



# LAW 831: INTERNATIONAL REFUGEE & ASYLUM LAW & POLICY

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# INTERNATIONAL LAW & THE REFUGEE CONVENTION 1951/1967: Core Ideas & Definitions

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August 28-29, 2017: Week 2

# CONTENTS

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***1. Readings***

**2. Structure of International Law & Governance: Sovereignty, IL Domains, Sources & Subjects, Contemporary Erosions**

**3. Refugee Convention: *Definition of the Refugee***

**4. Explaining (Walt): IR/Geopolitical theories—Role of migration trends?**

# READINGS

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- *Goodwin-Gill Oxford UP companion website*
- **Refworld:** <http://www.refworld.org/docid/3be01b964.html>
- 1. Goodwin-Gill, Ch1: The Refugee in International Law (pp. 1-14);
- 2. United Nations Refugee Convention 1951 (begin); Refworld
  - Bring your reading journal (annotated bibliography) to class with thesis, key points & analysis
  - **Question:** “Basic instruments” or hard/soft law? Policy? Organizational entities?



# CHAPTER 1.

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## LAST TIME: GLOBAL TRENDS

# CH I. LAST TIME: GLOBAL TRENDS

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## Why study the international legal dimensions to the movement of peoples?

### Many reasons...

- People on the move today in unprecedented numbers—not seen since WWII and Refugee Convention in 1951: 65M displaced; 21M refugees; most kids
- Developing World/Global South is shouldering **burden** in hosting nations and sending nations
- **Globalization** & transportation/information revolutions made these questions inevitable.
- Migration has always been a **preoccupation of the IC**—since the UN Charter, as important as peace, security, territorial integrity
- Getting migration right defines the governance strength of a **state—sovereign integrity**



**65.3 million**  
forcibly displaced people worldwide



Refugees

**21.3 million**

16.1 million under UNHCR mandate

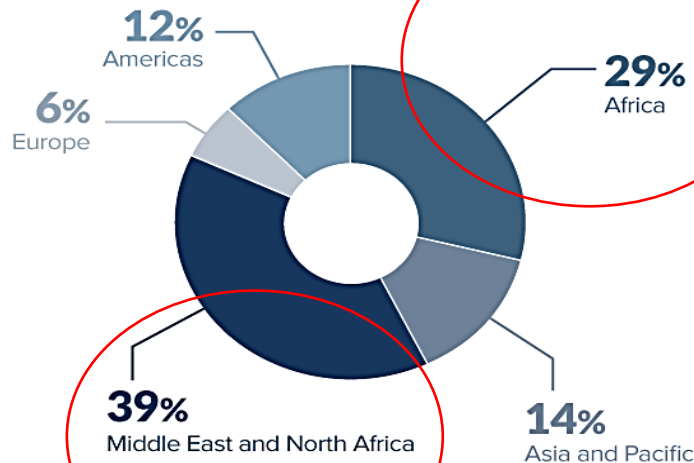
5.2 million Palestinian refugees registered by UNRWA



Stateless people

**10 million**

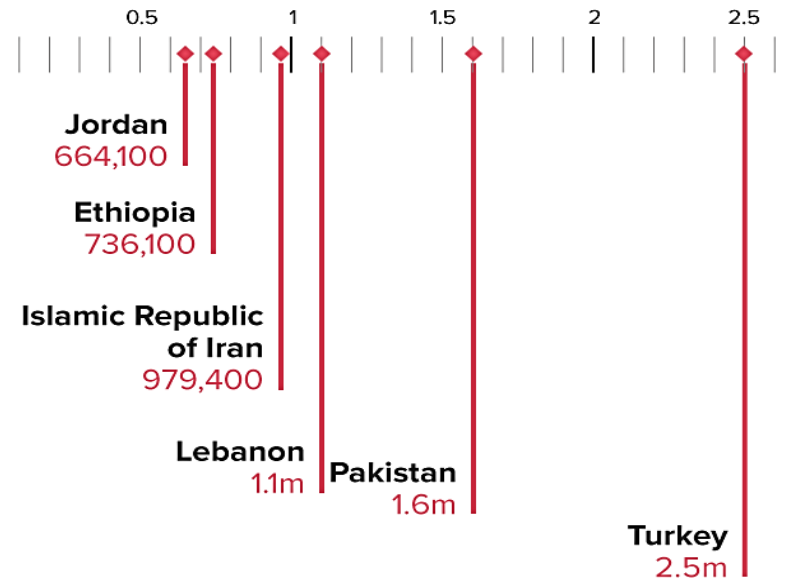
### Where the world's displaced people are being hosted



**54%** of refugees worldwide came from three countries



### Top hosting countries



**33,972** people

a day forced to flee their homes because of conflict and persecution

**9,700** staff

UNHCR employs 9,700 staff  
(figures from December 2015)

**126** countries

We work in 126 countries

We are funded almost entirely by voluntary contributions, with 86 per cent from governments and the European Union.

