

# 3

## IGOs and the Foundations of Global Governance

Political communities throughout history have tried to establish norms and rules for interacting with their neighbors. The Greek city-states, for example, sought to establish permanent protective alliances to address conflict issues and to follow established rules. The Hanseatic League (1200s–1400s) was formed to facilitate trade and the interaction among a group of Northern European cities on the Baltic and North Seas. Similarly, the Kingdom of Naples and Sicily, the Papal States, and the city-states of Florence, Venice, and Milan established a system for regularizing diplomacy and commercial interaction in the fourteenth and fifteenth centuries. Many of these early practices persisted as the contemporary state system evolved, providing some foundation for the later development of other, more institutionalized forms of governance.

### **The State System and Its Weaknesses:**

#### **The Process of International Organization**

International relations scholars date the contemporary state system from 1648, when the Treaty of Westphalia ended the Thirty Years War. Although most of the more than 100 articles of the treaty dealt with allocating the spoils of war, other provisions proved pathbreaking. Articles 64, 65, and 67 established several key principles of a new state system: territorial sovereignty; the right of the state (prince or ruler) to choose its religion and determine its own domestic policies; and the prohibition of interference from supranational authorities like the Catholic Church or Holy Roman Empire. The treaty marked the end of rule by religious authority in Europe and the emergence of secular states. With secular authority came the principle of the territorial integrity of states that were legally equal and sovereign participants in the international system.

Sovereignty was the core concept in this state system. As French philosopher Jean Bodin (1530–1596) stated, sovereignty is “the distinguish-



ing mark of the sovereign that he cannot in any way be subject to the commands of another, for it is he who makes law for the subject, abrogates law already made, and amends obsolete law" (1967: 25). Although there is no supreme arbiter among states, Bodin acknowledged that sovereignty may be limited by divine law or natural law, by the type of regime, or even by promises to the people.

It was during this period that Hugo Grotius, the early Dutch legal scholar discussed in Chapter 2, rejected the concept that states have complete freedom to do whatever they wish. Thus, even in the seventeenth century, the meaning of state sovereignty was contested. More recently, Stephen Krasner (1993: 235) has argued: "The actual content of sovereignty, the scope of authority that states can exercise, has always been contested. The basic organizing principle of sovereignty—exclusive control over territory—has been persistently challenged by the creation of new institutional forms that better meet specific national needs." Although breaches of sovereignty occur continuously through treaties, contracts, coercion, and imposition, Krasner asserts that there is no alternative conception of international system organization. Other scholars such as James Rosenau (1997: 217–236) see states as vulnerable to demands from below—decentralizing tendencies including domestic constituencies and nonstate actors—and from above, including globalization processes and international organizations. They have to contend with a variety of new actors and processes that confound and constrain them, limiting authority and challenging the whole notion of state sovereignty, and hence the state system based on the principle. Even then-UN Secretary-General Kofi Annan said in his 1999 address to the UN General Assembly, "State sovereignty, in its most basic sense, is being redefined by the forces of globalization and international cooperation" (Annan 1999). As yet another scholar, Kalevi Holsti (2004: 138), has pointed out, however: "State capacity in the contemporary world varies greatly from the very weak to the very strong. But that does not make them less or more sovereign."

As described in Chapter 2, the nature of the contemporary state system and state sovereignty is a matter of dispute among IR theorists. Yet the weaknesses of the state system became increasingly apparent during the nineteenth century with growing international trade, migration, democratization, technological innovation, and other developments that increased interdependence and highlighted the limitations imposed by states' sovereignty. These changes gave rise to the process of international *organization*—the historical process that "represents a secular trend toward the systematic development of an enterprising quest for political means of making the world safe for human habitation" (Claude 1964: 405). The concrete manifestations of that process, which continues today, have been the cre-

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ation of international *organizations* and particularly intergovernmental organizations.

This chapter provides a historical overview of that process of international organization since the mid-nineteenth century. It is a process that has been propelled and shaped not only by the weaknesses of the state system but also by major power wars, technological changes, economic development and growing interdependence, and now globalization, the decolonization process that ended European imperial rule over much of Latin America, Asia, and Africa, and the emergence of a host of governance challenges in the late twentieth and early twenty-first centuries. Subsequent chapters provide greater depth on the United Nations system, regional organizations, and nongovernmental organizations.

### Early Governance Innovations: The Legacy of the Nineteenth Century

In the nineteenth century, the process of international organization was stimulated by a number of key trends. The defeat of Napoleon in 1815 ended the upheavals that followed the French Revolution and Napoleon's effort to create a French empire in Europe. The emergence of five major European powers—Austria-Hungary, Britain, France, Prussia, and Russia—ushered in an era of relative peace that lasted for almost a century. Industrialization, beginning in England, spread to all parts of the continent, resulting in expanded commerce and trade among the European countries and between European states and their colonies. Technological innovations such as the telegraph gave rise to practical problems in interstate relations and the need to establish common standards. State-to-state interactions became more frequent and intense while the spread of democratic ideas empowered people to organize nongovernmental groups to address humanitarian needs, workers' rights, and private business interests.

In a pioneering textbook on international organization, *Swords Into Plowshares*, Inis Claude (1964) describes three major innovations of governance that emerged in the nineteenth century: the Concert of Europe, public international unions, and the Hague Conferences.

#### *The Concert of Europe*

The first innovation was the Concert of Europe, established in 1815—a concert of major European powers making systemwide decisions by negotiation and consensus. Members agreed to coordinate behavior based on certain rights and responsibilities, with expectations of diffuse reciprocity. They still operated as separate states and societies, but within a framework of rules and consultation without creating a formal organization.







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cooperate on a voluntary basis to accomplish nonpolitical tasks. Almost immediately, these began to include non-European states (and some colonial territories such as India).

Because the ITU and UPU were among the first IGOs to be established, they set a number of precedents. Both were based on international conventions that called for periodic conferences of parties to the convention. The delegates, however, came from telegraph and postal administrations of the parties, not ministries of foreign affairs—establishing the pattern of involving technical experts when dealing with technical matters. Thus, multilateral diplomacy was no longer the exclusive domain of traditional diplomats. Both organizations, along with subsequent public international unions, established international bureaus or secretariats composed of permanent staff hired from a variety of countries. They also created councils consisting of representatives of a few selected members to function as policy directorates on behalf of the organization in the intervals between general conferences. As Claude (1964: 32) notes, "Thus was established the structural pattern of bureau, council, and conference which, with many elaborations but few deviations, serves as the blueprint of international organization today." In addition, the public unions developed the techniques for multilateral conventions—lawmaking or rulemaking treaties—through the periodic revisions of the telegraph and postal regulations. Thus, public international unions and organizations dedicated to defined nonpolitical tasks gave rise to functionalism and specialized IGOs helping states deal with practical problems in their international relations, as discussed in Chapter 2.

### *The Hague System*

The third governance innovation in the nineteenth century was the concept of generalized conferences in which all states were invited to participate in problem solving. In 1899 and 1907, Czar Nicholas II of Russia convened two conferences in The Hague (Netherlands), involving both European and non-European states, to think proactively about what techniques states should have available to prevent war and under what conditions arbitration, negotiation, and legal recourse would be appropriate (Aldrich and Chinkin 2000). Exploration of such issues in the absence of a crisis was a novelty.

The Hague Conferences led to the Convention for the Pacific Settlement of International Disputes, ad hoc international commissions of inquiry, and the Permanent Court of Arbitration. The institutionalization of the latter was the culmination of the widespread practice of inserting clauses into treaties calling for arbitration should disputes arise among parties. The Permanent Court of Arbitration (1899), composed of jurists selected by each country from which members of arbitral tribunals are chosen, remains in existence and has been used extensively for handling



boundary, investment, and other disputes involving states, corporations, and other nonstate actors.

The Hague Conferences also produced several major procedural innovations. This was the first time that participants included both small and non-European states, with all given equal voice. Twenty-six states participated in the first conference, including China, Siam, the Ottoman Empire, Mexico, and Japan. The second conference had forty-five participating states, adding almost all the Latin American states and thereby establishing the twin principles of universality and legal equality of states. What had been largely a European state system until the end of the nineteenth century became a truly international system at the beginning of the twentieth century. For the first time, participants utilized such techniques as electing chairs, organizing committees, and taking roll call votes, all of which became permanent features of twentieth-century organizations. The Hague Conferences also promoted the novel ideas of common interests of humankind and the codification of international law.

With the outbreak of World War I in 1914, a third Hague Conference was never convened. Yet the first two, along with numerous other conferences held during the nineteenth century, represented the first collective efforts to address problems of war, emergencies, and issues arising from new technologies and greater commerce on a regular, universal basis.

Nineteenth-century innovations, therefore, served as vital foundations for the development of twentieth-century IGOs and the broader notion of global governance in the twenty-first century. States established new approaches to dealing with problems of joint concern, including the great-power multilateralism of the concert system, the functional and specialized public international unions, and the broader legalistic institutions of the Hague system. Innovative organs were created, innovative procedures were developed, and participation was broadened beyond the European states.

Alongside the development of these foundations for intergovernmental organizations, there were also important nongovernmental initiatives. These included the establishment of international peace societies, the International Committee of the Red Cross, the international labor movement, and the International Chamber of Commerce. This history is discussed further in Chapter 6.

Despite these developments, the institutional arrangements of the nineteenth century proved inadequate for preventing war among the major European powers. High levels of interdependence and cooperation in numerous areas of interest proved insufficient to prevent the outbreak of World War I, pointing vividly to the weaknesses and shortcomings of the nineteenth-century arrangements and the state system itself. Yet the war had barely begun when private groups and prominent individuals in both

Europe and the United States to prevent future wars. NGOs in the United States, and the League of Nations, played active roles in the development of the international organization and drafting of the League of Nations. The British government committed to the League of Nations as a permanent international organization. The League of Nations expanded those founda-

### *The League of Nations*

*League principles.* The League of Nations was created in an environment in which it was one of the first international organizations. The twenty-six provisions focused on the following principles: member states agreed to respect the territorial integrity and political independence of all states. The first principle was that different methods of dispute settlement should be used, given the power under Article 16. The second principle was firmly established: that aggression by one state against another is a threat to the security of the League of Nations.

Although the Covenant's provisions also recognized the desirability of establishing no machinery for carrying out the League's provisions for one or more organizations, the League of Nations provided for labour for men, women and children. The League of Nations envisioned the desirability of bringing the League's direction, but this did not happen.

*League organs.* The Covenant of the League of Nations provided for permanent organs—the Council, Assembly, and Secretariat. The Council, an autonomous organization, the Permanent Court of International Justice (PCIJ) and the International Labour Organization (ILO) were also established. The Council was composed of four permanent members (France, Great Britain, Japan) and four elected members. The Council and Assembly to change the League's direction. The membership varied between eight and fifteen. The League of Nations permanent Council membership was reduced to four when the Soviet Union joined in 1934. The failure of the League of Nations Treaty of Versailles meant that it was unable to settle disputes, enforce sanctions,



Europe and the United States began to plan a more permanent framework to prevent future wars. NGOs such as the League to Enforce Peace, in the United States, and the League of Nations Society and Fabians, in Great Britain, played active roles in pushing for the creation of a new international organization and drafting plans for it. There were also French and British government committees appointed to consider the form of a new institution. US president Woodrow Wilson based his own proposal for a permanent international organization on some of these plans. The League of Nations expanded those foundations and set many important precedents.

