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## International law

“I invite all governments that have not done so to sign and ratify the various Conventions, covenants and treaties which form the central corpus of international Law.”

From the Millennium Report

### Vital statistics

- The United Nations has helped conclude more than 500 multilateral treaties and agreements.
- The United Nations Commission on International Trade Law (UNCITRAL) works to develop uniform international norms and standards in international trade law.
- The International Law Commission of the United Nations, made up of 34 experts, encourages the development of international law and its codification.
- The Vienna Convention on Diplomatic Relations (1961) and the Vienna Convention on Consular Relations (1963) constitute the cornerstone of day-to-day relations between states.
- The Convention on the Law of the Sea (finalized in 1994 after 36 years of negotiations) is the world’s most important international maritime law.
- Overall, there are more than 2,000 multilateral treaties in the world today; over 500 of them have been deposited in the custody of the Secretary-General.

### Guilty!

*“Despite the indisputable atrociousness of the crimes and the emotions evoked in the international community, the judges have examined the facts adduced in a most dispassionate manner, bearing in mind that the accused is presumed innocent.”*

With these words, the International Criminal Tribunal for Rwanda handed down the first-ever judgement by an international court for the crime of genocide, declaring Jean-Paul Akayesu guilty of genocide and crimes against humanity. The date was 2 September 1999 and the trial site was Arusha, Tanzania.

Genocide is the engagement in certain activities with the intention to destroy, in whole or in part, a national, ethnic, racial or religious group. Mr. Akayesu, who was mayor of the Taba commune in Central Rwanda and belonged to the country’s Hutu community, was held responsible for the death in 1994 of around 2,000 people. In that year, over 800,000 people, mostly members of Rwanda’s minority Tutsi people, were slaughtered in a period of less than three months. The United Nations set up an international tribunal in 1995 to try those responsible for this genocide.

### Setting standard of behaviour

The basis for determining the crime committed by Mr. Akayesu was the 1948 Convention for the Prevention and Punishment of the Crime of Genocide. It was one of the first international legal frameworks adopted by the United Nations. Now, five decades later, there are over 500 such Conventions or international treaties. Each is legally binding for those States ratifying or acceding to it, and its enforcement at national and international levels can be monitored or verified.

International law did not begin with the United Nations, but the Organization has played an important role in consolidating and vastly expanding it. In 1873, when the International Law Association was founded, there were no more than 133 multilateral treaties in the world. In the past, multilateral treaties had only a few States which were party to it, often less than 10. Nowadays, a typical United Nations Convention has at least 50 States parties, which means these that these States have ratified a Convention and incorporated its norms into national law. Some major ones, such as the Convention on the Rights of the Child, have as

many as 191. These treaties or Conventions, together with customary international law and other sources of international law, have come to form the body of international law.

The Charter of the United Nations identifies four goals: peace, development, human rights and the promotion of international law. In 1945, these were the goals of humanity; these remain humanity's goals in the new millennium.

United Nations Secretary-General Kofi Annan, in his Millennium Report, draws attention to one of the fundamental objectives of the United Nations: to free all people from the scourge of war and, especially, from the violence of civil conflict and the fears of mass destruction, two great sources of terror faced in our world today. This is possible only if we strengthen respect for law on the international front, "in particular the agreed provisions of treaties on the control of armaments, and international humanitarian and human rights law."

These Conventions, in the words of Secretary-General Annan, "define the ground rules of a global civilization."

### **How does international law work?**

International law consists of a body of treaties, customary laws, judicial decisions and other relevant sources that play a central role in promoting economic and social development, as well as international peace and security among the nations of the world. The treaties negotiated under UN auspices have formed the basis for laws governing relations among nations. While the UN's work in this area does not always receive much attention, it has a daily impact on the lives of people everywhere.

Much of the political process of the UN is devoted to establishing or extending international laws, rules and standards covering the full range of human activities. These include norms governing human rights, refugees and stateless persons, traffic in persons, narcotic drugs, international trade and development, transportation and communications, the status of women, the freedom of information, the law of the sea, use of outer space, telecommunications, disarmament, international terrorism and the protection of the environment.