# Why the mobility? Proximate & long-term causes?

## Causes indicate potential solution areas...

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- Conflict & postconflict transition
- Persecution, Oppression
- Economics
- Climate change
- Governance & repression
- Lack of rule of law
- Globalization: economic integration, information & transportation revolutions



# Ch 2. What role can law and policy play?

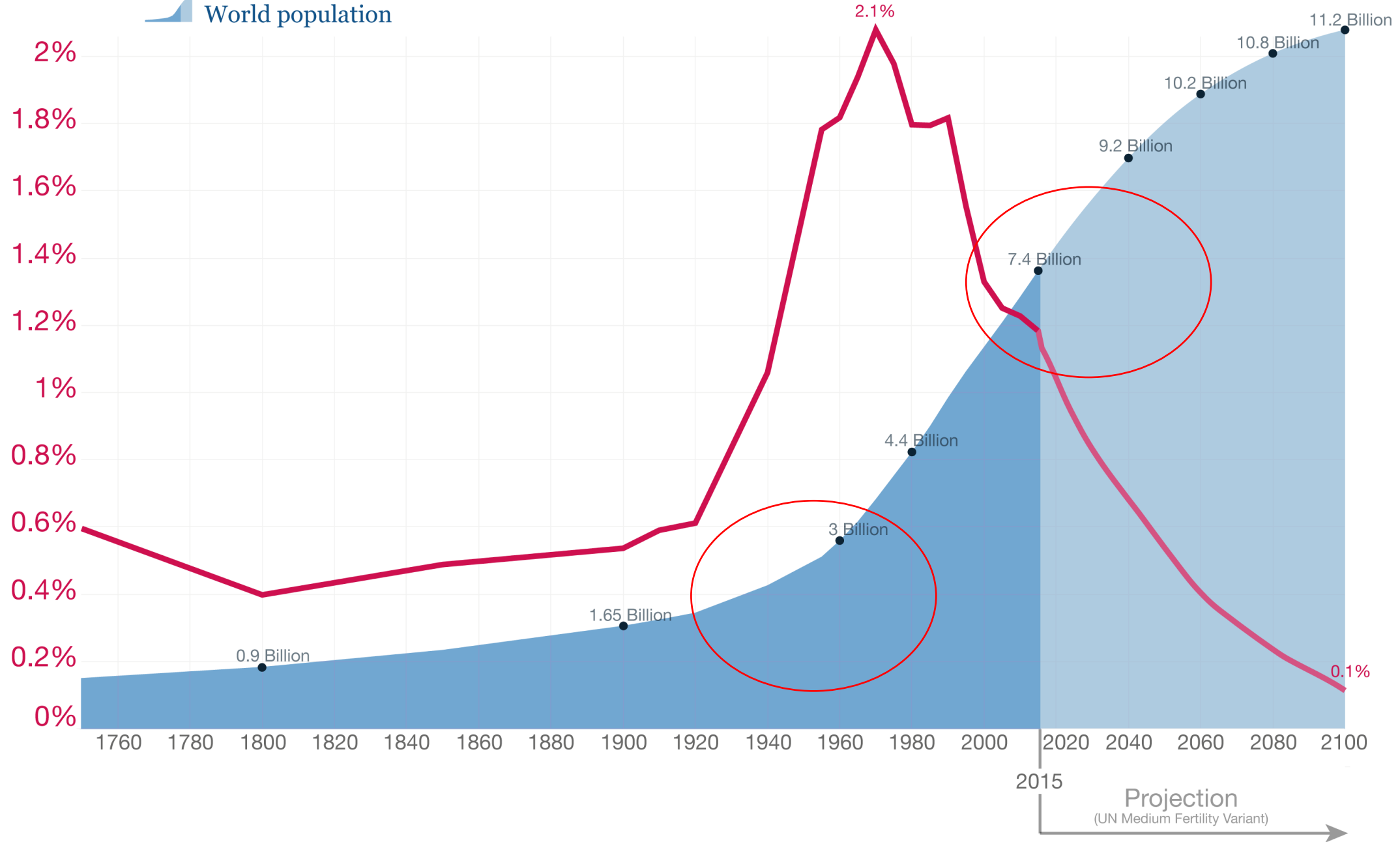
## Why interdisciplinarity?

