law.

- Jus ad bellum. Article 2(4) of the UN Charter states, "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."(United Nations, 1945). Some regard this as the prohibition of the use of force outside of UN-approved actions. On the other hand, others consider this clause only non-binding rhetoric, especially considering the history of armed conflict since the UN's birth in 1945.

  The UN Charter and CIL do recognize that a state is entitled to use force without international approval when it is acting in self-defense. However, the events that trigger this right to self-defense are subject to debate. Most international lawyers agree that self-defense actions must be immediately necessary and proportional to the attack the state is trying to repel. The clarity of what qualifies as a "just war" has been put in the spotlight as recently as the Invasion of Iraq in 2003, with scholars and politicians around the globe questioning the legitimacy of such a war. In this era of terrorism and weapons of mass destruction, some contend that legal self-defense also extends to pre-emptive attacks to prevent the development of a military threat.

- Jus in bello. Once armed conflict has begun, international humanitarian laws begin to apply. Some of the most important principles of *jus in bello* are that there must be a valid military purpose to every attack ("military necessity"), that attackers must try to avoid killing non-combatants (the principle of "distinction" between military and non-military targets), and that if non-combatants are killed, their deaths must be in proportion to the military necessity of the attack ("proportionality").

  For example, attacking a weapons factory is legitimate, but if the factory is located near civilian homes, then the attacker must try to avoid attacking those homes; if attacking them will inevitably kill many civilians, the attack should not take place. Applying these principles in practice, however, is very difficult. Who determines whether an attack was necessary, distinguished between civilians and combatants, and was proportional? The main rules governing *jus in bello* are written down in the Geneva Conventions of 1949 (ICRC,1949).

International Economic Law

International law governs a diverse mixture of economic and commercial matters, such as trade, monetary policy, development, intellectual property rights, and investment. This area of international law reaches broadly enough to

encompass topics ranging from international transactions by private parties to agreements between states to regulate their trade activities. The General Agreement on Tariffs and Trade (GATT) that governs international trade is the most important treaty in this area; it is administered by the World Trade Organization. Others include the treaty on Trade Related Aspects of Intellectual Property (TRIPS) and the General Agreements on Trade in Services (GATS).

International Human Rights Law

International human rights law is different from most areas of international law because, rather than governing relations between states, human rights law governs a state's relations with its own citizens. The modern human rights law movement has its roots in the post-WWII trials of Nazi leaders at Nuremburg. The world community recognized that the mass atrocities committed during WWII were too serious to be handled under domestic laws because the crimes committed were crimes against all of humanity.

Subsequently, the creators of the UN recognized the reaffirmation of fundamental human rights as one of its most important purposes, and in the first year of its existence, set out to ensure that goal. The first step took place when The Human Rights Commission—at the time the lead UN body of human rights--produced the "International Bill of Human Rights," which is composed of the Universal Declaration of Human Rights and two binding treaties, the International Convention on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

On March 15, 2006, recognizing the need to update its human rights organizations, the General Assembly of the UN created the Human Rights Council. The Human Rights Council was created with the specific intention to address the heavy criticism that The Human Rights Commission had received for allowing far too many states with poor human rights records into the delegation (BBC, 2006). This new body is responsible for further strengthening and promoting human rights around the world. One of the Council's many tools for protecting human rights is the innovative Universal Periodic Review, which allows for the examination of the status of human rights within all member states. Less than two weeks after the formation of the Human Rights Council, on March 27, 2006, the Commission on Human Rights met for its sixty-second and final session.

In January 2008 the Council drew criticism by calling on Israel to stop military operations in the Gaza Strip and to open its borders. This session was notable for being boycotted by both the U.S. and Israel who said that the Council's resolution had failed to address the rocket attacks against Israel (AFP, 2008). The commission was criticized in 2011 and 2012 for a perceived anti-Israel bias through its policies and resolutions (Lazaroff, 2012). Most recently, in July 2012, the council nominated Sudan and Ethiopia for seats, despite their record of human rights abuses (Human Rights Watch, 2012).