While some of these topics may appear not to affect our daily lives, in reality they do, whether they regulate the quality of the air we breathe, the variety of goods available for purchase, the impact of drug trafficking on the functioning of a culture, or the interaction of people around us from other countries and cultures. For example, pollution from automobiles in London or Mexico City may affect the climate in Rabat or Tokyo, as carbon dioxide and other gases from factories and cars cause the atmosphere to heat up. Drug enforcement programs in a country like Colombia can have significant consequences on employment sustained by drug money in the tourist industry. Civil unrest in a neighboring country can produce large numbers of refugees seeking asylum across the border.

The United Nations has helped negotiate treaties setting the standard of inter-state relations on each of these areas. For example, under the 1992 UN Framework Convention on Climate Change, developed countries are obliged to reduce emissions of carbon dioxide and other warming gases they release into the atmosphere. The 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances is designed to deprive drug traffickers of their ill-gotten financial gains and freedom of movement. And the 1951 Convention relating to the Status of Refugees (and its 1967 Protocol) defines the rights and duties of refugees.

### **Creating laws, setting standards**

The UN systematically examines particular topics of interest and encourages either codification of the customary law that already exists or the formulation of new laws. States are participating with increasing vigor in this process. The large number of existing treaties and the on-going work on many more bear

testimony to that fact. Over 50,000 treaties and international agreements developed by Member States, the only collection of its kind worldwide, are registered with the UN Secretariat.

Many parts of the UN are at work in developing international law. For example:

- The **General Assembly**, as the main political forum of the UN, has become a key mechanism for elaborating rules of international law. It initiates, prepares and provides a forum for negotiating multilateral treaties. Conventions are adopted by the General Assembly and are then opened for signature and ratification by the Member States. The Assembly also adopts declarations on a broad range of issues regulating international relations. A declaration, which is an agreed-upon statement of goals on a particular subject, may have moral force but does not carry the force of law. By contrast, a Convention, once ratified by a Member State, implemented under national law.
- **The International Law Commission**, created by the General Assembly in 1947, promotes the progressive development and codification of international law. It prepares drafts on topics of international law, either chosen by itself or referred to it by the General Assembly. When the Commission completes work on a topic, the General Assembly usually convenes an international conference to incorporate the draft into a Convention. The Convention is then opened to States to become parties, meaning that countries formally agree to be bound by its provisions. The Commission has helped conclude many important international treaties. Currently, the Commission is addressing such issues as the prevention of transboundary damage from hazardous activities; State responsibility; unilateral acts of States; and the right of diplomatic protection.
- The **Security Council** has become increasingly involved in the issues of protecting civilians in armed conflict, promoting human rights and protecting children affected by war. For example, mass violations of international humanitarian law in the former Yugoslavia and in Rwanda led the Council to establish two international tribunals to prosecute persons responsible for such violations. Both tribunals were established under Chapter VII of the UN Charter (which deals with enforcement measures) and are subsidiary organs of the Security Council.
- The **International Court of Justice** helps settle disputes between nations on the basis of existing international law. Based in The Hague, the Netherlands, the World Court (as it is popularly known) has settled disputes between States regarding their common borders; and has defined the delimitation of territorial waters, fishing jurisdictions, the rights of passage over foreign territory, decolonization questions, military disputes, questions of nationality and the right of asylum. In 1999, the Court settled a sensitive frontier dispute between Botswana and Namibia. In another ruling made in 1994, the Court helped settle a border dispute between Chad and Libya. In 1992, the Court ended a dispute between El Salvador and Honduras that had led to a short but bloody war in 1969.
- **Specialized agencies and programmes** of the United Nations, such as the *UN Environment Programme*, *United Nations Children's Fund*, *International Labour Organization*, *the International Civil Aviation Organization*, *the International Maritime Organization* and *the World Intellectual Property Organization* have played a major role in the development and administering of international treaties in their areas of concentration.

