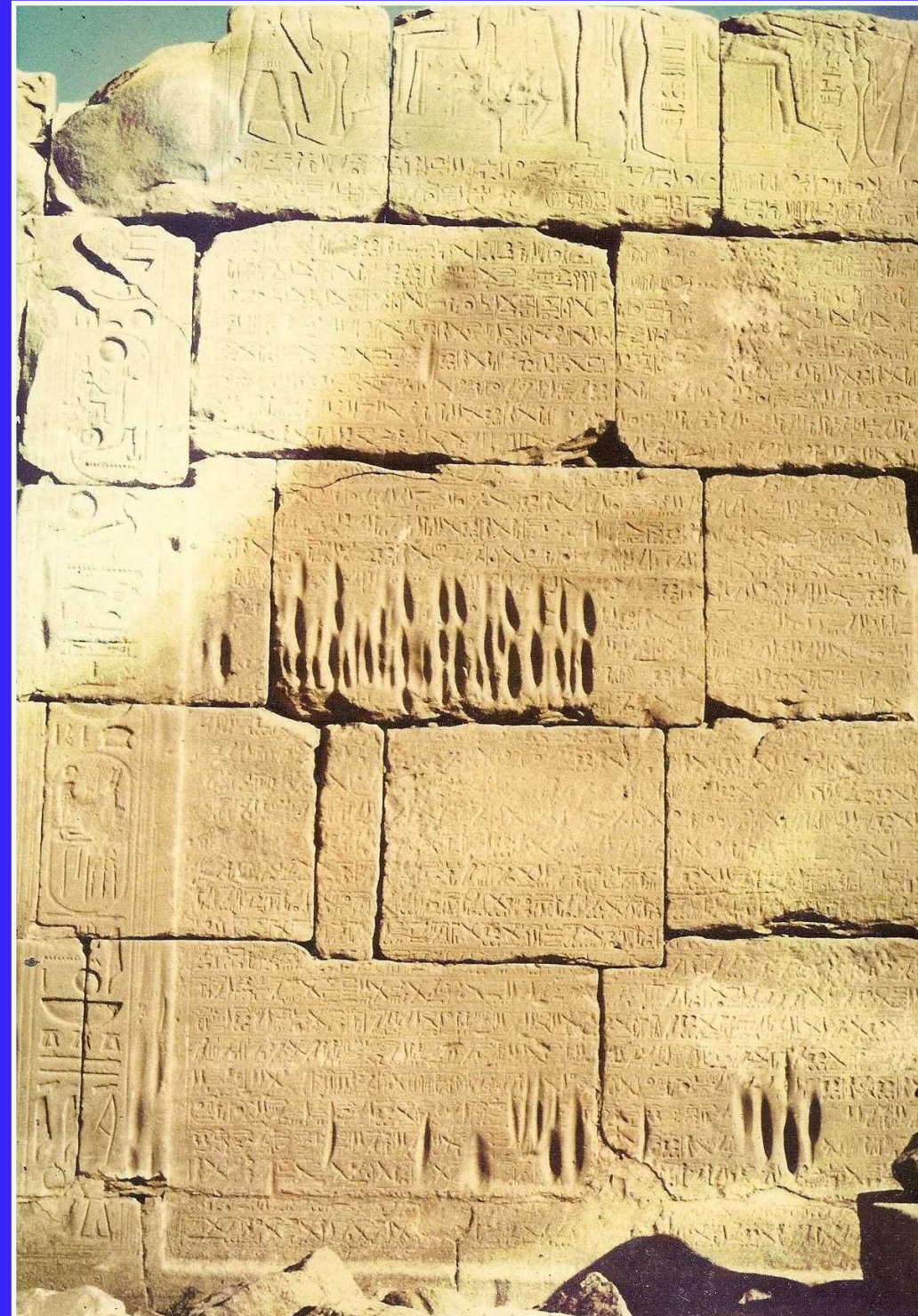


Ringvorlesung/
Lecture Series
Development Policy
XXVI

*International Law
and Development*

INTRODUCTION
Murtaza Jaffer



Coverage

Understanding international law

connection to development

discussion on challenges the world faces and how states and citizens can engage with international law and policy to create a better world.