A sophisticated system of agreements and monitoring organizations exists to promote respect for the rights enshrined in these documents, both on international and regional levels, as with the European Convention on Human Rights and its Court of Human Rights, and the American Declaration and American Convention on Human Rights and their Inter-American Commission and Inter-American Court on Human Rights.

International Environmental Law

Environmental law revolves around a core theory that the earth has limited resources that must be jointly enjoyed and cared for, regardless of their physical presence in the territory of one state as opposed to another. Environmental law attempts to bring states into agreement on issues such as desertification, sustainable development, biodiversity, endangered species, hazardous materials, climate change, and trans-boundary pollution, all of which have been the subject of major international treaties, such as the United Nations Convention on Biological Diversity (CBD), the United Nations Convention to Combat Desertification, and the Convention on International Trade in Endangered Species.

Who Are the Various Actors in International Law?

Traditionally, international law dealt only with the relations between states, and states were the only creators and subjects of the law. Today that has changed, with new actors joining states as both creators and subjects.

States

States play the central and undisputed leading role in the creation of international law. However, the determination of whether an entity is actually a State can present a challenge. Generally speaking, most sovereign states are both states *de jure* (in law) as well as *de facto* (in reality). The generally agreed upon criteria for statehood are:

- Possesses a defined territory
- Inhabited by permanent population
- Controlled by an independent government
- Engages in formal relations with other states

The application of criteria is often subject to political considerations, however. Breakaway regions of countries often meet or are on the way to meeting these criteria, such as Kosovo, the Albanian-majority province of Serbia, or Chechnya, part of Russia, but are not recognized as states by the international community. Another issue in statehood that has been highly controversial for many years is the recognition of the State of Palestine. In such an instance this region is internationally recognized by many states (*de jure*), however controls little to no portion of their claimed territory (*de facto*).

State representation, where more than one government tries to represent a single state, is also an important consideration. For example, even though the Taliban religious movement effectively controlled Afghanistan prior to the U.S. invasion in 2001, Afghanistan was represented in the UN by the government that had been deposed by the Taliban, but still claimed to be the country's legitimate rulers.

International Organizations

International organizations, otherwise known as intergovernmental organizations, or IGOs, are formed between two or more state governments. Some IGOs operate by making decisions on the basis of one vote for each member-state, some make decisions on a consensus or unanimity basis, while still others have weighted voting structures based on security interests or monetary donations.

In the General Assembly of UN, each state has one vote, while in the Security Council, five states are permanent members and have a veto over any action. The World Bank arranges its voting according to the Member State's shareholding status, which is roughly based on the size of the state's economy. This is often thought of as the "one dollar = one vote" approach to representation.

There are nearly 2,000 international organizations that deal with a wide variety of topics requiring international cooperation, such as the International Civil Aviation Organization, the Universal Postal Union, the International Organization for Standardization, and the International Organization for Migration (United Nations, 2003).

Non-Governmental Organizations

Non-governmental organizations (NGOs), also called "civil society" organizations, are groups formed by individuals working across national borders to affect public policy. Recent progress in technology, coupled with globalization's emphasis on international cooperation, has allowed the effectiveness of these organizations to grow drastically. Individuals living in different countries can now network with one another, and the Internet has permitted NGOs to both obtain and publish information on an extensive level, previously only available to states.

NGOs have had significant impact on environmental affairs, such as Greenpeace's advocacy work on climate change, Amnesty International's advocacy of human rights, and the International Campaign to Ban Landmines, which won a Nobel Peace Prize for its work in shaping a global treaty to prohibit use of landmines.