### **How does international law help world trade?**

International law helps regulate relations between countries. These relations include trading, exports and imports and movements of goods across boundaries. The United Nations, through the United Nations Commission on International Trade Law (UNCITRAL) facilitates world trade by developing Conventions, model laws, rules and legal guides designed to harmonize international trade. Established by the General Assembly in 1966, this international Commission brings together representatives of the world's geographic regions and principal economic and legal systems.

UNCITRAL has helped develop some of the most fundamental treaties regulating international trade. These include the 1985 UNCITRAL Model Law on International Commercial Arbitration, the 1976 UNICTRAL Arbitration Convention, the 1980 UNCITRAL Conciliation Rules, the 1994 UNCITRAL Model Law on Procurement of Goods, Construction and Services and the 1995 United Nations Convention on Independent Guarantees and Standby Letters of Credit. In 1996, the General Assembly adopted the UNCITRAL Model Law on electronic Commerce.

Environmental laws negotiated in the United Nations not only facilitate the protection of the environment worldwide but also the promotion of healthy business practices. For example, The Cartagena Protocol on Biosafety (2000) makes it compulsory to clearly label exports of agricultural commodities that may contain genetically modified organisms, and allows Governments to state whether or not they are willing to accept such imports. Another similar treaty is the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal (1989). This treaty obligates States parties to reduce shipping and dumping of dangerous wastes across borders, to minimize the amount and toxicity generated by hazardous waste, and to ensure their environmentally sound management.

There are numerous ways the United Nations and its regime of international law help promote world trade. Here are some examples:

- Commercial airlines have the right to fly across borders and to land in case of emergency, due to agreements negotiated by the International Civil Aviation Organization, part of the UN system.
- The World Intellectual Property Organization, also affiliated with the UN, promotes international cooperation in the protection of copyrights, trademarks and patents around the world.
- The World Health Organization sets criteria for pharmaceutical quality and standardizes the names of drugs.
- The Universal Postal Union's protocols allow the mail to move across borders.
- The International Telecommunications Union's allotment of frequencies keeps the airwaves from becoming hopelessly clogged.
- The United Nations Intellectual Property Organization's arbitration helps determine the right to use domain names on the internet and thus curb "cybersquatting".

## Signs of progress

- **Human rights** – The world now has an impressive array of human rights Conventions protecting the rights of all people, including children, women and minorities. The idea that individual human rights can be protected by the international community is one of the great intellectual and practical achievements of international law (read sections on Children's Rights and Human Rights for more).
- **Environmental law** – Successful negotiation of major treaties has advanced **environmental protection** everywhere. International treaties now exist on such issues as desertification, biological diversity, biosafety, climate change, control of the movement and disposal of hazardous wastes across boundaries, the ozone layer, transboundary air pollution, endangered species and marine pollution. As a result of enforcement of these treaties, rare species of plants and animals are being saved, rain forests are being protected and desertification slowed or stopped.
- **Law of the Sea** - Considered one of the most comprehensive of international legal regimes, this Convention adopted in 1982 covers all aspects of ocean space and its uses -- navigation and overflight, resource exploration and exploitation, conservation and pollution, fishing and shipping. So far, its major impact has been on the **near universal acceptance of 12 nautical miles** as the limit of territorial sea a country with a seacoast can claim, and an **exclusive economic zone** up to 200 nautical miles for resource development. It covers other areas such as coastal State control over marine research, prevention of pollution and access by landlocked States to and from the sea. Three bodies established under the Convention to monitor its implementation have all become

operational. They are: the International Seabed Authority, located in Kingston, Jamaica; the International Tribunal for the Law of the Sea, located in Hamburg, Germany; and the Commission on the Limits of the Continental Shelf, based at UN Headquarters in New York.