Extra focus on IHL - genocide, war crimes & crimes against humanity

Statute Law (may include customary laws)

- ❖ passed by Parliament of Council of Monarch or Dictator
- ❖ jurisdiction - national boundaries
- ❖ Citizen / State relations

Treaty Law

Agreed between sovereign states.

- ❖ Approval of Parliament.
- ❖ Governs issues agreed in the treaty - (war & peace; trade; development; environment; immigration; etc)

Aspects of International Law

Public international law - relationship between states and international entities.

- ❖ includes treaty law, law of sea, international criminal law, the laws of war or international humanitarian law, international human rights law, and refugee law

Private international law - largely conflict of laws, jurisdictional issues, civil law

Law of supranational organizations - primacy of treaty overriding national laws

from?

Agreement between parties to the treaty

Customary international law - practice of states

- (codified in the Vienna Convention on the Law of Treaties)

International law treaties are as old as people
holding territory - fighting and trading

oldest surviving peace treaty,
the Ramses-Hattusili Treaty -
temple of Amun in Karnak.

agreed after the [Battle of Kadesh](#)

1283 B.C.

Other interesting examples:



0 C	(Lagash and Umma of Mesopotamia)	Border agreement between the rulers of the city-states of Lagash and Umma in Mesopotamia, inscribed on a stone block, setting a proscribed boundary between their two states.^[1]
C	Peace of Callias	Ends the Persian Wars .
C	Thirty Years' Peace	Ends the First Peloponnesian War between Athens and Sparta .
C	Peace of Nicias	Athens and Sparta end the first phase of the Peloponnesian War .
C	Ebro Treaty	Establishes the Ebro River in Iberia as the boundary line between the Roman Republic and Carthage .
C	Macedonian–Carthaginian Treaty	Establishes an anti-Roman alliance between Philip V of Macedon and Hannibal of Carthage .
C	Treaty of Phoenice	Ends the First Macedonian War .

The Eternal Peace	Between the Eastern Roman (Byzantine) Empire and the Sassanian Persian Empire.
The Fifty-Year Peace	Between the Eastern Roman (Byzantine) Empire and the Sassanian Persian Empire.
Treaty of Hudaibiyyah	Between Muslims and the Quraish .
Ili River Treaty	Between Eastern Turks and the Western Turks (Onok) .
The Bakt	Between Nubia and Egypt .
Treaty of Orihuela ^[6]	Establishes a dhimmi over the Christian inhabitants of Orihuela .
Pax Nicephori	Peace between Charlemagne and the Byzantine Empire ; recognizes Venice as Byzantine territory.

(907)	Regulates the status of the colony of Rus' merchants in Constantinople.
Treaty of Saint-Clair-sur-Epte	Charles the Simple grants Normandy to Rollo.
Treaty of Bonn	West Francia and East Francia both recognize each other.
Chanyuan Treaty	Establishes relations between the Northern Song and Liao Dynasties.
Peace of Merseburg	Between Holy Roman Emperor Henry II and Duke Bolesław I the Brave of Poland.
Peace of Bautzen	Between Holy Roman Emperor Conrad II and Duke Mieszko II of Poland.
Treaty of Ceprano	Pope Gregory VII establishes an alliance with Robert Guiscard and recognizes his conquests.
Byzantine–Venetian	Reaffirms the rights of Venetian merchants in the Mediterranean.