### *The League of Nations*

*League principles.* The League of Nations first and foremost reflected the environment in which it was conceived. Ten of the League Covenant's twenty-six provisions focused on preventing war. Two basic principles were paramount: member states agreed to respect and preserve the territorial integrity and political independence of states; and members agreed to try different methods of dispute settlement, but failing that, the League was given the power under Article 16 to enforce settlements through sanctions. The second principle was firmly embedded in the proposition of collective security: that aggression by one state should be countered by all acting together as a "league of nations."

Although the Covenant's primary focus was on maintaining peace, it also recognized the desirability of economic and social cooperation, but established no machinery for carrying out such activities except in the provision for one or more organizations to secure "fair and humane conditions of labour for men, women and children" (Article 23). The Covenant also envisioned the desirability of bringing all public international unions under the League's direction, but this did not happen.

*League organs.* The Covenant of the League of Nations established three permanent organs—the Council, Assembly, and Secretariat—as well as two autonomous organizations, the Permanent Court of International Justice (PCIJ) and the International Labour Organization (ILO). The Council was composed of four permanent members (Great Britain, France, Italy, and Japan) and four elected members. Because the Covenant permitted the Council and Assembly to change both categories of membership, membership varied between eight and fifteen states. Germany, for example, gained permanent Council membership when it joined the League in 1926, as did the Soviet Union in 1934. The failure of the United States to ratify the Treaty of Versailles meant that it never assumed its seat. The Council was to settle disputes, enforce sanctions, supervise mandates, formulate disar-







in Silesia and the Saar and then demarcated the German-Polish border. It settled a number of territorial disputes, including those between Finland and Russia, and Bulgaria and Greece. In the latter case, the Council agreed to send military observers to oversee a cease-fire and troop withdrawal and established a commission of inquiry to recommend terms of settlement.

The League was successful in establishing and overseeing the mandate system under which former German colonies in Africa and the Pacific and non-Turkish territories of the former Ottoman Empire were administered by Great Britain, France, South Africa, Belgium, Australia, New Zealand, and Japan under the League's supervision. The League's Mandates Commission, composed of nongovernmental representatives, reviewed annual reports submitted by the colonial powers about conditions in the mandates.

Most important, the League was the first permanent international organization of a general political nature with continuously functioning political, economic, social, judicial, and administrative machinery. It embodied the twentieth-century idea that the international community could and should act against international lawbreakers and promote cooperation on a wide range of international problems.

Overall, the League fell far short of expectations, in large part because it was based on the principle of voluntary cooperation and because the sovereignty of its member states remained intact. As LeRoy Bennett (1995: 41) puts it, "As long as all members realized mutual advantages through cooperation, the League provided them with a useful avenue for achieving their common goals." When first Japan, then Italy and Germany, challenged the status quo, "the League mirrored the lack of cooperative will among its members." The failure to act when Japan invaded Manchuria in 1931 pointed to the organization's fundamental weaknesses: the Council's refusal to take decisive action, and the unwillingness of either Great Britain or France to institute military action or economic sanctions. The Council's delayed response to Italy's invasion of Ethiopia, a League member, in 1935, further undermined its legitimacy. Fifty of the fifty-four members of the League Assembly concurred with cutting off credit to the Italian economy and stopping arms sales, but these measures were insufficient to make Italy retreat, and by 1936 all sanctions against Italy were abandoned. The League neither intervened in the Spanish civil war nor opposed Hitler's remilitarization of the Rhineland and occupation of Austria and Czechoslovakia. With the great powers unwilling to uphold the League's principles, the institution's power and legitimacy deteriorated.

The League of Nations was also unable to respond to the economic depression of the 1930s. Proposals to reorganize the League's structures to address the economic and social issues did not come to fruition, although they did influence the League's successor: the United Nations.



In sum, the League enjoyed a number of successes but failed in some critical respects. Its close association with the unjust peace of World War I and the Treaty of Versailles hamstrung the organization from the outset. While absence of the United States from League membership proved a critical weakness, it was the unwillingness of other major powers, most notably Britain and France, to uphold the League's principles and to respond to overt aggression by Japan, Italy, and Germany that doomed the League as an instrument of collective security. Some would also argue that the very idea of collective security was impractical and overly idealistic in a world of sovereign states. The Covenant itself contained a number of gaps, although none that could be considered fatal flaws.

Between 1935 and 1939, many members withdrew, and the League was silent during the six years of World War II, from 1939 to 1945. Its members convened one final time, in April 1946, to terminate the organization and transfer its assets to the new United Nations.

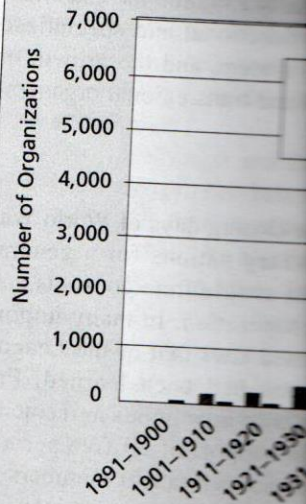
*The Emergence of a Common Core of IGO Structures*

Despite its shortcomings, the League of Nations represented an important step forward in the process of international organization and in global governance. Thus, early in World War II, many people recognized the need to begin planning for a new organization, albeit one whose scope was far greater than the League's. This planning began shortly after the United States entered the war in 1941 and built on the lessons of the League in laying the groundwork for its successor, the United Nations (Grigorescu 2005). Even before the war ended, a number of other specialized international organizations were established, including the Food and Agriculture Organization (FAO), the UN Relief and Rehabilitation Agency (UNRRA), the World Bank, and the International Monetary Fund (IMF). Shortly after World War II, still other IGOs were established in a number of regions around the world.

Over time, it became evident that one of the major trends of the twentieth century was the development of numerous international organizations, both small and large, general purpose and specialized, governmental and nongovernmental, global, regional, and transregional, to serve disparate goals and manage disparate needs, as shown in Figure 3.1.

Cumulatively, precedents set by the Concert of Europe, the public international unions, the Hague Conferences, and the League of Nations established the basic structural forms for the majority of international organizations and particularly IGOs. These include a limited membership council; an assembly of all member states wherein each state has one vote—signifying the internationalization of the democratic principle of equal representation of all members, regardless of size, wealth, or power; and a secretariat to provide administrative services, implement programs, and serve as institutional continuity. The councils in some IGOs, such as the

Figure 3.1 Twentieth-Century



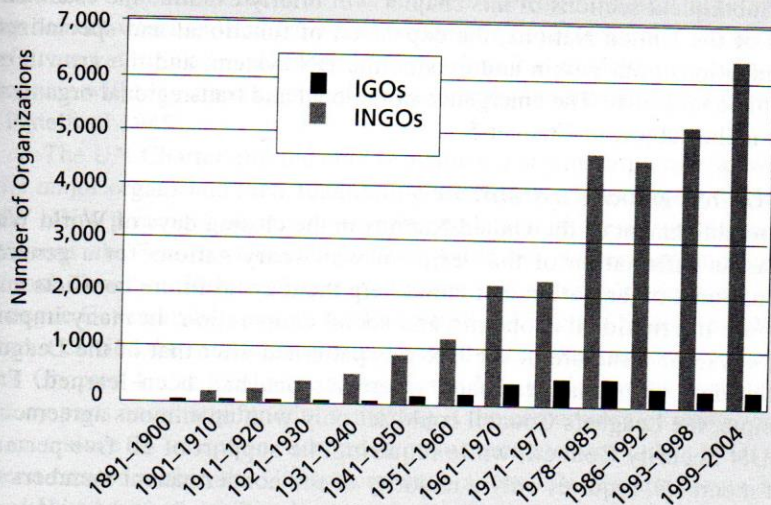
Sources: Yearbook of International Law, Union of International Association

UN Security Council, the Executive Boards of the World Bank and the International Monetary Fund, and the state, one-vote, but have provided the Security Council permanent members with entities labeled "assembly" or "conference" alike. Although many are like the Assembly of Heads of State and Government at the summit level only. Among the Organization of American States has a general assembly. A number of regional organizations, although they differ in fundamental structure, have been established, such as the AU. A number also have been established.

Thus, as one studies various international organizations, decisionmaking processes, and approving organizational budgets, it also must be attuned to the differences. As illustrated earlier, use of the



Figure 3.1 Twentieth-Century Growth of IGOs and INGOs



Sources: *Yearbook of International Organizations, various years* (Brussels: Union of International Associations).

IGO Structures

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UN Security Council, the European Union Council, and the executive boards of the World Bank and IMF, do not operate on the principle of one-state, one-vote, but have provisions for weighted or qualified voting such as Security Council permanent members' veto power. Not all full membership entities labeled "assembly" or "general assembly" or "conference" are alike. Although many are like the League Assembly in being made up of representatives of all member states, some are like the African Union's Assembly of Heads of State and Government—an entity that functions at the summit level only. Among regional organizations, only the Organization of American States has a general assembly modeled on the League and UN assemblies. A number of regional organizations have parliamentary bodies, although they differ in fundamental ways—e.g. NATO, the EU, Mercosur, and the AU. A number also have judicial bodies as discussed later in the chapter.

Thus, as one studies various IGOs, one sees commonalities in structures, decisionmaking processes, and some functions such as assemblies approving organizational budgets and electing executive heads. Yet one also must be attuned to the differences between and among organizations. As illustrated earlier, use of the term "assembly" does not necessarily mean



that two entities with the same name in different organizations will have the same composition or functions.

Subsequent sections of this chapter will briefly examine the establishment of the United Nations, the expansion of functional and specialized organizations both within and outside the UN system, and the growth of international courts. The emergence of regional and transregional organizations is the subject of Chapter 5.

### *The United Nations System*

The establishment of the United Nations in the closing days of World War II was an affirmation of the desire of war-weary nations for a general international organization that could help them avoid future conflicts and promote international economic and social cooperation. In many important ways, the structure of the UN was patterned after that of the League of Nations, with changes made where lessons had been learned. For example, the League's Council could act only with unanimous agreement; the UN Security Council, while requiring the support of all five permanent members, requires only a majority of the nonpermanent members to take action. The UN Charter also built on lessons from the public international unions, conference diplomacy, and Hague Conference dispute settlement mechanisms.

The Atlantic Charter of August 14, 1941—a joint declaration by US president Franklin Roosevelt and British prime minister Winston Churchill calling for collaboration on economic issues and a permanent system of security—was the foundation for the “Declaration by the United Nations” in January 1942. Twenty-six nations affirmed the principles of the Atlantic Charter and agreed to create a new universal organization to replace the League of Nations. The UN Charter was then drafted in two sets of meetings between August and October 1944 at Dumbarton Oaks in Washington, DC. The participants agreed that the organization would be based on the principle of the sovereign equality of members, with all “peace-loving” states eligible for membership, thereby excluding the Axis powers—Germany, Italy, Japan, and Spain. It was further agreed (though not without some strong dissension) that decisions on security issues would require unanimity of the permanent members of the Security Council, the great powers. There was also consensus on broadening the scope of the new organization beyond that of the League, and President Roosevelt early on sought to ensure domestic support for US participation.