Video for Greenpeace: http://www.youtube.com/watch?v=zVu9eawb1QY

However, as the influence of NGOs has grown, more questions are being raised regarding their accountability. Essentially, NGOs are special-interest groups on an international scale, which means that they are unelected and unaccountable to any public oversight, even though they claim to speak for the "public" as a whole. Failure to deliver adequate or promised results, coupled with little to no structural oversight has proven to be a large obstacle, which many NGO's still currently face scrutiny for (Munoz & Undarya, 2010).

Individuals

The position of individuals under international law has evolved significantly during the last century. Now, more than ever, under international law individuals are being given more rights and being held responsible for their actions. Human rights law, for example, has tried to establish that every person around the world has certain basic rights that cannot be violated.

At the same time, individual accountability under international law has been established, first at the Nuremburg trials and recently at the International Criminal Tribunal for Yugoslavia and the International Criminal Tribunal for Rwanda and the dawn of the International Criminal Court, the first permanent international institution to hold individuals responsible for violations of the laws of armed conflict.

This issue of individual accountability in the international system can be seen with the actions carried out in June 2011, when the International Criminal Court (ICC) issued an arrest warrant for Libyan dictator Moammar Gadhafi for "Crimes against humanity" that were purportedly carried out while trying to quash a growing rebellion within the Libyan Borders (NPR, 2011). However, Gaddafi was eventually captured by National Transitional Council forces and subject to extra-judicial killing along with his son and close advisors in October 2011 (Greenhill, 2011).

Transnational Corporations

Transnational corporations (TNCs), ~~also~~ sometimes called multinational corporations (MNCs), also are playing an increased role in the development of international law. TNCs are commercial entities whose interests are profit-driven. Transnational corporations lobby states and international organizations in a manner similar to NGOs, with the hopes of having their interests protected under international law. Many of the same doubts related to NGO accountability and legitimacy can also be raised in the context of TNCs.

For these reasons, the UN has sought both to regulate and to work with TNCs. At the Millennium Forum in May 2000, a proposal was put forth to regulate TNCs. A Draft Code of Conduct on TNCs was reviewed and debated by various UN bodies for years, with no results. TNCs also have been sued in U.S. courts for violating international law in the way they affect the human rights of people in countries where they operate.

In 2005, in another attempt to regulate a code of conduct for transnational corporations, former UN Secretary General Kofi Annan appointed John Ruggie as the UN Special Representative for Business and Human Rights. In 2008, Ruggie created the concept of "Protect, Respect, and Remedy," which was presented in concrete form in 2011 and became known as the "UN Guiding Principles on Business and Human Rights." The Human Rights Council unanimously endorsed these principles and quickly established a group to focus on their implementation (The Kenan Institute, 2012). The group first met in Geneva, Switzerland in December 2012, and found that much progress had been made in recent years (United Nations, 2012).

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International Organizations

As noted earlier, there are nearly 2,000 international organizations that deal with a wide variety of topics requiring international cooperation, including diplomacy, trade, aviation, migration, development, and many, many others. As with international law in general, these organizations are crucial to managing globalization, but are controversial because of their impact on state sovereignty. This section of the Issue in Depth describes some of the most important international organizations, starting with the most prominent, the United Nations.

The United Nations System

The United Nations is a complex network of organizations. Just as any government may be divided into branches, such as the judiciary, legislative, and executive, the UN also has various bodies with different functions. The overarching framework of the United Nations incorporates five principal organs, but a vast array of underlying specialized agencies, programs, funds, and related organizations maintain ties with the UN while operating under differing levels of independence. (An organizational chart, available on the UN's website, http://www.un.org/aboutun/chart.html, provides a good overview of the structure of the UN system.) The five principal organs of the UN operate as the political base of the United Nation:

General Assembly: The General Assembly (GA), which is made up of the 192 member states, is the main deliberative body of the UN that meets annually in New York. In the plenary sessions of the GA, the member states address issues of international concern and debate resolutions, most of which have already passed through several lower committees. These resolutions hold no legally binding authority, but since each member-state gets one vote, GA resolutions represent the beliefs of the international community and are often considered "soft" law. The GA is composed of six committees:

- First Committee: Disarmament and International Security Committee
- Second Committee: Economic and Financial Committee
- Third Committee: Social, Humanitarian and Cultural Committee
- Fourth Committee: Special Political and Decolonization Committee
- Fifth Committee: Administrative and Budgetary Committee
- Sixth Committee: Legal Committee

Security Council: Article 24 of the UN Charter confers upon the Security Council the "primary responsibility for the maintenance of international peace and security." As such, the Security Council is the only UN body that can pass resolution that the member states are legally committed to obey. The Security Council is also the only part of the UN that can authorize the use of force and thereby physically enforce its resolutions.

The Security Council has 15 members, including five permanent members, China, France, Russia, the U.K., and the U.S., and ten non-permanent members selected on a regional basis by the GA. The five permanent members have the authority to veto any substantive issue. The Security Council can meet at any time and has previously established peacekeeping operations, international tribunals, and sanctions.

Economic and Social Council: The Economic and Social Council (ECOSOC) is composed of 54 member-states elected by the GA according to fair regional representation standards. As its name suggests, ECOSOC is charged with making reports and recommendations in the fields of "economic, social, cultural, educational, health and other related matters."

As such, ECOSOC oversees the work of 14 UN Specialized Agencies and 14 specialized commissions, which deal with issues such as drugs, crime prevention, and the status of women. Through its relationship with these outside agencies, ECOSOC often reviews their work and suggests areas of development; for example, the 2003 session of ECOSOC passed resolutions adopting reports of the UN Development Program, the World Food Program, and the World Summit on Information Society.

ECOSOC Youth Event 2012: http://www.youtube.com/watch?v=GhLDjaEzZwA

Secretariat: The Secretariat, headed by the Secretary-General, offers administrative and substantive support to all of the programs of the UN, ranging from translation services to preparing studies on any topic the UN considers. Individuals working within the Secretariat are international civil servants, meaning that they pledge they will not follow the orders of their home state, but will instead work for the good of the international community.

The Secretary-General plays a leading role as the spokesperson of the UN, which allows him to help set the agenda of the UN, in terms of how the UN operates as an institution, as well as prioritizing the importance of the different issues the UN takes up, including his "good offices" in helping to settle international disputes.

International Court of Justice: The International Court of Justice (ICJ), as the principal judicial organ of the UN, resolves disputes among States and gives advisory opinions to the UN. Judges of 15 different nationalities make up the body of the ICJ, which meets in The Hague. In its 68 years of existence, the ICJ has been presented with about 200 cases, including both contentious, i.e., between states, such as the legality of U.S. involvement in Nicaragua, in the Military and Paramilitary Activities in and against Nicaragua [Nicaragua v. United States of America], and advisory, i.e., on questions from the UN and its agencies, such as the decision discussing the Legality of the Threat or Use of Nuclear Weapons.

UN Specialized Agencies

When the UN was founded, a deliberate decision was made to keep it decentralized. Thus, the political operations of the UN are kept separate from the cooperative and technical branches of the UN's specialized organizations. The specialized agencies are organizations with varying degrees of independence that agree to coordinate their work through agreements with ECOSOC. Each specialized agency negotiates its own agreement with ECOSOC, which leads to a very intricate system in which different organizations maintain different types of relationships with ECOSOC.

This system has led to some severe criticism. Agencies, when not competing for resources, may duplicate one another's work. Lacking true coordination, the policies of one agency may directly conflict with the policies and, collectively, the agencies often fail to put forth a comprehensive and coalesced approach to complicated international problems. On the other hand, having specialized agencies often allows the international community to address specific problems without specifically entering into political debates. This approach ideally allows for more coordination among states on common technical concerns.