Treaty of Le Goulet	John of England and Philip II of France make peace. Marriage between Blanche of Castile and Louis IX of France .
Partitio terrarum imperii Romaniae	Agreement between the participants of the Fourth Crusade on the division of the Byzantine Empire . Established the Latin Empire
Magna Carta	Between King John of England and his barons.
Treaty of Lambeth	Between Louis VIII of France and Henry III of England .
Treaty with the Princes of the Church ^[13]	Between Holy Roman Emperor Frederick II and German bishops.
Golden Charter of Bern	Establishes Bern as an independent state.
Nicaean–Venetian Treaty of 1219	Grants Venetians freedom of trade and duty-free imports throughout the Nicaean Empire in exchange for non-support for the Latin Empire.
Golden Bull of 1222	Andrew II of Hungary grants Hungarian nobles the power to disobey the king when he acted contrary to law.

<u>Italo-Ethiopian Treaty of 1928</u>	20 year treaty of peace between the <u>Kingdom of Italy</u> and the <u>Empire of Ethiopia</u> .
<u>Geneva Convention (1929)</u>	Establishes rules for the treatment of <u>prisoners of war</u>; predecessor of the 1949 <u>Third Geneva Convention</u>.
<u>International Convention for the Suppression of Counterfeiting Currency</u>	Criminalises the counterfeiting of currency.
<u>General Agreement on Tariffs and Trade</u>	Establishes international trade rules.
<u>Paris Peace Treaties, 1947</u>	Formally ends World War II.
<u>Inter-American Treaty of Reciprocal Assistance</u> ^[165]	A "hemispheric defense" doctrine signed by many nations in the Americas.
<u>North Atlantic Treaty</u> ^[166]	Establishes <u>NATO</u> , the North Atlantic Treaty Organization.
<u>Fourth Geneva Convention</u> ^[167]	Establishes rules for the protection of civilians during wartime.
<u>Treaty of London (1949)</u>	Creates the <u>Council of Europe</u> .

[Warsaw Pact](#)^[178]

Alliance of Central and Eastern European communist states.

[International Atomic Energy Treaty](#)

Establishes the [International Atomic Energy Agency](#).

[Convention on the Territorial Sea and the Contiguous Zone](#)

Provides new universal legal controls for the management of marine natural resources and the control of p

[Antarctic Treaty System](#)

Sets aside [Antarctica](#) as a scientific preserve, establishes freedom of scientific investigation and bans milit activity on the continent; comes into force in 1961.

[Convention of 5 October](#)

International treaty drafted by the Hague Conference on Private International Law. It specifies the modal through which a document issued in one of the signatory countries can be certified for legal purposes in other signatory states. Such a certification is called an apostille (French: certification). The apostille is a international certification.

[Convention on Diplomatic Relations](#)

International treaty on diplomatic intercourse and the privileges and immunities of diplomatic missions; into force in 1964.

Convention on the Law of the Sea	Codifies the pre-existing international customary law on treaties with some necessary gap-filling and clarifications.	
1970	Patent Cooperation Treaty ^[191]	Provides a unified procedure for filing patent applications to protect inventions internationally; comes into force in 1978; amended in 1979; modified in 1984 and 2001.
Convention on Psychotropic Substances	Attempts to control psychoactive drugs such as amphetamines , barbiturates , and LSD .	
Ramsar Convention	Focuses on the conservation and sustainable utilization of wetlands ; goes into effect in 1975.	
IPC Agreement ^[193]	Establishes a common classification for patents for invention, inventors' certificates, utility models and utility certificates; goes into effect in 1975; amended in 1979.	
Seabed Arms Control Treaty ^[194]	Bans the placement of nuclear weapons on the ocean floor beyond a 12-mile (19 km) coastal zone; comes into force in 1972.	
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation	Criminalises sabotage of civil aircraft and dangerous acts on board aircraft	
Maastricht Treaty	Establishes the European Union .	