When the United Nations Conference on International Organization convened in San Francisco on April 25, 1945, delegates from the fifty participating states modified and finalized what had already been negotiated among the great powers. On July 28, 1945, with Senate approval, the United States became the first country to ratify the UN Charter. It took only

three months for a sufficient number of states to ratify the Charter. One conference participant noted that the most significant features were the agreement which existed from the beginning and the single reservation was made to the Charter. The conference will long stand as one of the great achievements of the postwar period (Padelford 1945).

The UN Charter and the core elements of the system—the major organs and their functions—were defined in the UN's principal organs were the Security Council, General Assembly, International Court of Justice. The UN Charter was a direct descendant of the League Covenant by creating the Economic and Social Council and it carried the mandates system. As Chapter 4 also explores in detail, the UN has many parts and many functions, many of which have been created since its inception, despite the fact that many have been created within the UN system, such as the World Bank and Development, and the International Labour Organization. The countless programs and committees, conferences, and summits; it serves as a catalyst for international relations with nonstate actors.

Among the core elements of the system are the specialized agencies, including the first two permanent organs, the UPU. The number and nature of specialized agencies has greatly expanded over the years, but many are not linked to the UN system.

### **The Expansion of Functional and Specialized Organizations**

The establishment of single-functional organizations, such as health, economics, trade, labor issues, has followed a pattern carried over from national governments. Specialized organizations have been created to address specific issues in response to the emergence of new issues. The number of functional and specialized international organizations has grown since the mid-nineteenth century.

In line with functionalist theory, specialized organizations are perceived to be nonpolitical, with technical solutions to problems among the nations. However, this is not always possible, since many issues are not merely technical, but can touch



three months for a sufficient number of countries to ratify the document. As one conference participant noted after the UN Charter was signed: "One of the most significant features was the demonstration of the large area of agreement which existed from the start among the 50 nations. . . . Not a single reservation was made to the charter when it was adopted. . . . The conference will long stand as one of the landmarks in international diplomacy" (Padelford 1945).

The UN Charter and the core principles that it incorporates as well as the major organs and their functioning are discussed in Chapter 4. Four of the UN's principal organs were patterned after those of the League of Nations: the Security Council, General Assembly, Secretariat, and International Court of Justice. The UN Charter remedied a major gap in the League Covenant by creating the Economic and Social Council (ECOSOC) and it carried the mandates system forward under the Trusteeship Council. As Chapter 4 also explores in depth, the UN is a complex system with many parts and many functions, making it the centerpiece of global governance since its inception, despite its many weaknesses. Other IGOs have been created within the UN system, such as the UN Conference on Trade and Development, and the International Atomic Energy Agency, as well as countless programs and committees. It has sponsored global conferences and summits; it serves as a catalyst for global policy networks and partnerships with nonstate actors.

Among the core elements of the UN system are nineteen specialized agencies, including the first two public international unions: the ITU and UPU. The number and nature of such specialized and functional organizations has greatly expanded over the course of the past century and many are not linked to the UN system.

### **The Expansion of Functional and Specialized Organizations**

The establishment of single-function IGOs to address specific issues such as health, economics, trade, labor issues, and environmental threats mirrors a pattern carried over from national governments. Over time, other organizations have been created to address still more specialized problems in response to the emergence of new issues and unmet needs. Thus the numbers of functional and specialized IGOs have increased exponentially since the mid-nineteenth century.

In line with functionalist theory, functional organizations were once perceived to be nonpolitical, with technical experts in a given field working out solutions to problems among the member states. Staying above politics, however, is not always possible, since the issues such IGOs deal with are not merely technical, but can touch at the core of state sovereignty and



deeply political concerns, especially as rules and regulations expand. Nonetheless, they retain their functional, specialized character and are important elements of global governance, forming the institutional core for governance activities on a given set of issues.

The founders of the UN envisaged that functional agencies would play key roles in activities aimed at economic and social advancement. Therefore, Articles 57 and 63 of the UN Charter call for the affiliation with the United Nations of various specialized organizations established by separate intergovernmental agreements with "wide international responsibility" in economics, health, food, educational, and cultural fields. Today, the nineteen specialized agencies formally affiliated with the UN through agreements with ECOSOC and the General Assembly, like the UN itself, have global rather than regional responsibilities, but have separate charters, memberships, budgets, and secretariats as well as their own interests and constituencies. (See Chapter 4 for further discussion and Figure 4.2 for a full list of UN specialized agencies.) There are also a significant number of functional organizations within the UN system that are not classified as specialized agencies, as they have been established by the UN itself and report to the Security Council or General Assembly. And there are a wide variety of other specialized, functional organizations. Some are regional in scope; others have been formed by countries with shared interests in specific issues. Figure 3.2 illustrates the variety of functional organizations.

The evolution of governance and core functional IGOs in six major areas of activity are discussed here, with others discussed in subsequent chapters. Efforts to address health, communications, and labor issues began in the nineteenth century, while those for economic, refugee, agriculture, and food issues developed during the twentieth century. This evolutionary process continues, as later chapters detail.

### *Health and the World Health Organization*

One of the oldest areas of functional activity is health, an issue that respects no national boundaries. In medieval times, as trade expanded between Europe and East Asia, epidemics followed trade routes. European discovery of the Americas brought diseases like smallpox, measles, and yellow fever to the Western Hemisphere. Increased trade and travel in nineteenth-century Europe accelerated the spread of deadly diseases across national borders and populations. Clearly, no one state could solve health problems alone. Cooperation was required.

In response to a cholera outbreak in Europe, the first International Sanitary Conference was convened in Paris in 1851 to develop a collective response based on increased knowledge about public health and medicine and improvements in sanitation. Between 1851 and 1903, a series of eleven

**Figure 3.2 Functional Intergovernmental Organizations**

- *Functional Organizations*
  - Food and Agriculture Organization
  - International Atomic Energy Agency
  - International Civil Aviation Organization
  - International Labour Organization
  - International Maritime Organization
  - International Telecommunication Union
  - UN High Commissioner for Refugees
  - Universal Postal Union
  - World Health Organization
  - World Meteorological Organization
- *Other Functional Organizations*
  - International Coffee Organization
  - International Whaling Commission
  - Northwest Atlantic Fisheries Organization
  - Organization of Petroleum Exporting Countries
  - World Trade Organization
- *Regional Functional Organizations*
  - African Development Bank
  - Arab Monetary Fund
  - Economic Community of West African States
  - Mekong River Commission
  - Pan American Health Organization

such conferences developed procedures and infectious diseases.

In 1907 the Office International d'Hygiène Publique (OIHP) was created, with a mandate to disseminate information on diseases such as cholera, plague, and yellow fever. In response to a request of the League of Nations Conference met to prepare for a permanent international health organization, OIHP did not become part of this new

distinct organization with its own secretariat. In 1948, a single health organization (WHO), came into being as a UN specialized agency. Its decision-making body is the World Health Assembly, composed of three delegates from each member state, either medical doctors or come from health professions. Its structure reflects the pattern set by the ITU and the ILO, and gives meetings a professional character. Each member has one vote and decisions are made by a two-thirds majority in the case of important



**Figure 3.2 Functional Intergovernmental Organizations (representative)**

- *Functional Organizations Related to the United Nations*
  - Food and Agriculture Organization
  - International Atomic Energy Agency
  - International Civil Aviation Organization
  - International Labour Organization
  - International Maritime Organization
  - International Telecommunications Union
  - UN High Commissioner for Refugees
  - Universal Postal Union
  - World Health Organization
  - World Meteorological Organization
- *Other Functional Organizations*
  - International Coffee Organization
  - International Whaling Commission
  - Northwest Atlantic Fisheries Organization
  - Organization of Petroleum Exporting Countries
  - World Trade Organization
- *Regional Functional Organizations*
  - African Development Bank
  - Arab Monetary Fund
  - Economic Community of West African States
  - Mekong River Commission
  - Pan American Health Organization

such conferences developed procedures to prevent the spread of contagious and infectious diseases.

In 1907 the Office International d'Hygiène Publique (OIHP) was created, with a mandate to disseminate information on communicable diseases such as cholera, plague, and yellow fever. More than a decade later, at the request of the League of Nations Council, an international health conference met to prepare for a permanent international health organization. The OIHP did not become part of this new health organization, but remained a distinct organization with its own secretariat.

In 1948, a single health organization, the World Health Organization (WHO), came into being as a UN specialized agency. The principal decisionmaking body is the World Health Assembly (WHA), which is composed of three delegates from each member state, the majority of whom are medical doctors or come from health or related government ministries. This reflects the pattern set by the ITU and UPU as the first public international unions and gives meetings a professional atmosphere that differs greatly from that of the UN General Assembly. Typical of most IGOs, each country has one vote and decisions are made either by simple majority or by a two-thirds majority in the case of important questions. The WHA meets annu-



ally in contrast to the assemblies and conferences of many other functional organizations. As the legislative body of the WHO, it approves international regulations concerning sanitary and quarantine requirements and standards for diagnostic procedures as well as for biological, pharmaceutical, and other products; it controls the WHO's budget, appoints the director-general, elects members of the executive board, and sets policies. The WHA has occasionally adopted more symbolic resolutions that urge member states to take certain types of actions. Examples include the resolutions initiating WHO campaigns to eradicate smallpox (1959) and polio (1988). The executive board is a smaller group of thirty-four technically qualified individuals elected by the WHA for three year terms. By "gentlemen's agreement," at least three of the UN Security Council members are supposed to be represented. The board sets WHA agendas and resolutions to be considered and oversees implementation of WHA decisions and policies.

The WHO is close to being a quintessential functionalist organization and is one of the largest of the UN specialized agencies in terms of both membership (194 members), staff (8,000), and budget (\$4 billion annually), a sign of the universality of health concerns. It is also one of the more decentralized functional organizations, having six regional offices. The WHO secretariat, located in Geneva, is highly technical, with the director-general, other officials, and many delegates being medical doctors. The medical and allied communities form a strong epistemic community based on their technical expertise and training.

Two aspects of WHO activities are discussed here: disease containment found in the International Health Regulations, and some of the policy areas. Some of the WHO's activities relating to development are examined in Chapter 9. The WHO's primary area of activity, expanded from that of its predecessor organizations, is providing security against the spread of communicable diseases. In 1951, the WHO passed the International Health Regulations (known as the International Sanitary Regulations prior to 1971), reaffirming this traditional emphasis. Under these regulations, states are required to report outbreaks of four communicable diseases (yellow fever, cholera, plague, smallpox) and take effective measures without impeding international commerce. Although the regulations are considered binding on all members unless a member notifies the WHO's director-general of its rejection or reservation within a given period of time, the regulations proved to be a weak instrument. States did not always see them as legally binding, and only a narrow set of diseases was covered. Notification reports were received only by governments, which often blocked the dissemination of information, fearing the economic consequences.