- International Labor Organization: The International Labor Organization (ILO) was established in 1919 by the Treaty of Versailles, which also created the failed League of Nations, the predecessor of the UN. The ILO continued, despite the demise of the League of Nations, and in 1946, it became the first specialized agency of the UN. In 1969 the ILO was the recipient of Nobel Peace Prize.

  The ILO, deviating from the practice of other UN branches, has a tripartite structure: state governments have one vote each, but workers and employers from every state also have a vote to cast. The ILO concentrates on establishing labor standards on issues like working conditions and child labor. It also has a significant capacity to provide technical assistance to labor groups in states needing support, such as offering advice on labor laws and social security systems.
- World Health Organization: Established in 1948, the goal of the World Health Organization (WHO) is the attainment by all peoples of the highest possible level of health. Its program of work includes monitoring and publicizing disease outbreak information, supporting vaccination drives, and educating health workers. Of all the specialized agencies, the WHO has the largest budget and perhaps the most authority within its specified field. The WHO can pass international health regulations that legally bind member states, unless the state chooses to opt out.

UN Related Organizations

Related organizations are similar to the specialized agencies, but they have more independence. They do not report to the UN political bodies, though their work may be the subject of UN debates, and they are run under the rules of their own founding documents.

- World Trade Organization: When the UN was first created, along with the World Bank and the IMF, the member states wanted to create a third organization dealing exclusively with trade. Unfortunately, even though the states drafted a charter for an International Trade Organization (ITO), several States, including the U.S., refused to ratify the charter and the ITO was dead before it was even properly started.

  While all of this was playing out politically, some states adopted the several rules of the ITO in a provisional agreement, expecting these rules to serve as a makeshift measure until the ITO came into existence. When the ITO failed, their "provisional" agreement, the General Agreement on Tariffs and Trade, became the prevailing multilateral international trade agreement until the World Trade Organization (WTO) was created in 1995.

  While this makes the WTO a relatively young international organization, its history stems from the trade negotiations handled previously under GATT. The WTO currently describes its duties as:
  - Administering and acting as a forum for trade agreements;
  - Settling trade disputes;
  - Reviewing national trade policies; and
  - Assisting developing countries in trade policy issues, through technical assistance and training programs.

- IAEA: Inspired by U.S. President Eisenhower's "Atoms for Peace" speech to the UN General Assembly, work drafting the statute of the International Atomic Energy Association (IAEA) began in 1955. When the statute was concluded in 1957, the IAEA assumed its role as the world's forum for cooperation in the field of nuclear science. The IAEA defines its work in three pillars: nuclear verification and security, safety, and technology transfer. It works not only to ensure that nuclear weapons are not proliferated among states, but it also assists in the peaceful uses of nuclear technology, such as nuclear medicine and energy projects.

  A key document of international law operating under the auspices of the IAEA is the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). The NPT holds stable the number of "legal" holders of nuclear weapons to five declared states, which coincides with the permanent seat holders of the UN Security Council—China, France, Russia, the U.S., and the United Kingdom. In addition, there are currently four non-signatory parties that are known or believed to possess nuclear weapons—India, Pakistan, North Korea, and Israel.

UN Programs and Funds

- UNICEF: Seeing the devastation to Europe following the Second World War, the UN General Assembly created the UN International Children's Emergency Fund (UNICEF) in 1946 to care for the needs of children in the post-conflict situation. Though it originally was intended to be a short-term program, in 1950, the UN decided to extend the mandate of UNICEF permanently, and in doing so, shortened its name to the UN Children's Fund (still called UNICEF).

  UNICEF works to promote the welfare of children, including efforts in the areas of child health, education, and protection. One of its guiding documents is the Convention on the Rights of the Child, which is the most widely accepted human rights treaty in history.