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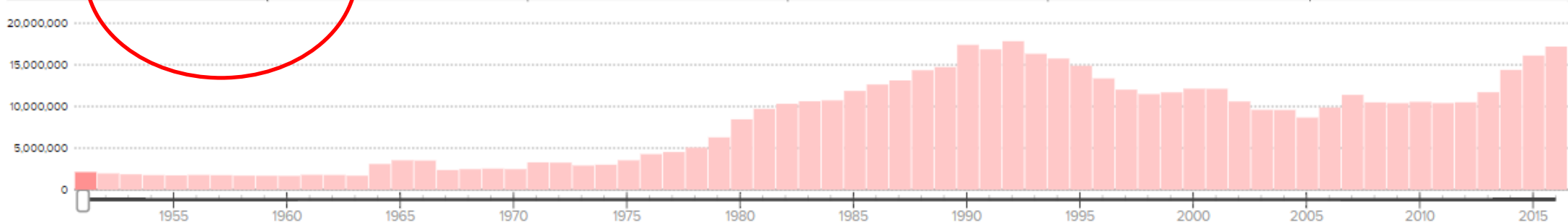
1. **Rule-based** approach to stubborn social problems
2. **Public policy** recognizes certain problems impact everyone—some obviously worse—hence, we need a **collective action solution**.
3. Need social scientific perspectives & empirical basis, data for best laws & policies.
4. Without these tools, migration dynamics can get worse—security, development & humanitarian implications.

# World population growth, 1750-2100

Annual growth rate of the world population  
World population



**2.12 million** persons of concern  
globally - end of 1951



**67.75 million** persons of concern  
globally - end of 2016



Legend



Filter by population type

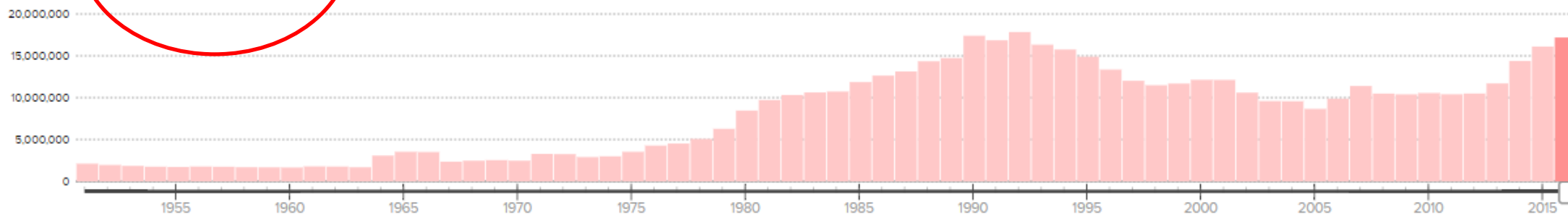


Select all

Refugees	17,187,488	Asylum-seekers	2,826,508	IDPs	36,627,127	Returnees	7,063,374	Stateless persons	3,242,207	Others	803,134
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The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

Historical country borders from Weidmann, Nils B., Doreen Kuse, and Kristian Skrede Gleditsch. 2010. The Geography of the International System: The CShapes Dataset. International Interactions 36 (1).





## CHAPTER 2.

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**Ok, if law is pivotal—what is it? Which law? Why & how does it help?**

**➤ Key Definitions**

# law, *n.*1

View as: Outline | [Full entry](#)

OED | Oxford English Dictionary  
The definitive record of the English language

**Pronunciation:** Brit.  /lɔː/, U.S.  /lɒ/,  /lə/

**Forms:** OE *lagu* (oblique cases *lage*, nom. and acc. pl. *laga*, once *lagan*; in comb. *lah-*), ME ... ([Show More](#))

**Frequency (in current use):** ●●●●●●●●

**Etymology:** Late Old English (c1000) *lagu* strong feminine (plural *laga* ... ([Show More](#))

**I.** A rule of conduct imposed by authority.

\* *Human law.*

**1.**

**a.** The body of rules, whether proceeding from formal enactment or from custom, which a particular state or community recognizes as binding on its members or subjects. (In this sense usually *the law*.) †Also, in early use, a code or system of rules of this kind.

[Thesaurus »](#)  
[Categories »](#)

[As the word was in Scandinavian a plural, though adopted in Old English as a singular, this collective sense is etymologically prior to that of 'specific enactment' (sense 2).]

a1000 *Laws of Ethelred* (Schmid) vi. c. 37 gif he hine laðian wille..do ðæt be ðam deopestan aðe..on Engla lage, and on Dena lage, be ðam ðe heora lagu si.