Globalization has had a dramatic effect, however, on the transmission, incidence, and vulnerability of individuals and communities to disease through migration, air transport, trade, and troop movements, including of

UN peacekeepers. During the were not covered under the lin West Nile virus, and HIV/AIDS. New threats to health forms, such as tuberculosis, the Tokyo sarin nerve gas attack. In short, the range of threats to Internet, cell phones, and other ter information about outbreaks hide, although the 2014 Ebola difficult it can be to track and ties with weak public health systems. The emergence of new health new actors into health governance for Monitoring Emerging Diseases connect health professionals with the Global Public Health Intelligence initiative and with WHO collaborative information sources.

In 2007, after ten years of Regulations took effect. They and committed states to notify within four hours of any emerging global now utilize the Internet to public objections. In the words of one "good-governance revolution" in the regulations did not come with health and, as some critics have called it, an "absence of disease" broader concept of health and (128–129).

Over time, the WHA has taken of establishing global priorities and A number of these have pined the nations. In 1978, for example, the WHO Drugs to address the problem of developing countries—an issue that is dis WHA approved the International Convention. In 2003 it approved the Framework. Not surprisingly, the WHO's cannot opposition from the large tobacco companies. The story of the choice to ne-



and conferences of many other functional agencies of the WHO, it approves international quarantine requirements and standards as for biological, pharmaceutical, and health budget, appoints the director-general, the board, and sets policies. The WHA has resolutions that urge member states to cooperate. Examples include the resolutions initiating the eradication of smallpox (1959) and polio (1988). The executive consists of thirty-four technically qualified individuals. By "gentlemen's agreement," council members are supposed to be representatives and resolutions to be considered as decisions and policies.

A non-essence functionalist organization with specialized agencies in terms of both health (100), and budget (\$4 billion annually), concerns. It is also one of the more complex, having six regional offices. The organization is highly technical, with the director-general and delegates being medical doctors. The organization has a strong epistemic community based on science.

are discussed here: disease containment, International Health Regulations, and some of the policies relating to development are its primary area of activity, expanded to include providing security against the threat of biological weapons. In 1951, the WHO passed the International Sanitary Regulations, a traditional emphasis. Under these regulations, outbreaks of four communicable diseases (smallpox) and take effective measures to prevent their spread in international commerce. Although the regulations require that a member notifies the WHO of a reservation within a given period of time, it is not a binding instrument. States did not always comply with the narrow set of diseases was covered. The regulations, however, often blocked the economic consequences.

Effect, however, on the transmission, of diseases and communities to disease outbreaks and troop movements, including of

UN peacekeepers. During the 1980s and 1990s, new diseases emerged that were not covered under the International Health Regulations, such as Ebola, West Nile virus, and HIV/AIDS. Older diseases thought to be under control, such as tuberculosis, reemerged in different, often drug-resistant, forms. New threats to health arose with incidents of bioterrorism, such as the Tokyo sarin nerve gas attack in 1995 and the US anthrax scare in 2001. In short, the range of threats to health has broadened. At the same time, the Internet, cell phones, and other technologies have facilitated faster and better information about outbreaks that states might once have been able to hide, although the 2014 Ebola outbreak in West Africa demonstrated how difficult it can be to track and contain outbreaks in remote areas and countries with weak public health systems.

The emergence of new health threats and new technologies has brought new actors into health governance. A private initiative, ProMED (Program for Monitoring Emerging Diseases), was formed in 1994 to electronically connect health professionals concerned with new health threats. In 1997, the Global Public Health Intelligence Network was formed, at Canada's initiative and with WHO collaboration, to monitor health threats via worldwide information sources.

In 2007, after ten years of work, newly revised International Health Regulations took effect. They brought institutional changes to the WHO and committed states to notify the WHO command center within twenty-four hours of any emerging global health threat. The WHO, in turn, can now utilize the Internet to publicize potential problems, even over state objections. In the words of one expert: if this succeeds, it could lead to a "good-governance revolution" in disease prevention (Fidler 2007: 67). Yet the regulations did not come with financial resources to support implementation and, as some critics have charged, they perpetuated the link between health and an "absence of disease" framework rather than promoting a broader concept of health and the factors that support it (Youde 2012: 128–129).

Over time, the WHA has taken up various health-related issues as part of establishing global priorities and long-term work programs for the WHO. A number of these have pitted the WHO against large multinational corporations. In 1978, for example, the WHA mandated that the WHO develop a code of marketing practices as part of its Action Program on Essential Drugs to address the problem of lower-quality drugs being sold in developing countries—an issue that is discussed further in Chapter 9. In 1981 the WHA approved the International Code of Marketing Breast-Milk Substitutes. In 2003 it approved the Framework Convention on Tobacco Control. Not surprisingly, the WHO's campaign against tobacco encountered stiff opposition from the large tobacco companies and initially from the United States. The story of the choice to negotiate a framework convention and the



extensive NGO activity on the issue is discussed in Chapter 6. The convention bans advertising of tobacco products, requires health warnings on packaging, and creates broader liability for manufacturers. It took effect in 2005 and had been ratified by 180 parties as of early 2015. The convention is the first global health treaty and has subsequently been complemented by the Protocol to Eliminate Illicit Trade in Tobacco Products, concluded in 2012. In spring 2015, Bloomberg Philanthropies and the Bill and Melinda Gates Foundation announced the creation of a global fund to fight tobacco industry challenges to anti-smoking laws and to help countries draft legislation to avoid such challenges.

Although the WHO has thus expanded the international health agenda well beyond the issues of controlling the spread of disease and remains the central international health institution, it now acts within a network of overlapping actors and of public, private, and multistakeholder structures that constitute contemporary global health governance.

### *Telecommunications*

Like health issues, telecommunication services have changed dramatically, from the invention of the telegraph and telephone in the nineteenth century to radio, computers, satellites, and Internet in the twentieth century and various social media in the early twenty-first century. The founding of the International Telegraph Union in 1865 enabled individuals to communicate through one international network. But as that network has changed and new types of communication devices have developed, the successor organization, the ITU, which merged with the International Radio Union in 1932, rests on informal understandings rather than formal legal edicts. These include open access to outer space and the radio spectrum of airspace, and the principle of prior use. States must respect use of specific frequencies and not transmit on them, but states also have a right to exclude foreign firms from their telecommunications industries, establishing the basis of a legal monopoly. Most telecommunications norms must be deduced from various agreements, statements, and the behavior of state and industry officials.

As in the health area, where multiple governance structures interact, the ITU is only one among many public and private bodies focusing on communications. It devotes significant attention to ensuring technical standards for diverse technologies and preventing interference in radio transmissions. The ITU works with the International Organization for Standardization and the International Electrotechnical Commission, both of which are nongovernmental entities, and with a group of regional bodies under the Global Standards Cooperation Group in setting these technical standards.

The exponential growth of the Internet has played a major role in globalization and the diffusion of ideas, culture, and technology. The Internet has

also raised a host of new governance rules and new types of authorities, a striking case in global governance and modes of governance. During the 1990s, the Internet was really the product of a small epistemic community of technical and politicized users. Internet governance was led by the Internet Corporation for Assigned Names and Numbers (ICANN). Beginning in 1998 was a California-based organization that managed the Internet's address system, allocated IP addresses, and the reallocation of names, and setting rules for domain names.

Very quickly, states and IGOs became involved. In 2001, the ITU succeeded in getting communication technology to the United Nations World Summit on the Information Society, an argument that funding for telecommunications for developing countries to bridge the digital divide. The summit convened the World Summit on the Information Society in 2005, bringing together all the key actors in the Internet-related issues.

The WSIS stimulated two developments: one to broaden the issue of Internet infrastructure and development and equity for developing countries, and the other to give the ITU a greater role in Internet governance. The final outcome was the World Summit on the Information Society Forum, a multistakeholder arena with an advisory group with members from governments, industry, and public civil society organizations. The ITU coordinated a number of activities, including the maintenance of the Internet communication technology initiatives. While the WSIS, state and IGO activity has been transformed into an increasingly global area of multistakeholder governance.

As discussed earlier, the ITU also has a number of structures for specialized, functional areas, including technical experts among the member states, as well as in the bureau (secretariat) and in the plenary, every three to four years, deal with technical issues. The conferences, held every four years, are attended by plenary council members, the secretary general, sector bureau directors, and member states. The plenary may also revise the ITU Convention and deal with any other questions that arise.

The origins, functions, and nature of the ITU tend to reflect the nature of the issues it addresses.



also raised a host of new governance issues and the need for new sets of rules and new types of authorities to enforce those rules. What makes it a striking case in global governance is the predominance of private authorities and modes of governance. During the Internet's early years, the rules were really the product of a small epistemic community of technologically sophisticated users. Internet governance once involved just one key actor, the Internet Corporation for Assigned Names and Numbers (ICANN), which beginning in 1998 was a California-based, nonprofit group that managed the Internet's address system, allocating domain names, establishing rules for reallocation of names, and setting regulations for selling domain names.

Very quickly, states and IGOs came to play an increasing role. Beginning in 2001, the ITU succeeded in linking promotion of information and communication technology to the UN Millennium Declaration based on the argument that funding for telecommunication infrastructure was essential for developing countries to bridge the global digital divide. The UN convened the World Summit on the Information Society (WSIS) in 2003 and 2005, bringing together all the key stakeholders to address a broad range of Internet-related issues.

The WSIS stimulated two developments. Civil society actors fought to broaden the issue of Internet infrastructure and governance to questions of development and equity for developing countries. States and IGOs like the ITU sought a greater role in Internet governance more generally, challenging ICANN. The final outcome was the creation of the Internet Governance Forum, a multistakeholder arena within the UN system. That forum includes an advisory group with members from IGOs, the commercial private sector, and public civil society organizations whose task is to discuss issues of Internet governance. The ITU coordinates a number of WSIS follow-up activities, including the maintenance of a database of information and communication technology initiatives. What began in the nineteenth century as a state and IGO activity has been transformed in the twenty-first century into an increasingly global area of multistakeholder governance.

As discussed earlier, the ITU along with the UPU pioneered a number of structures for specialized, functional IGOs, namely the predominance of technical experts among the member state delegates to periodic conferences as well as in the bureau (secretariat). ITU administrative conferences, held every three to four years, deal with technical issues, while plenipotentiary conferences, held every four years, establish budgets and elect administrative council members, the secretary-general and deputy secretary-general, sector bureau directors, and members of the Radio Regulations Board. They may also revise the ITU Convention, approve strategic plans, and deal with any other questions that arise.

The origins, functions, and nature of other functional organizations tend to reflect the nature of the issues they were established to address. In



that regard, the history of the International Labour Organization is quite different from that of either the WHO or the ITU.

### *Labor Issues and the International Labour Organization*

The origins of the ILO can also be traced to the nineteenth century, when growing problems with industrialization drove two industrialists, Welshman Robert Owen and Frenchman Daniel Legrand, to advocate an organization to protect workers from abuses. Long factory hours, poor working conditions, and low wages led to the formation of labor unions to advance the rights of workers. In 1913, the International Federation of Trade Unions was founded to address these grievances on a transnational basis. With the expansion of the right to vote in many European countries, labor assumed growing political importance, and Owen and Legrand's ideas led to adoption of the ILO constitution in 1919 by the Paris Peace Conference, based on the belief that world peace could only be accomplished by attention to social justice (see Murphy 1994). Thus the ILO became an autonomous organization within the League of Nations structure, an institutional model utilized for other functional organizations related to the United Nations.