UNICEF 2012 Year in Review: http://www.youtube.com/watch?v=6ENAsvDc9qE

- UNHCR: Similar to UNICEF, the UN High Commissioner for Refugees (UNHCR) was originally created to last only three years and address the problem of European refugees following World War II. However, as different conflicts around the world continued to create refugees, the mandate of the UNHCR was continually renewed. Today, UNHCR claims more than 7,000 personnel working in 123 countries, participating in a wide range of operational activities including legal protection, public affairs, logistics, and health (UNCHR, 2012).

  The 1951 Convention Relating to the Status of Refugees defines what a refugee is and what rights are accorded to them. While the UNHCR primarily works to safeguard these rights, its work also extends to reach internally

displaced people who have been forced to move within their own country, and promoting the skills of refugees supporting themselves.

Regional Organizations

The following is an introduction to some of the more prominent regional organizations. However, it is simply an introduction, as there is a vast group of regional organizations. States often share common regional interests and therefore find it easier to collaborate within a single region. Each organization tends to be distinct according to the desires of its constituents. Some regional organizations, like the EU, have such binding authority that they can overrule the national laws of one of their member states, while others, like the Association of Southeast Asian Nations (ASEAN), have based their organization on the principles of non-intervention in domestic affairs.

- Association of Southeast Asian Nations: The Association of Southeast Asian Nations (ASEAN), founded in 1967, currently counts ten Southeast Asian states as its members. The twin goals of ASEAN are to accelerate economic growth, social progress, and cultural development and to promote regional peace and security. ASEAN has played a critical role within the Southeast Asian region in establishing understandings related to free trade, nuclear weapons, and relations with other regional organizations.
- European Union: The European Union is perhaps one of the most fully integrated and functioning regional organizations. It has its own judicial system, own currency, and has the ability to create a cohesive foreign policy. Currently it has 27 member States. The EU includes the:
  - European Parliament: elected directly by the citizens of member states;
  - Council of the EU: representing governments of member states;
  - European Commission: serving as the executive body of the EU;
  - Court of Justice: adjudicating matters under EU laws;
  - Court of Auditors: managing the EU budget;
  - European Ombudsman: providing oversight for EU institutions; and,
  - European Data Protection Supervisor: protecting personal data and information
- Organization of American States: All 35 States of the American Hemisphere have ratified the Charter of the Organization of American States (OAS). The OAS was officially established in 1948, though its foundation is based on a long history of cooperation within the Americas region. While the OAS has some similar institutional features to the EU, the American region has chosen not to integrate their political and economic systems as closely as the EU.

  While there is an Inter-American Court of Human Rights, an Inter-American Development Bank, and a Permanent Council, the OAS has not been given as much authority over domestic policy as the EU member states have vested in the EU.

Conclusion

A discussed earlier, international law has traditionally been based on the notion of state sovereignty, but that concept has been breaking down because of globalization. Interactions between states have become more complicated, involving a wide array of issues that require them to give up some of their sovereignty to have effective relations with each other.

Similarly, international law has begun to deal with issues traditionally inside the borders of individual states, such as human rights. These developments have become very controversial, however. International law is often criticized for a lack of legitimacy.

For example, the law is shaped to a large degree by politics within the international system. An action, though clearly illegal in terms of international law, may go unpunished due to overriding political considerations. Since the UN Charter gives veto authority to five Security Council members, who would presumptively veto any measures to enforce international law

against their own state, the legitimacy of an organization with such unequal application of the law must be questioned to a certain degree. When the most powerful players determine the rules of the game, how legitimate can these rules be?

Furthermore, most of those countries are not democracies—China, Russia, and others routinely and clearly violate international human rights law, for example. Why are they allowed to help set what the law is? (In response, a group called the Community of Democracies has developed to promote democratic cooperation.)

Indeed, unelected bodies wield significant power in the formulation of international law, from the UN Security Council to the dispute settlement body of the WTO. They make decisions and implement policy that can affect people around the world, but if those people are unhappy with these decisions, or if the choices made fail to reflect their interests, when the actors are in the international system, the people affected rarely have the power to hold them accountable. How can people trust international law and international organizations when there is no direct connection between them?