- **International humanitarian law** - The major instruments in this field regulate the means and methods of warfare, along with protection of civilian population, of sick and wounded combatants and of prisoners of war. These major instruments were developed under the International Committee of the Red Cross. The General Assembly has created some other important instruments dealing with genocide, war crimes, crimes against humanity, and the use of certain Conventional weapons.
- **International tribunals and International Criminal Court** - To punish war crimes in Rwanda and in the former Yugoslavia, the Security Council created international tribunals to prosecute violators. Several people have already been found guilty and sentenced accordingly. In August 2000, the Council also agreed to create a similar war crimes court for Sierra Leone. In 1998 in Rome, a statute for the creation of a **permanent international court to prosecute crimes against humanity** was adopted. The treaty needs to be ratified by at least 60 countries before the Court comes into existence. As of 30 July 2000, 98 countries have signed the treaty and 14 countries have ratified it.
- **International terrorism** In the legal sphere, the United Nations and its specialized agencies -- such as the International Civil Aviation Organization, the International Maritime Organization and the International Atomic Energy Agency -- have developed a network of international agreements that constitute the basic legal instruments against terrorism. These include Conventions on offences committed on aircraft (1963), on the seizure of aircraft (1971), on hostage-taking (1979), on the protection of nuclear material (1979) and on marking plastic explosives to make them detectable (1988). At the political level, the General Assembly has repeatedly condemned all acts of international terrorism. In 1997, it adopted the International Convention against Terrorist Bombing, which asks States either to prosecute or extradite those accused of terrorist bombing.

## Looking forward

The United Nations has already provided the world with a basic framework for a rule of law, both within countries and in relations between countries. The Conventions deposited with the Secretary-General represent the expressed desire of the international community to establish rights and obligations among themselves, in effect, to be bound by an international rule of law. However, adopting a law or a multilateral treaty is only the beginning of creating such a global rule of law. From transportation to employment to preservation of the environment to trade to the ways we treat our fellow human beings, it is only through the *implementation* of these Conventions that we would see progress worldwide.

Secretary-General Kofi Annan has identified 25 core Conventions and has asked United Nations Member States who have not already done so to consider ratifying them. These treaties are clearly related to the key policy goals of the United Nations into the new millennium and reflect the spirit of the United Nations Charter. (See box for the list of treaties).

Most of these treaties are already in force but many have yet to achieve universal ratification. The countries which have not signed or ratified some of these treaties may not have done so due to lack of technical and human resources rather than to an absence of commitment. The United Nations wants to help them overcome some of the difficulties through a variety of ways:

- By providing, when requested, experts to draft national laws and advise and assist government officials and legislators, through seminars and briefing sessions.
- By training judges and lawyers to better understand and apply international law.
- By encouraging law schools and other institutions of higher education to teach international law.

## Suggested activities for students

1. For individual or group study, select an area of international law of strong concern and/or interest. Learn more about the issue and become well-informed. Find out more about the Conventions developed in that area. The UN Treaty Collection on the Internet (<http://untreaty.un.org>) is a helpful resource. See which countries have ratified specific Conventions and which have not. Check out your own country. If it has not ratified a Convention, write or contact your government officials to ask them why not. If your country has ratified the Convention, it would be important to find out the steps followed to implement the Convention. Invite knowledgeable speakers to your classroom.
2. There are many non-governmental organizations (NGOs) with strong interests in one or perhaps several particular Conventions. If so, they would be able to assist you with information concerning any plan of action your government might have developed. Many NGOs will be participating in Assemblies and regional public hearings held around the world. Will one be in your area? If you know of an NGO working on a particular Convention, what does that Convention say? What is being done to address local or national issues in your area of interest? Who's helping? What are voices in opposition saying? Why? Choose a side and find out how they can use your support. Your assistance in helping to inform the citizenry of the issues and steps being taken to improve the situation is a basis for constructive citizenship involvement.
3. Support national or local legislation that helps implement provisions of the Convention of interest to you. Talk to your friends; help create a petition to support the passage of the legislation. Create a speakers' bureau of students concerned about this issue. For a sample see the Free the Children website developed on the issue of Child Labour (<http://www.freethechildren.org>) . Make your own adaptations and take action.
4. Contact the department of the government most concerned with the issue you have chosen. Find out more about initiatives encouraged by that department. This can be especially helpful with Conventions pertaining to the environment and in the area of human rights, pertaining to children, women, refugees, labor and racial discrimination.