Important principles articulated in the preamble to the ILO constitution detail the humanitarian, political, and economic motivations for its establishment. The first is based on the humanitarian recognition that "conditions of labour exist involving . . . injustice, hardship and privation to large numbers of people." Such persistent injustices pose a political threat, with the potential to upset international peace and harmony. Second, there is an economic implication that "the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries." Yet ironically, organized labor, while agreeing with the general goals, actually opposed the establishment of the ILO, believing that the proposed organization was too weak and lacked the capacity to set labor standards.

Setting standards for treatment of workers through the conclusion of international conventions is the ILO's major activity. Between 1919 and 1939, the ILO approved sixty-seven conventions, covering such issues as hours of work, maternity protection, minimum age, and old-age insurance, and in 1926 it was the first international organization to establish procedures for monitoring human rights within states—in this case, workers' rights. In 1926 it also instituted the system of annual meetings of the Committee of Experts to examine state reports on treaty implementation.

As of 2014, the ILO had concluded more than 190 conventions and supplementary protocols, of which 155 have received sufficient ratifications to come into force. It has also made more than 200 nonbinding recommendations. Among the eight conventions designated "fundamental" are

those concerning elimination of forced association and the right to collective association in employment, and the abolition of child labor. These conventions have ratified all of these conventions, including the conventions banning forced labor, also designated as "priority" instruments because of their importance in the international system.

The ILO, headquartered in Geneva, was established as an internationalized agency in 1946. It accomplished this through the International Labour Conference and the International Labour Office—each of which has a unique structure involving government officials, employers, and workers. The integration of governmental and non-governmental elements in this unique approach not duplicated in any other international organization. The tripartite structure was controversial because of no clear differentiation between government and non-governmental members. In the 1990s, the tripartite structure has declined in numbers of individuals in labor organizations, and NGOs advocating on behalf of non-governmental workers have declined in numbers, and playing key monitoring roles in the tripartite structure and thus losing power. Thus, while the tripartite structure has tensions between different parts of civil society, it remains a unique structure.

The International Labour Conference is the tripartite governing body. It meets annually, with each government represented by two individuals: two government officials and two workers. The conference, with each government represented by two individuals, adopts international labor standards, adopts reports compiled by the Committee of Experts, and elects the Governing Body.

The Governing Body, the executive body, sets the program and the budget and elects the director-general. It consists of fifty-six members representing two employers, and fourteen worker groups. The members are elected by "importance" (Brazil, China, France, Germany, the United Kingdom, and the United States) and the other government members are elected by their constituent groups.

The International Labour Office is the secretariat of the organization, under the leadership of the director-general, who is elected for a five-year term. While the ILO employs about 2,700 staff members, it is located outside of Geneva in its forty field offices.



International Labour Organization is quite different from the International Union of Pure and Applied Chemistry (IUPAC).

**International Labour Organization**

In the nineteenth century, when Owen and Legrand, to advocate an organization of labor unions to advance international Federation of Trade Unions on a transnational basis. In many European countries, labor unions were formed. Owen and Legrand's ideas led to the Paris Peace Conference, which was to be accomplished by attending to the needs of the world. Thus the ILO became an international organization related to the League of Nations.

The preamble to the ILO constitution states the economic motivations for its establishment: "The recognition that 'conditions of hardship and privation to large numbers of people pose a political threat, with its danger to harmony. Second, there is an international recognition to adopt humane conditions to other nations which desire to do so.' Yet ironically, organized labor actually opposed the establishment of the organization was too weak to do so."

Through the conclusion of the Geneva Convention, activity. Between 1919 and 1920, covering such issues as child labor, and old-age insurance, the organization to establish procedures—in this case, workers' annual meetings of the Committee for the implementation.

More than 190 conventions and 200 nonbinding recommendations designated "fundamental" are

those concerning elimination of forced and compulsory labor, freedom of association and the right to collective bargaining, elimination of discrimination in employment, and the abolition of child labor. More than 138 states have ratified all of these conventions; the United States has ratified but two: the conventions banning forced labor and child labor. Four conventions are also designated as "priority" instruments and referred to as "governance" conventions because of their importance to the international labor standards system.

The ILO, headquartered in Geneva, Switzerland, became a UN specialized agency in 1946. It accomplishes its work through three major bodies—the International Labour Conference, the Governing Body, and the International Labour Office—each of which includes a tripartite representation structure involving government officials, employers, and workers. This integration of governmental and nongovernmental representatives is a unique approach not duplicated in any other IGO. During the Cold War, this tripartite structure was controversial, since in communist states there was no clear differentiation between government, management, and labor. Since the 1990s, the tripartite structure has become controversial again with the declining numbers of individuals in labor unions and the increasing number of NGOs advocating on behalf of non-unionized workers, offering policy advice, and playing key monitoring roles. Yet NGOs have no official position in the tripartite structure and the labor unions do not want to share power. Thus, while the tripartite structure provides greater representation, tensions between different parts of civil society remain.

The International Labour Conference is the ILO's main decision-making body. It meets annually, with each member state represented by four individuals: two government officials, and one each from labor and management. The conference, with each individual voting independently, sets international labor standards, adopts the budget, and hears compliance reports compiled by the Committee of Experts.

The Governing Body, the executive arm of the ILO, establishes programs and the budget and elects the director-general. It is composed of fifty-six members representing twenty-eight governments, fourteen employers, and fourteen worker groups. Ten "states of chief industrial importance" (Brazil, China, France, Germany, India, Italy, Japan, Russia, the United Kingdom, and the United States) are ensured governmental seats; the other government members are elected by the International Labour Conference every three years. Employer and worker members are elected by their constituent groups.

The International Labour Office forms a permanent secretariat under the leadership of the director-general, who serves for a five-year renewable term. While the ILO employs about 2,700 officials, more than one-third are located outside of Geneva in its forty field offices.



Among functional organizations, the ILO is regarded as having the most effective system of monitoring, with the potential for enforcement. Governments report on practices covered under the various ILO conventions; ILO staff then prepare comments for the Committee of Experts and may use direct contacts, reports of other UN bodies, and reports from both employer and worker groups to supplement government reports. The findings of the Committee of Experts, although not binding on states, are then conveyed to a conference committee for a final report. In some cases, the ILO may form a commission of inquiry consisting of three independent members to undertake an investigation of a complaint of persistent non-compliance and to recommend measures to be taken to address the problem. Eleven such commissions have been established over the ILO's history. For example, in 1998, a commission of inquiry found that Myanmar had not complied with the forced labor conventions, which led to condemnation and denial of ILO development funds. In 2000, Article 33 was invoked for the first time with a request to the International Labour Conference to take measures against Myanmar. The norm, however, is not to utilize coercive measures, but to work with the country in question and offer technical assistance programs to facilitate compliance. A more recent complaint, in 2010, concerns Zimbabwe's failure to comply with the conventions on freedom of association and right to organize and collective bargaining.

While ILO processes have not substantially changed over time, the organization's jurisdiction has broadened. Initially, standards to improve the working conditions of male wage labor were the dominant focus. Standards then were expanded to include occupational health and safety. In recent years, the ILO has approved conventions for previously unrepresented and often nonorganized workers: women, migrant and domestic workers, and indigenous and tribal peoples. The platform of action labeled "Decent Work" aims to address the inequalities resulting from globalization by focusing on job creation, rights at work, social protection and dialogue, and gender quality.

The ILO continues to be the primary specialized, functional organization devoted to labor issues and standards. Increasingly, however, those issues overlap with trade issues and the work of the World Trade Organization (WTO). A number of states and many NGOs argue that trade rules and labor standards should be linked. Since the WTO has more "teeth" than the ILO, namely the power to impose sanctions, they want the WTO to be used for promoting labor standards (Elliott 2000). Yet, arguing that there is no direct link between trade and labor standards, many developing countries do not want to erode their competitive advantage, namely cheap labor. To them, the proper forum for dealing with labor issues is the ILO. Still, two major regional organizations have demonstrated the links between

trade and labor issues: the European Union's history of addressing labor issues through the European Agreement, which has a side agreement on Labor Cooperation.

Although there is a long history of international cooperation on labor issues, other areas of economic international cooperation since the foundations of international

### *The Origins of the Bretton Woods System*

As the industrial revolution eroded traditional trade, capital flows, and price controls, initiatives were private, some industry-based cartels were common, hence control prices; many became government allocation schemes. Agreements were well as for various commodities. Generally, these were private industry-organized cartels of the 1960s, such as the Exporting Countries (OPEC). Sometimes signed by governments, such arrangements could be enforced.

Neither private cartels nor government arrangements could be enforced of the worldwide Great Depression, millions of people out of work in Europe, but the prices of most raw materials in Europe's African and Asian colonies of Latin America to suffer. The United States in its Smoot-Hawley "neighbor" policies, raising barriers to trade, set up to deal with economic issues during the depression unfolded.

In response to the depression, the United States to provide economic assistance, a reciprocal lowering of barriers to trade was realized in 1944-1945 that would require more capital than was available to raise. The idea of an international organization to support economic develop-



ons, the ILO is regarded as having the  
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covered under the various ILO conven-  
ments for the Committee of Experts and  
other UN bodies, and reports from both  
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although not binding on states, are then  
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from 2000). Yet, arguing that there is  
standards, many developing coun-  
tive advantage, namely cheap labor.  
with labor issues is the ILO. Still,  
e demonstrated the links between

trade and labor issues: the European Union, which has a long and success-  
ful history of addressing labor rights, and the North American Free Trade  
Agreement, which has a side agreement on labor issues, the North Ameri-  
can Agreement on Labor Cooperation.

Although there is a long history of international governance efforts on  
labor issues, other areas of economic activity have only been the subject of  
international cooperation since the end of World War II. Here, we look at  
the foundations of international economic governance laid in the 1940s.

#### *The Origins of the Bretton Woods Institutions*

As the industrial revolution expanded, the need for managing increased  
trade, capital flows, and price fluctuations in raw materials grew. Some  
initiatives were private, some public. During the 1920s and early 1930s,  
industry-based cartels were created to coordinate product outputs and  
hence control prices; many became successful at price-fixing and market-  
allocation schemes. Agreements were reached for industrial products as  
well as for various commodities, including tin, natural rubber, and wheat.  
Generally, these were private initiatives, different from the government-  
organized cartels of the 1960s such as the Organization of Petroleum  
Exporting Countries (OPEC). Yet these earlier cartel arrangements were  
sometimes signed by governments, as their promoters realized that secure  
arrangements could be enforced only through state-to-state cooperation.

Neither private cartels nor governments were able to control the effects  
of the worldwide Great Depression of the 1930s, however. Not only were  
millions of people out of work and impoverished in the United States and  
Europe, but the prices of most raw materials also plummeted, causing the  
people in Europe's African and Asian colonies and in the independent coun-  
tries of Latin America to suffer greatly. Governments, starting with the  
United States in its Smoot-Hawley Tariff Act of 1930, adopted "beggar thy  
neighbor" policies, raising barriers to imports and causing world trade to  
collapse. But as noted earlier in the chapter, the League of Nations was not  
set up to deal with economic issues. Efforts to initiate international coop-  
eration as the depression unfolded failed, at least in part because of unwill-  
ingness by the United States to participate.