These questions are central to the question of whether the current rules of international law—the way they are made, and the way they are implemented—are a fair means of governing the world.

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Bibliography

What is International Law?

Dinstein, Y. (2004). *The conduct of hostilities under law of international armed conflict*. Cambridge: Cambridge University Press

United Nations. (1945, June 26). *Statute of the International Court of Justice*. Retrieved: from http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0

United Nations. (1969, May). Vienna Convention on the Law of Treaties, Vienna. Retrieved from: http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf

How is International Law Enforced?

United Nations. (2010, May 21). *UN identifies most persistent users of child soldiers in armed conflicts*. Retrieved from: http://www.un.org/apps/news/story.asp?NewsID=34778&Cr=coomaraswamy&Cr1

What does International Law Address?

AFP. (2008, January 28). Human Rights Council slams Israel over Gaza; EU abstains. *AFP News*. Retrieved from: http://afp.google.com/article/ALeqM5hCB46LeoIDiLNzQYVOkRaPwS354A

BBC. (2006, March 15). UN creates new human rights body.*BBC News*. Retrieved from: http://news.bbc.co.uk/1/hi/world/europe/4810538.stmHuman Rights Watch, 2. (2012, July 13). *AU: Don't endorse Sudan, Ethiopia for Rights Council*. Retrieved from: http://www.hrw.org/news/2012/07/13/au-don-t-endorse-sudan-ethiopia-rights-council

ICRC. (1949, August 12). *The Geneva conventions of 1949 and their additional protocols*. Retrieved from: http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/

Lazaroff, T. (2012, March 19). US to UNHRC: 'stop anti-Israel bias'. *The Jerusalem Post*. Retrieved from: http://www.jpost.com/Diplomacy-and-Politics/US-to-UNHRC-Stop-anti-Israel-bias

United Nations. (1945, June 26). *Charter of the United Nations*. Retrieved from http://www.un.org/en/documents/charter/chapter1.shtml

Who are the Various Actors in International Law?

United Nations. (2003). *Number of international organizations*. Retrieved from http://www.uia.org/statistics/organizations/types-oldstyle_2003.pdf

International Organizations

Greenhill, S. (2011, October 29). Gaddafi's killers will be put on trial over mob execution, vow Libya's new rulers. *Daily Mail*. Retrieved from: http://www.dailymail.co.uk/news/article-2054344/Gaddafi-dead-Mob-killers-trial-vow-Libyas-new-rulers.html

NPR. (2011, June 27). International Criminal Court orders Gadhafi's arrest. *NPR*. Retrieved from: http://www.npr.org/2011/06/27/137443665/international-judges-order-arrest-of-moammar-gadhafi

Munoz, G., & Undarya, T. (2010). In Anabel Cruz (Chair).*Achieving NGO accountability & sustainability: What works?*. Freedom of association, assembly, & expression, Indonesia. Retrieved from: http://www.wmd.org/assemblies/sixth-assembly/workshops/freedom-association-assembly-expression/achieving-ngo-accountabi

The Kenan Institute. (2012, January). The U.N. guiding principles on business and human rights: Analysis and implementation. *Duke University*. Retrieved from: http://kenan.ethics.duke.edu/wp-content/uploads/2012/07/UN-Guiding-Principles-on-Business-and-Human-Rights-Analysis-and-Implementation.pdf

UNCHR. (2012). *UN Refugee Agency: Staff figures*. Retrieved from: http://www.unhcr.org/pages/49c3646c17.html

United Nations. (2012, December). In John Ruggie (Chair).*Summary of discussions of the forum on business and human rights, prepared by the chairperson, John Ruggie*. Human Rights Council forum on business and human rights first session, Geneva, Switzerland. Retrieved from: http://www.ohchr.org/Documents/Issues/Business/ForumSession1/A_HRC_FBHR_2012_4_en.pdf