Court	
East African Community Treaty	<p>Establishes the East African Community between Uganda, Kenya and the Republic of Tanzania; goes into July 7, 2000.</p>
Cotonou Agreement	<p>Attempts to reduce poverty and integrate the ACP countries into the world economy; came into force in 2002.</p>
Patent Law Treaty ^[234]	<p>Harmonizes formal procedures such as the requirements to obtain a filing date for a patent application, the form and content of a patent application, and representation.</p>
WHO Framework Convention on Tobacco Control	<p>First public health treaty of the world; into force on February 27, 2005. Purpose is to "protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke."</p>
International Treaty on Plant Genetic Resources for Food and Agriculture	<p>Assures farmers' facilitated access to seeds of the world's food security crops; came into force on November 29, 2004.</p>
Comprehensive Peace Agreement	<p>Ended the Second Sudanese Civil War between the Government of Sudan and the Sudan People's Liberation Army; creates the Government of National Unity. Signed on January 9, 2005 and scheduled for full implementation by July 9, 2011.</p>
Global Plan of Action to	

[Intergovernmental Agreement on Dry Ports](#)

Treaty among the members of the member states of the [United Nations Economic and Social Commission for Asia and the Pacific](#) to facilitate cooperation in the development of a network of [ports](#) in Asia.

[Convention on the Manipulation of Sports Competitions](#)

[Council of Europe](#) treaty to combat [match fixing](#) in sports

[Treaty on the Accession of Crimea to Russia](#)

Treaty signed between self-declared independent [Republic of Crimea](#) and [Russia](#) which is not recognised by a small number of countries

[Minsk II](#)

Between [Ukraine](#), [Russia](#), [France](#), and [Germany](#).

Treaty Terminology

Llogg-Briand Pact	Geneva Convention
International Convention	Conference
General Agreement	Pact
Protocol	Peace Agreement
Framework	
Agreement/ Convention	Rome Statute
Global Plan of Action	Intergovernmental Agreement

A Rose by any other name smells just as sweet

cede/Accession

Adoptio

Charter

onvention

Declaratio

tify/Ratification

Signature

Implementation of International Law

Largely through UN bodies - Security Council
Secretariat, UN Specialized Agencies

Regional governance mechanisms where
applicable - EU, AU, OAS, ASEAN, etc.

Domestication and application through
independent international/ regional / national
courts/specialised Tribunals / agreed bodies
with judicial functions