Faced with economic collapse, a number of US and British economists  
realized during the 1930s that international institutions were needed to help  
countries with balance-of-payments difficulties, to provide stable exchange  
rates and economic assistance, and to promote nondiscrimination in and  
reciprocal lowering of barriers to trade. The lesson was amplified by the  
realization in 1944–1945 that recovery and rebuilding after World War II  
would require more capital than war-ravaged countries alone could expect  
to raise. The idea of an international institution to mobilize foreign assis-  
tance to support economic development of poorer countries came from Chi-



nese political leader Sun Yat-sen's writings, Latin American officials, and US policymakers (Helleiner 2014). The decolonization process and the tripling of the number of states in the 1950s and 1960s would make development assistance the major priority for the World Bank. The dual role envisaged for the World Bank is still reflected in its official name: the International Bank for Reconstruction and Development (IBRD).

Recognizing the importance of reducing barriers to the flow of goods and capital and the value of international economic cooperation for its own well-being, the United States furnished the vision of an open international economy, the leadership to establish institutions, and the money to assist others. Henry Dexter White, chief international economist at the US Treasury from 1942 to 1944, and British economist John Maynard Keynes presented competing plans for economic governance at a conference held in Bretton Woods, New Hampshire, in 1944. In an effort to provide an independent, countervailing balance to US economic power, Keynes proposed a world central bank capable of regulating the flow of credit; he also favored the creation of a new international currency to facilitate lending to countries experiencing liquidity problems. White argued for a weaker agency that would promote the growth of international trade but preserve the central role of the US dollar in the international economy.

White's plan prevailed. The newly formed International Monetary Fund (IMF) would not be a world central bank, but would promote economic growth by providing financial stability for countries facing short-term balance-of-payments difficulties and thereby stimulating international trade. Over time, the US view about conditionality for assistance would also prevail and be greatly strengthened in the 1980s, as discussed in Chapter 8.

Ideas about how governance of trade should proceed likewise differed. At the Bretton Woods meetings, a comprehensive body, the International Trade Organization, was proposed to provide a general framework for trade rules and a venue for ongoing trade discussions. One contentious issue concerned the special problem of commodities. The British, under Keynes's influence, argued for international government-controlled buffer stocks of commodities to reduce detrimental price volatility. The United States opposed all such schemes. The details were left to the Havana Conference in 1948, when the charter for the proposed International Trade Organization was to be approved.

At the Havana Conference, other major differences surfaced. The United States favored extensive trade liberalization, while the Europeans, including the British, were more concerned with retaining their special preferential arrangements with their colonies and former colonies. Many developing countries, absent from earlier negotiations, took a strong stance in favor of schemes protecting commodity exporters. Cuba, Colombia, and

El Salvador each played a key role in producer actions. The efforts of the developing and the industrialized countries were often in conflict, and the consumer schemes in which world trade was too, was any discussion of the idea of a way to transfer economic resources. Such key differences, coupled with the protectionists and free-traders in the other industrialized countries, led to the establishment. The Havana Charter was

Trade governance then took on a new role for the participants in the ITO negotiations on Tariffs and Trade (GATT) as a result of organizational character, GATT negotiations from 1949 to 1995, with the international commodity policy and the World Trade Organization succeeded in creating a comprehensive trade organization, with its scope goes far beyond anything envisaged in the Havana Charter.

The three Bretton Woods institutions have addressed systemic weaknesses in economic governance. The World Bank and IMF are the only ones. In the late 1990s they operated largely independently. The World Bank has not become a specialized agency. The director-general participates in the United States for coordinating the disparate agencies. The governance roles of the World Bank, the IMF, and the ITO are discussed in Chapter 8. Institutional structures are discussed in Chapter 9. Other elements of global economic governance are discussed in Chapter 10.

### *The Food and Agriculture Organization and International Food Regime*

Efforts to create an international organization for agriculture began in the late nineteenth century. The International Agricultural Conference in 1905 in Rome that led to creation of the International Union of Agricultural Organizations, patterned after other early IGOs, had 40 member states (forty), a bureau, a secretary-general, and a committee of Intelligence and Plant Diseases, Genetically Modified Social Institutions. The institute published its first report in 1930 and provided crop reports and statistics. The institute affected the prices of agricultural staples. The institute is rebuilding agriculture and food supply. The United States hosted the UN Food and



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El Salvador each played a key role, advocating such policies as unilateral producer actions. The efforts of the developing countries failed, however, and the industrialized countries won, agreeing only to limited producer and consumer schemes in which voting power was equally balanced. Absent, too, was any discussion of the idea that trading schemes should be used as a way to transfer economic resources from the rich to the poor countries. Such key differences, coupled with major opposition from a coalition of protectionists and free-traders in the US Congress and lack of enthusiasm in other industrialized countries, led to the failure of the ITO before it was established. The Havana Charter was never ratified.

Trade governance then took on a different character as twenty-three of the participants in the ITO negotiations developed the General Agreement on Tariffs and Trade (GATT) as a temporary arrangement. Despite its lack of organizational character, GATT became the major venue for trade negotiations from 1949 to 1995, with an interim committee for coordinating international commodity policy and a small secretariat of 200 persons. The World Trade Organization succeeded GATT in 1995 as the world's comprehensive trade organization, with infrastructure for dispute settlement that goes far beyond anything envisaged in the 1940s.

The three Bretton Woods institutions were designed to address systemic weaknesses in economic governance and promote a liberal economic order. The World Bank and IMF are UN specialized agencies, but until the late 1990s they operated largely independent of the UN system. The WTO has not become a specialized agency, but has an arrangement whereby its director-general participates in the UN Chief Executives Board—the entity for coordinating the disparate agencies within the UN system. The evolving governance roles of the World Bank, IMF, and GATT/WTO and their institutional structures are discussed in depth in Chapters 8 and 9, along with other elements of global economic governance.

### *The Food and Agriculture Organization and International Food Regime*

Efforts to create an international organization for food and agriculture first began in the late nineteenth century. An international conference was held in 1905 in Rome that led to creation of the International Institute for Agriculture, patterned after other early IGOs with a general assembly of member states (forty), a bureau, a secretary-general, and bureaus of Agriculture Intelligence and Plant Diseases, General Statistics, and Economic and Social Institutions. The institute published the first agricultural census in 1930 and provided crop reports and statistics on imports and exports that affected the prices of agricultural staples. Recognizing the importance of rebuilding agriculture and food supplies at the end of World War II, the United States hosted the UN Food and Agricultural Conference in 1943



(even before the UN's own creation), which then led to the creation of the Food and Agriculture Organization (FAO) as one of the first UN specialized agencies in 1945.

The FAO's purposes include increasing agricultural productivity to eliminate hunger and improve nutrition, addressing problems of surpluses and shortages, establishing common standards, and harmonizing national agricultural policies with free trade principles. Based in Rome, it carries out basic research to enhance technical assistance in agriculture and acts as an information center for agricultural activities, including fisheries and forestry. During the 1960s, the FAO supported the development and dissemination of high-yield strains of rice and other grains, along with fertilizers, pesticides, and technical assistance, producing the "green revolution" for developing countries.

Two other food organizations are also UN specialized agencies and form additional parts of the international food regime: the World Food Programme (WFP), created in 1961, and the International Fund for Agricultural Development (IFAD), established in 1977. Since the 1980s, the programmatic thrust of the UN system's food and agricultural organizations has been to promote sustainable agricultural practices, rural development, and alleviation of acute and chronic hunger. These food institutions are discussed further in Chapter 9.

The WFP is the UN's operational arm in food assistance, delivering half of all food aid and the majority of emergency food aid in a given year. To accomplish this task, it enjoys extensive relationships with both civil society and private sector actors. Initially supported largely by the United States and Canada, the WFP's activities have grown exponentially as the need for emergency food supplies and development projects has soared. In 2012, the WFP spent \$1.10 billion, distributing 3.5 million tons of food to 90 million people in 80 countries, with a staff of over 13,000 employees, 90 percent of whom were in the field. The scale of humanitarian crises and food demands in late 2014 forced the WFP to temporarily suspend food aid for almost 2 million Syrian refugees. Because much of its work involves providing food aid in humanitarian crises, both conflict situations and natural disasters, the WFP works closely with the UN High Commissioner for Refugees (UNHCR) and the UN Office for the Coordination of Humanitarian Affairs (OCHA).

The FAO, IFAD, and WFP, like the WHO, have become connected to a large number of organizations—some global, some regional, some general-purpose, many very specialized, and some private—that are engaged in activities related to food and agriculture. These include the Agriculture and Development Assistance Committee, of the Organization for Economic Cooperation and Development (OECD), as well as the WTO and the WHO,

all of which have specific interests in the international food regime. The Codex Alimentarius Commission, created in 1961, sets guidelines, international standards, and codes of practice relating to food safety and pesticide residues to ensure fair practices in international trade.

In addition, there are private research institutes and foundations. The Consultative Group on International Agricultural Research, created in 1972, coordinates and funds research centers, such as the International Rice Research Institute in the Philippines. Both the Bill and Melinda Gates Foundation and the Rockefeller Foundation are funding the work of the International Center for Agricultural Research in Dry Areas (ICARDA) to help farmers in Africa and Central America improve their yields and reduce hunger and starvation. This "green revolution" to help developing-country farmers has been one of the most successful of the poorest regions of the world (WFP, 2008).

World food conferences and summits have brought together various countries to cooperate to eradicate hunger. For example, participants pledged to improve governance of global food systems, to engage all stakeholders, and to be proactive in addressing change on food security.

The multiplicity of organizations and the much overlap in responsibilities and functions for improving global governance for food security is discussed further in Chapter 9.

A very different type of function was created after World War I to address what we now call refugees, namely the problems created by displaced people from their homelands to escape war, religious persecution, and political oppression. Although displaced people have been a part of the world since time immemorial, until the twentieth century the notion of any international responsibility for resettling them in new homelands.

*The UNHCR and the International Convention on the Status of Refugees*  
The end of World War I led to unprecedented numbers of people as millions fled their homelands during the breakup of the Austro-Hungarian



all of which have specific interests and responsibilities that link them to the food regime. The Codex Alimentarius Commission, established by the FAO in 1961, sets guidelines, international standards, and codes of practice relating to food safety and pesticide residues to protect consumers' health and ensure fair practices in international agricultural trade.

In addition, there are private actors such as international and national research institutes and foundations as well as a host of NGOs. For example, the Consultative Group on International Agricultural Research (CGIAR), created in 1972, coordinates and oversees the work of fifteen research centers, such as the International Rice Research Institute, based in the Philippines. Both the Bill and Melinda Gates Foundation and the Howard G. Buffett Foundation are funding the WFP to buy surplus crops from poor farmers in Africa and Central America in order to feed WFP recipients facing hunger and starvation. This "purchase for progress" project is intended to help developing-country farmers produce more food and sell it in some of the poorest regions of the world. It is being tested in over twenty-one countries and represents a new public-private partnership (Wroughton 2008).