## Selected resources

### On the World Wide Web

[www.un.org/law](http://www.un.org/law)

<http://untreaty.un.org>

[www.un.org/law/counsel/info.htm](http://www.un.org/law/counsel/info.htm)

[www.un.org/Depts/los/index.htm](http://www.un.org/Depts/los/index.htm)

[www.uncitral.org](http://www.uncitral.org)

### Publications

International law on the eve of the twenty-first century: Views from the International Law Commission, United Nations, 1997

International instruments of the United Nations: A compilation, United Nations, 1996

Millennium Summit Multilateral Treaty Framework: An invitation to universal participation, United Nations, 2000

Notes for Speakers: Human Rights, United Nations, 1998

## **Box**

### **25 Key multilateral treaties<sup>i</sup>**

#### **Human Rights**

1. Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948. Entry into force: 12 January 1951
2. International Convention on the Elimination of All Forms of Racial Discrimination. Open for signature at New York on 7 March 1966. Entry into force: 4 January 1969
3. International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly of the United Nations on 16 December 1966. Entry into force: 3 January 1976
4. International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 16 December 1966. Entry into force: 23 March 1976
5. Optional Protocol to the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 16 December 1966. Entry into force: 23 March 1976
6. Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the Abolition of the Death Penalty, adopted by the General Assembly of the United Nations on 15 December 1989. Entry into force: 1 July 1991
7. Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly of the United Nations on 18 December 1979. Entry into force: 3 September 1981
8. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly of the United Nations on 6 October 1999. Not yet in force.
9. Convention against Torture and Other Cruel, Inhuman or Degrading treatment or Punishment, adopted by the General Assembly of the United Nations on 10 December 1984. Entry into force: 26 June 1987
10. Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989. Entry into force: 2 September 1990
11. Draft Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflicts. Not yet adopted by the General Assembly.
12. Draft Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Not yet adopted by the General Assembly.
13. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, adopted by the General Assembly of the United Nations on 18 December 1990. Not yet in force.

#### **Refugees and Stateless Persons**

14. Convention relating to the Status of Refugees, signed at Geneva on 8 July 1951. Entry into force: 22 April 1954

## **Penal Matters**

15. Convention on the Safety of United Nations and Associated Personnel, adopted by the General Assembly of the United Nations on 9 December 1994. Entry into force: 15 January 1999

16. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997. Not yet in force.

17. Rome Statute of the International Criminal Court, adopted at Rome on 17 July 1998. Not yet in force.

## **Disarmament**

18. Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (and Protocols), concluded at Geneva on 10 October 1980. Entry into force: 2 December 1983

19. Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices as amended on 3 May 1996 (Protocol 11 as amended on 3 May 1996) annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, adopted by the Conference of the States Parties to the Convention at Geneva on 3 May 1996. Entry into force: 3 December 1998

20. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, opened for signature at Paris on 13 January 1993. Entry into force: 29 April 1997

21. Comprehensive Nuclear-Test-Ban Treaty, adopted by the General Assembly of the United Nations on 10 September 1996. Not yet in force.

22. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, concluded at Oslo on 18 September 1997. Entry into force: 1 March 1999

## **Environment**

23. Kyoto Protocol to the United Nations Framework Convention on Climate Change, adopted at Kyoto on 11 December 1997. Not yet in force.

24. Convention on Biological Diversity, opened for signature at Rio de Janeiro on 5 June 1992. Entry into force: 29 December 1993

25. United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, opened for signature at Paris on 14 October 1994. Entry into force: 29 December 1996.

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<sup>i</sup> Information on the status of multilateral treaties is correct as of 31 December 1999.