UN, International Law and Development

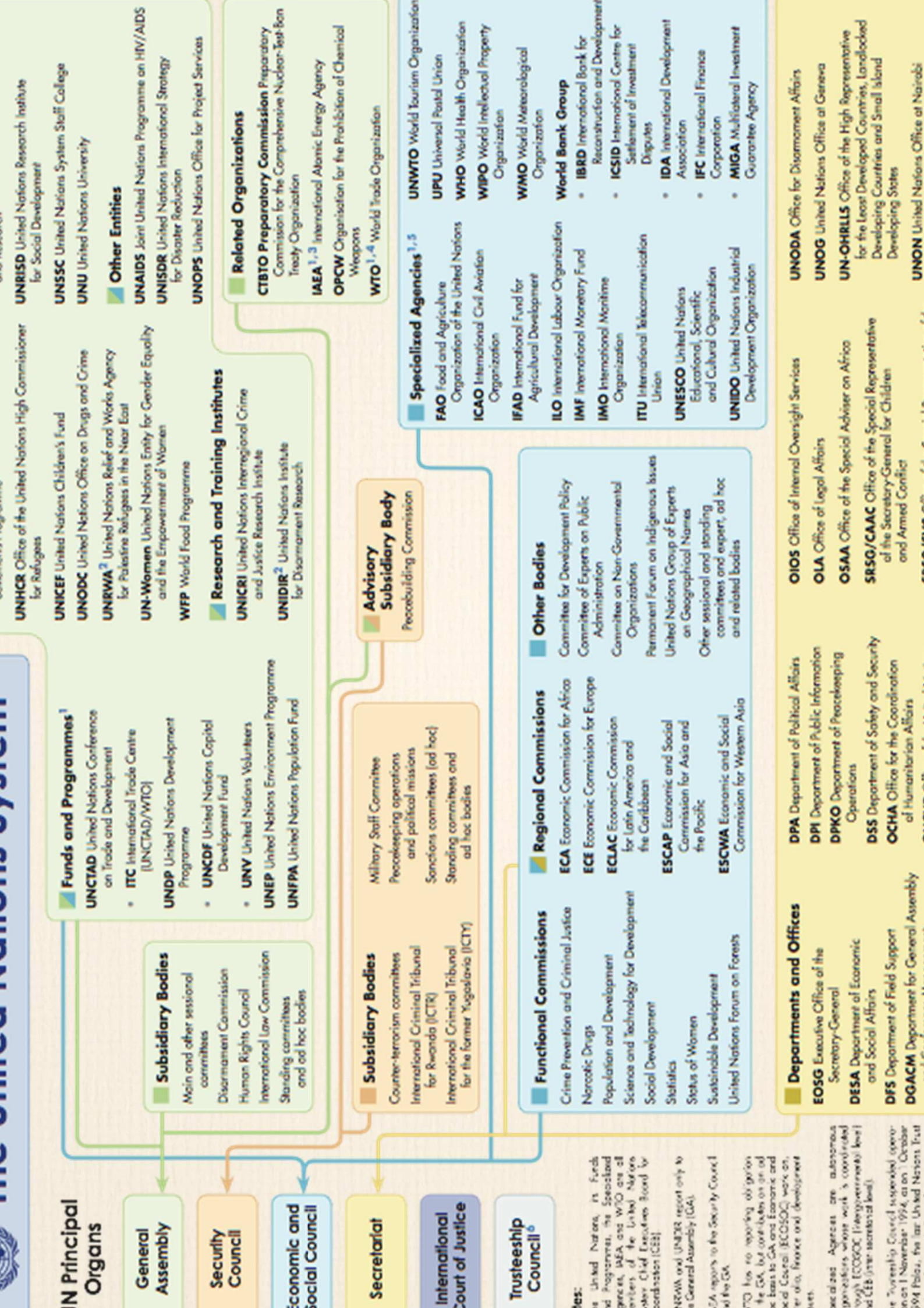
Post WWI - creation of League of Nations and later United Nations

International Law strengthened and focused on peace with justice, mutual recognition and development in the context of largely agreed human rights values.

Treaty making substantially under UN patronage

UN strengthened with subsidiary bodies -

commissions and specialised agencies



United Nations:

Global, Complex, Politicised, Expensive
often wasteful, yet necessary

- ❖ No power to enforce decisions, order sign up to conventions, etc.
- ❖ weak against Security Council or unilateral action by superpowers. SC can sanction.
- ❖ Necessary global institution

Key institution linking international law and policy to international development

Challenges

MAN RIGHTS

- 1. International Covenant on Economic, Social and Cultural Rights (New York, 16 December 1966)*
- 2. International Covenant on Civil and Political Rights (New York, 16 December 1966)*
- 3. Optional Protocol to the International Covenant on Civil and Political Rights (New York, 16 December 1966)*
- 4. Convention on the Prevention and Punishment of the Crime of Genocide (New York, 9 December 1948)
- 5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (New York, 10 December 1984)*
- 6. Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (New York, 18 December 2002)*
- 7. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (New York, 18 December 1990)*
- 8. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (New York, 25 May 2000)*
- 9. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (New York, 25 May 2000)*

REFUGEEES

- 10. Convention Relating to the Status of Refugees (Geneva, 28 July 1951)

. Rome Statute of the International Criminal Court (Rome, 17 July 1998)

. Agreement on the Privileges and Immunities of the International Criminal Court (New York, 9 September 2002)

. Convention on the Safety of United Nations and Associated Personnel (New York, 9 December 1994)