World food conferences and summits in 1974, 1996, 2002, and 2009 have brought together various constituencies and forged new principles of cooperation to eradicate hunger. At the 2009 World Food Summit, for example, participants pledged to increase investment in agriculture, to improve governance of global food issues in partnership with a variety of stakeholders, and to be proactive in addressing the effects of climate change on food security.

The multiplicity of organizations in the food regime has produced much overlap in responsibilities and some confusion, hence the calls for improving global governance for food security. The resulting "regime complex" is discussed further in Chapter 9.

A very different type of functional IGO first emerged at the end of World War I to address what we would now call humanitarian crises, namely the problems created by large numbers of people fleeing their homelands to escape war, religious persecution, famine, and revolution. Although displaced people have been a feature of international relations since time immemorial, until the twentieth century there had never been a notion of any international responsibility for helping refugees, including resettling them in new homelands.

#### *The UNHCR and the International Refugee Regime*

The end of World War I led to unprecedented numbers of displaced people as millions fled their homelands during the war or were left stateless with the breakup of the Austro-Hungarian, Russian, and Ottoman empires, the



Russian Revolution and ensuing civil war, and the creation of new nation-states in Central Europe. By 1920, it was evident that something more organized than private voluntary relief efforts was needed, particularly as states also had begun to introduce laws restricting immigration as well as national passports and other barriers to entry. It was also evident that the size of the refugee populations threatened regional security in Europe. As a result and under pressure from NGOs, the League of Nations established the Office of the High Commissioner for Refugees in 1921. The first commissioner, Fridtjof Nansen, a renowned Norwegian polar explorer, was mandated by the League to aid Russian refugees only, to spend League funds only for administration and not on actual relief, and to provide only temporary assistance. Limited as its mandate was, this was the first international organization formed to assist refugees and to define populations in need. Like many counterparts in early IGOs, Nansen used his post in innovative ways to expand the mandate by advocating for refugees, developing mechanisms to ensure their legal protection (e.g., the "Nansen passport," an internationally recognized document to facilitate travel), and cooperating with other international agencies.

Still, the efforts to adopt a universal definition of "refugee" and a convention failed in the early 1930s, and governments kept the mandate of the high commissioner limited. Budgetary restrictions and lack of cooperation as well as strong anti-immigration bias in most countries and high unemployment levels during the Great Depression meant there was little support for responding to refugee and human rights crises in the 1930s, particularly Jews fleeing persecution in Europe (Loescher, Betts, and Milner 2008: 9).

To address the problem of millions of displaced people during World War II, the Allied powers established the United Nations Relief and Rehabilitation Administration (UNRRA) in 1943 to provide emergency assistance in liberated areas. Its mandate, however, was limited to emergency assistance and promoting repatriation. It did not deal with the more complex problems arising from people fearing persecution if they were repatriated to countries that had come under Soviet occupation, or people needing resettlement in third countries. The UNRRA was abolished in 1947 as a result of heavy pressure from the United States, which was its primary funder, and was succeeded first by the International Refugee Organization (also heavily supported by the United States) and then by the UN High Commissioner for Refugees in 1950. Two important steps were accomplished during this short transition: the recognition of refugees' right not to be repatriated against their will (known as "non-refoulement") and the adoption of a universal definition of refugee that for the first time was linked to an individual's circumstances rather than membership in a particular group (Loescher, Betts, and

Milner 2008: 11). The UN Convention was adopted a year later, in 1951, and it has provided the basis for the UNHCR's mandate to assist refugees from forced repatriation and from ex-

A variety of developments have occurred over time. For one, while the refugee crisis was once thought to be a temporary product of the interwar period, it has only increased over time. The number of refugees has expanded from refugees fleeing war in Europe, China, Korea, and Vietnam to refugees fleeing war, civil unrest, and dire economic conditions. The UNHCR's mandate involved ensuring refugees' legal status and growth in numbers of refugees. The UNHCR's role in providing assistance to refugees has expanded. Since the Cold War's end, conflicts in Iraq, the Democratic Republic of Congo, and elsewhere have all displaced millions of people. These movements of peoples have often not met the terms of the convention, but also do not fall under the definition of refugees under the UNHCR's aegis since the late 1990s. Environmental refugees, who do not fit the definition of displaced peoples now is an extraordinary challenge.

To address the large and ongoing need for humanitarian relief, the UNHCR works closely with the WFP and UNESCO, as well as with the Red Cross and numerous NGOs that provide relief. The UNCHR has become the primary international agency for refugees. Michael Barnett and Martha Finnemore argue that the UNHCR, with its expanded authority, "has become the primary agency for refugees and their circumstances. It is the agency that lives and determine their fates." The UNHCR faces the challenges and dilemmas of the 21st century.

As illustrated by the creation of the UNHCR and other institutions, the international flow of refugees and the development of specialized and functional agencies for their relief and the evolution of elements of global governance and international adjudication were first seen in the late 19th and early 20th centuries and 1907 and thus began another era of international law and a growing variety of international



Milner 2008: 11). The UN Convention on the Status of Refugees was ratified a year later, in 1951, and along with the 1967 protocol to the convention has provided the basis for the UNHCR's mandate to protect refugees from forced repatriation and from exploitation in the host state.

A variety of developments have forced the UNHCR to adapt this mandate over time. For one, while the problem of refugees was once thought to be a temporary product of the end of World War II, the number of refugees has only increased over time and the UNHCR's scope of responsibilities has expanded from refugees fleeing communism in Eastern and Central Europe, China, Korea, and Vietnam, to African, Latin American, and Asian refugees fleeing war, civil unrest, authoritarian regimes, genocide, famine, and dire economic conditions. Where much of the UNHCR's early role involved ensuring refugees' legal protection under the convention, the growth in numbers of refugees in the 1980s forced it to take on a greater role in providing assistance to refugees in camps and protracted situations. Since the Cold War's end, conflicts in the former Yugoslavia, Afghanistan, Iraq, the Democratic Republic of Congo, Darfur, South Sudan, Syria, and elsewhere have all displaced seemingly ever larger numbers of people. These movements of peoples have included not only refugees under the terms of the convention, but also internally displaced persons (IDPs) who do not fall under the definition of refugees per se but have come under ad hoc UNHCR aegis since the late 1990s, and so-called economic and environmental refugees, who do not qualify either. The scale of the problem of displaced peoples now is extraordinary and a severe global governance challenge.

To address the large and ongoing demands for protection and humanitarian relief, the UNHCR works with UN specialized agencies such as the WFP and UNESCO, as well as with the International Committee of the Red Cross and numerous NGOs that are equipped to meet humanitarian needs. The UNCHR has become the public advocate for all displaced peoples. As Michael Barnett and Martha Finnemore (2004: 120) note, not only can the UNHCR, with its expanded authority, "shape how the world understands refugees and their circumstances," but it can also, potentially, "control their lives and determine their fates." Chapter 10 explores further the governance challenges and dilemmas of the current refugee crisis.

As illustrated by the creation of the WHO, the ILO, the Bretton Woods institutions, the international food regime, and the UNHCR, the development of specialized and functional organizations has been a key trend in the evolution of elements of global governance. Similarly, institutions for international adjudication were first created by the Hague Conferences of 1899 and 1907 and thus began another trend, one that has led to the creation of a growing variety of international courts for dispute settlement.



**International Courts for Adjudication and Dispute Settlement**

The second Hague Conference, in 1907, established the Permanent Court of Arbitration as discussed earlier in the chapter—the first standing institution to settle international disputes through binding decisions based on international law. This laid the foundations for both the Permanent Court of International Justice (PCIJ) under the League of Nations, and its successor, the International Court of Justice (ICJ). Over the century since, there has been an increasing legalization of international issues, a corresponding increase in international courts, and an increased willingness by developing countries and nonstate actors, especially since the Cold War’s end, to use international judicial bodies. There are now more than twenty permanent judicial institutions and approximately seventy other international institutions that exercise judicial or quasi-judicial functions (see the website of the Project on International Courts and Tribunals, [www.pict-pcti.org](http://www.pict-pcti.org)). This represents a substantial shift in what Karen Alter (2014: 4–5) refers to as the “new international judicial architecture,” wherein courts are not only resolving interstate disputes, but also assessing state compliance with international law and reviewing the legal validity of state and international legislative and administrative acts. Many of what she calls “new-style” courts have compulsory jurisdiction and allow nonstate actors to initiate litigation. That makes them “new political actors on the domestic and international stage” who because of their international nature are able to “circumvent domestic legal and political barriers and to create legal change across borders.” Their legal nature allows them to “provoke political change through legal reinterpretation and . . . to harness multilateral resources to knit together broader constituencies of support.” Equally significant is the volume of binding rulings issued by the growing number of international courts—some 37,000, more than 90 percent of which have been issued since 1990.

Both older-style international courts and newer ones are characterized by the independence of their judges, whose power comes from their mandate to interpret international law. They adjudicate disputes between two or more entities, at least one of which is a state or IGO, using established rules of procedure, and provide a legally binding ruling (Alter 2014: 70). Figure 3.3 illustrates both the number and the variety of contemporary international courts.

**From the PCIJ to the ICJ**

The Covenant of the League of Nations, in Article 14, established the Permanent Court of International Justice. Judges representing major world legal systems were elected by the League’s Council and Assembly. Unlike arbitral tribunals, the PCIJ was permanent, rules were fixed in advance, judgments were binding on parties, and proceedings were public. It could provide advisory opinions as well as binding decisions. The PCIJ, however,

Figure 3.3 Selected International a

- *Courts with Universal Scope*  
International Court of Justice  
International Criminal Court  
International Tribunal for the Law  
Permanent Court of Arbitration  
World Bank Centre for the Settlement of  
World Trade Organization Dispute  
Settlement Body and the Appellate
- *Ad Hoc Criminal Tribunals*  
International Criminal Tribunal for  
International Criminal Tribunal for
- *Regional Courts*  
African Court of Justice  
Caribbean Court of Justice  
Central American Court of Justice  
Court of Justice of the Andean Community  
Court of Justice of the European Union  
Economic Community of West African States
- *Specialized Regional Courts*  
African Court on Human and Peoples Rights  
Court of Justice of the Benelux Economic Union  
Court of Justice of the Common Law  
Court of Justice of the European Union  
European Court of Human Rights  
Inter-American Court of Human Rights
- *Private International Arbitration*  
International Chamber of Commerce  
London Court of International Arbitration

was never integrated into the League of Nations, and thus, the United States was not the other. Thus, the United States joined the League in 1931, but not a League member. Between 1913 and 1928, the PCIJ rendered twenty-nine contentious cases between states and seven advisory opinions. Hundreds of cases came under its jurisdiction upon it to settle disputes between states. The PCIJ helped to clarify key issues of international law for its successor, the International Court of Justice. The PCIJ decisions and procedures in contentions were continued by the ICJ. The International Court of Justice in The Hague, Netherlands, is a major judicial organ of the United Nations, and its members of the United Nations are, through the ICJ, the judicial arm of the United Nations. The ICJ is one of the other major organs for ensuring the



**Figure 3.3 Selected International and Regional Courts**

- *Courts with Universal Scope*
  - International Court of Justice
  - International Criminal Court
  - International Tribunal for the Law of the Sea
  - Permanent Court of Arbitration
  - World Bank Centre for the Settlement of Investment Disputes
  - World Trade Organization Dispute Settlement Unit (includes the Dispute Settlement Body and the Appellate Body)
- *Ad Hoc Criminal Tribunals*
  - International Criminal Tribunal for Rwanda
  - International Criminal Tribunal for the Former Yugoslavia
- *Regional Courts*
  - African Court of Justice
  - Caribbean Court of Justice
  - Central American Court of Justice
  - Court of Justice of the Andean Community
  - Court of Justice of the European Union and General Court
  - Economic Community of West African States Court of Justice
- *Specialized Regional Courts*
  - African Court on Human and Peoples' Rights
  - Court of Justice of the Benelux Economic Union
  - Court of Justice of the Common Market for Eastern and Southern Africa
  - Court of Justice of the European Free Trade Association
  - European Court of Human Rights
  - Inter-American Court of Human Rights
- *Private International Arbitration*
  - International Chamber of Commerce International Court of Arbitration
  - London Court of International Arbitration

was never integrated into the League. States could participate in one and not the other. Thus, the United States was a party to the PCIJ beginning in 1931, but not a League member. Between 1922 and 1940, the PCIJ decided twenty-nine contentious cases between states and handed down twenty-seven advisory opinions. Hundreds of treaties and conventions conferred jurisdiction upon it to settle disputes among parties. Many PCIJ decisions helped to clarify key issues of international law and laid a solid foundation for its successor, the International Court of Justice, which refers directly to PCIJ decisions and procedures in conducting its business.