ERRORISM

. International Convention for the Suppression of Terrorist Bombings (New York, 15 December 1997)

. International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999)

. International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 10 April 2005)

ORGANIZED CRIME AND CORRUPTION

18. United Nations Convention against Transnational Organized Crime (New York, 15 November 2000)

19. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000)

20. Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (New York, 15 November 2000)

21. Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime (New York, 31 May 2001)

22. United Nations Convention against Corruption (New York, 31 October 2003)*

ENVIRONMENT

23. Kyoto Protocol to the United Nations Framework Convention on Climate Change³ (Kyoto, 11 December 1997)
24. Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam, 10 September 1998)
25. Stockholm Convention on Persistent Organic Pollutants (Stockholm, 22 May 2001)
26. Cartagena Protocol on Biosafety to the Convention on Biological Diversity (Montreal, 29 January 2000)

LAW OF THE SEA

27. United Nations Convention on the Law of the Sea (Montego Bay, 10 December 1982); Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (New York, 28 July 1994)
28. Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (New York, 4 August 1995)

SARMAMENT

9. Comprehensive Nuclear-Test-Ban Treaty (New York, 10 September 1996)

10. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Oslo, 18 September 1997)

HEALTH

11. WHO Framework Convention on Tobacco Control (Geneva, 21 May 2003)

LAW OF TREATIES

12. Vienna Convention on the Law of Treaties (Vienna, 23 May 1969)

IL involves surrender of sovereignty

IL making often lowest common denominator

IL becomes part of national law

IL used to influence national legislation - improve national standards (or not - e.g. EU - Germany BIO foods)

Citizens can/do use IL - corruption, democracy, gender, FGM, aggression & war, environment, development

International Humanitarian Law IHL not new.

Link

HUMAN DEVELOPMENT AND DEVELOPMENT ETHICS

**It matters little how much information
we possess about development if we
have not grasped its inner meaning”**

Denis Goulet, The Cruel Choice (American philosopher, anthropologist and social planner)

What kind of development can be considered “human”?

the aim of this work is to thrust debates over economic and social development into the arena of ethical values...

Is human development something more than a systemic combination of modern bureaucracy, efficient technology, and productive economy?

1971: vii). The Cruel Choice 1971

Economic might must not be equated to societal

ght”

IL or Development is not value neutral

- ❖ (ideology, politics, power and interest)

International law as a nudge – positive or negative

- **no escape from international relations today**

- **IL directly affects citizens.**

Reflections

How can citizens think about, frame, shape and influence international law?

How does history, geography, philosophy, ethics, politics, law, science and economy come together to play a role in development?

How can IL become a tool for development, peace and

innovation and rapid change.

Ideas and actions to make a better, more just
sustainable world?

International or global perspective
both historical and current with a visioning of a
future.

Future search –for a better world

moral backbone of II ?

development policy is about US ALL – not US and THEM.

charity but rights

aid but development

DEVELOPMENT IS ABOUT HUMAN DIGNITY

Today's global challenges include:

movements – people, money, ideas, diseases

rapid changes – demographics, urbanization, disasters, human migrations

growing inequalities – access to livelihoods, discrimination, corruption

and struggles against injustices of all kinds – reimagine, recover, educate

International law and development
politics sit at this juncture of the
struggle for human dignity.
Today it perhaps sits to the right of center.

You and I can **make a difference**
by locating ourselves on the correct side
of history.

We have looked a little bit at:

definition and scope of international law

historical and modern development of IL

direct and indirect links to national and global
development policy, politics and international relations

some challenges in IL and development practice

reflected on what we as citizens can do

Future lectures will focus on these issues and the details
of some key international law treaties that have direct
impact on development globally and nationally

Welcome to the lecture series.

We hope you will :

attend future sessions every Tuesday

reflect on these issues

pose tough challenges to the speakers

present innovative solutions

Thank You

Asante Sana

Shukran

Danke Schön