The International Court of Justice, with fifteen justices headquartered in The Hague, Netherlands, is a major organ of the United Nations. All members of the United Nations are, therefore, parties to the ICJ Statute. As the judicial arm of the United Nations, the ICJ shares responsibility with the other major organs for ensuring that the principles of the UN Charter



are followed. Like the PCIJ, the International Court of Justice affords member states an impartial body for settling legal disputes and gives advisory opinions on legal questions referred to it by international agencies. The ICJ is discussed in more detail in Chapter 4.

### *Regional Courts*

With the growth of regional organizations, discussed in Chapter 5, there has been a corresponding proliferation of regional courts and judicial-like bodies, most of which deal with economic or human rights issues. The European Court of Justice (ECJ) is a key part of the European Union—the most legalized of all IGOs—and a key actor in Europe's process of integration over almost six decades. It has the power to interpret the various EU treaties and secondary legislation, as well as to rule on disputes between individuals, corporations, states, and EU institutions. The ECJ is one of the most active international courts, issuing hundreds of binding rulings each year. It is discussed further in Chapter 5.

As Figure 3.3 makes clear, Africa, Latin America, and Europe all have a variety of regional courts. All three regions have human rights courts; and all have multiple economic courts. The absence of courts in either the Middle East or Asia is noteworthy.

Many regional courts fit the description of “new-style” international courts, as they have compulsory jurisdiction and provide access for non-state actors such as private litigants and supranational prosecutorial bodies (Alter 2014: 82). The former has been accomplished by making jurisdiction a condition of community membership rather than an opt-in or opt-out choice as it is for the ICJ. And, as Alter (2014: 86) notes, many of these courts have undergone significant design changes since 1990. For example, the Economic Community of West African States (ECOWAS) Court of Justice was originally established to address economic issues, but in 2005 gained jurisdiction over human rights violations and now provides direct access for private litigants.

### *Specialized Courts and Tribunals*

Among the specialized international courts are the ad hoc criminal tribunals for the former Yugoslavia and Rwanda, established by the UN Security Council in the 1990s, and the International Criminal Court, which came into existence in 2002. These are both discussed in Chapter 10. Some special courts and tribunals are tied to UN specialized agencies, such as the ILO's Administrative Tribunal and the World Bank's International Centre for the Settlement of Investment Disputes (ICSID). The International Tribunal for the Law of the Sea was established by the UN Convention on the Law of the Sea to adjudicate disputes relating to that particular convention. It is open to both state parties to the convention and nonstate entities such

as IGOs and state and private entities. International Arbitration ruled in favor of China's territorial claims in the South China Sea Tribunal, despite China's refusal to accept the ruling.

The ICSID and the WTO's Dispute Settlement Body are noteworthy. The former is an international institution that provides facilities for dispute arbitration between states and individuals who are citizens of other member states. It is not a treaty, but once the parties agree to its jurisdiction, consent. Often agreements between states include a provision stipulating that disputes between them will be resolved through its activities have expanded to include investment and arbitration law. These are discussed in Chapter 9.

### *Private International Adjudication*

As economic globalization has brought more investment disputes have become the domain of intergovernmental institutions for dispute resolution. ICSID, the growth of such dispute resolution approaches. There are now more than 100 cases with caseloads doubling every year.

Generally, private arbitration procedures are established for each case. Naturally, private arbitration awards are confidential. The London Court of International Arbitration, one of the oldest such bodies, established procedures for select arbitrators for private parties. In other groups, the most active is the International Court of Arbitration, dating back to 1900. It has handled 19,000 cases since then, involving parties from 76 countries. Increased international trade has led to several trends: (1) international law's expansion beyond state jurisdiction; (2) state efforts to expand the availability and jurisdiction of international adjudication; and (3) massive human rights conflicts that drove creation of arrangements for human rights and crimes against humanity. As one scholar (2009), concludes, “The enormous expansion of international judiciary is the single most significant post-Cold War age.”



as IGOs and state and private enterprises. In 2014 the Permanent Court of International Arbitration ruled that the Philippines could take its case disputing China's territorial claims in the South China Sea to the Law of the Sea Tribunal, despite China's refusal to participate in legal proceedings.

The ICSID and the WTO's Dispute Settlement Body are particularly noteworthy. The former is an autonomous World Bank entity that provides facilities for dispute arbitration between member countries and investors who are citizens of other member countries. Submission of disputes is voluntary, but once the parties agree to arbitration, neither may withdraw its consent. Often agreements between host countries and investors include a provision stipulating that disputes will be sent to the ICSID. In recent years, the number of cases submitted to the ICSID has increased significantly and its activities have expanded to include consultations with governments on investment and arbitration law. The WTO's dispute settlement procedures are discussed in Chapter 9.

#### *Private International Adjudication*

As economic globalization has broadened and deepened, cross-border trade and investment disputes have become more common. Although there are intergovernmental institutions for settlement of such disputes, such as the ICSID, the growth of such disputes has led to the establishment of private settlement approaches. There are upward of a hundred different forums, with caseloads doubling every year.

Generally, private arbitration procedures are flexible, with rules established for each case. Naturally, proceedings are held in private and the awards are confidential. The London Court of International Arbitration is one of the oldest such bodies, established in 1892. Its main function is to select arbitrators for private parties requesting arbitration. Among such groups, the most active is the International Chamber of Commerce's International Court of Arbitration, dating from 1923. It has handled more than 19,000 cases since then, involving parties and arbitrators from 180 countries. In 2012, almost 500 cases were adjudicated by arbitrators drawn from 76 countries. Increased international and regional adjudication reflects several trends: (1) international law's expansion into domains previously subject only to state jurisdiction; (2) state and nonstate actors' willingness to expand the availability and jurisdiction of courts and tribunals; (3) the growth of regional economic arrangements and transactions that require adjudication; and (4) massive human rights violations in post-Cold War conflicts that drove creation of arrangements for dealing with war crimes and crimes against humanity. As one legal analyst, Cesare Romano (1999: 709), concludes, "The enormous expansion and transformation of the international judiciary is the single most important development of the post-Cold War age."



\* \* \*

The foundations of contemporary institutions of global governance have evolved over time, from states themselves and a rudimentary set of international rules to an increasingly complex network of international organizations. As we have explored in this chapter, the nineteenth century set a series of precedents for the development of intergovernmental organizations. The twentieth century was marked by the rapid proliferation of IGOs and international adjudicatory institutions. The twenty-first century is already noted for the further evolution and proliferation of these and new types of institutions to meet the growing needs for global governance. The center for much of that activity is still the United Nations system. It is to this we turn in Chapter 4.

### Suggested Further Reading

- Alter, Karen J. (2014) *The New Terrain of International Law: Courts, Politics, Rights*. Princeton: Princeton University Press.
- Betts, Alexander, Gil Loescher, and James Milner. (2012) *The United Nations High Commissioner for Refugees (UNHCR): The Politics and Practice of Refugee Protection Into the Twenty-First Century*. 2nd ed. New York: Routledge.
- Claude, Inis L., Jr. (1964) *Swords Into Plowshares: The Problems and Progress of International Organization*. 3rd ed. New York: Random House.
- Harman, Sophie. (2012) *Global Health Governance*. London: Routledge.
- Helleiner, Eric. (2014) *Forgotten Foundations of Bretton Woods: International Development and the Making of the Postwar Order*. Ithaca: Cornell University Press.
- Mazower, Mark. (2013) *Governing the World: The History of an Idea, 1915 to the Present*. New York: Penguin.
- Murphy, Craig N. (1994) *International Organization and Industrial Change: Global Governance Since 1850*. New York: Oxford University Press.
- Northledge, F. S. (1986) *The League of Nations: Its Life and Times, 1920–1946*. New York: Holmes and Meier.
- Steil, Benn. (2014) *The Battle of Bretton Woods: Keynes, White, and the Making of a New World Order*. Princeton: Princeton University Press.

### Internet Resources

- Food and Agriculture Organization: [www.fao.org](http://www.fao.org)
- International Centre for the Settlement of Investment Disputes: [www.icsid.worldbank.org](http://www.icsid.worldbank.org)
- International Labour Organization: [www.ilo.org](http://www.ilo.org)
- International Telecommunication Union: [www.itu.int](http://www.itu.int)
- Project on International Courts and Tribunals: [www.pict-pecti.org](http://www.pict-pecti.org)
- UN High Commissioner for Refugees: [www.unhcr.org](http://www.unhcr.org)
- UN system: [www.unsystem.org](http://www.unsystem.org)
- Universal Postal Union: [www.upu.int](http://www.upu.int)
- World Food Programme: [www.wfp.org](http://www.wfp.org)
- World Health Organization: [www.who.org](http://www.who.org)

## The UN Centerpiece of

Since World War II, the UN has become the centerpiece of global governance. It is the only universal membership, and its focus is on global governance issues. The UN is, in many ways, the centerpiece of global governance. Among its functions are the creation of principles; it has created other IGOs such as the Environment Programme, as well as various programs; it has sponsored global conferences; it is a catalyst for global policy networks. The UN, in short, is the central site of global governance. The General Assembly is the center stage of the UN, with its opening of each fall assembly session drawing attention from small and large countries to address all the nations of the world.

The UN Security Council is the primary legitimizer of international law. This is what made the 2003 invasion of Iraq so important. Would the Council have acted differently? Since the Cold War's end, the Council has included systematic human rights issues, such as the flows, and HIV/AIDS. It has acted with legislative authority in its imposition of sanctions, and responses to terrorist attacks for member states. In 2011, when the UN failed to protect Libyan civilians, many observers noted a greater willingness to intervene in the future. In any resolution, however, during the 2011 intervention with its huge loss of civilian lives in Libya, the countries, made clear that inconsistency is not the norm.