11.. *Anglo-Saxon Chron.* anno 1064 (Laud) He niwade ðær Cnutes lage.

c1275 (▶ ?a1200) *LA3AMON Brut* (Calig.) (1963) l. 3143 Þa makede heo ane læ3e [c1300 *Otho* la3e] and læide 3eon þat leode.

a1400 (▶ a1325) *Cursor Mundi* (Vesp.) l. 19270 Þe wick þai hald þe lagh for drede.

a1500 (▶ c1425) *ANDREW OF WYNTOUN Oryg. Cron. Scotl.* (Nero) iv. l. 672 [He] gouernyt wiþe lauche þe lande.

1548 *Hall's Vnion: Henry VIII* f. ccxlvii All offices had by dower..to be confiscat & spent to the vse and custome of the law.

1600 *SHAKESPEARE Merchant of Venice* iv. i. 175 The Venetian law cannot impugne you as you doe proceed. 

1662 *Bk. Common Prayer* Pref. Injoynd by the Lawe of the Land.

1726 *SWIFT Gulliver* II. iv. v. 69 But he was at a Loss how it should come to pass, that the Law, which was intended for every

**Law** = System of rules designed, developed, and enforced through government institutions to regulate individual & social behavior

# Structure of forms of traditional law-making in Western societies:

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1. Legislators → Legislation → resulting in statutes
2. Executive-made law: regulations, administrative law, executive orders
3. Judge-made law: precedent, case law
  - Common law systems: precedent as binding
  - Civil law systems (legislature codifies, centralizes) e.g., EU, Canon law
4. Criminal & Civil law:
  - Conduct considered harmful to society, social order, can result in criminal punishment, guilt, imprisonment
  - Resolution of disputes between individuals and organizations, victim compensation vs. punishment for crimes

# Definitions:

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## **1. International Law: Rule-based systems governing relations between states:**

- States-made law
- Framework for international relations
- Generally, consent-based governance (global governance)—state not obligated to abide by rules unless expressly consented to a particular code of conduct

## **2. Source? Where defined?**

- Long predates UN Charter (1945), but a good place to see formalized IL
- ICJ/World Court, Peace Palace, The Hague, Netherlands (all 193 parties)



# CHARTER OF THE UNITED NATIONS

AND

## STATUTE OF THE INTERNATIONAL COURT OF JUSTICE



SAN FRANCISCO · 1945

# CHARTER OF THE UNITED NATIONS

WE THE PEOPLES OF THE UNITED NATIONS  
DETERMINED

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS

to practice tolerance and live together in peace with one another as good neighbors, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

HAVE RESOLVED TO COMBINE OUR EFFORTS  
TO ACCOMPLISH THESE AIMS.

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

# CHAPTER I: PURPOSES AND PRINCIPLES

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## Article 1

The Purposes of the United Nations are:

- 1 To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
- 2 To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
- 3 To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
- 4 To be a centre for harmonizing the actions of nations in the attainment of these common ends.

## Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

- 1 The Organization is based on the principle of the sovereign equality of all its Members.
- 2 All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfill in good faith the obligations assumed by them in accordance with the present Charter.
- 3 All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
- 4 All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
- 5 All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
- 6 The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
- 7 Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

[Chapter I \(Articles 1-2\)](#)

[Chapter II \(Articles 3-6\)](#)

[Chapter III \(Articles 7-8\)](#)

[Chapter IV \(Articles 9-22\)](#)

[Chapter V \(Articles 23-32\)](#)

[Chapter VI \(Articles 33-38\)](#)

[Chapter VII \(Articles 39-51\)](#)

[Chapter VIII \(Articles 52-54\)](#)

[Chapter IX \(Articles 55-60\)](#)

[Chapter X \(Articles 61-72\)](#)

[Chapter XI \(Articles 73-74\)](#)

[Chapter XII \(Articles 75-85\)](#)

[Chapter XIII \(Articles 86-91\)](#)

[Chapter XIV \(Articles 92-96\)](#)

[Chapter XV \(Articles 97-101\)](#)

[Chapter XVI \(Articles 102-105\)](#)

[Chapter XVII \(Articles 106-107\)](#)

[Chapter XVIII \(Articles 108-109\)](#)

[Chapter XIX \(Articles 110-111\)](#)

[History of the UN Charter](#)

[Buy UN Charter](#)

# Sources of International Law:

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- 1. Treaties between States:** source of obligation under law
- 2. Custom:** Customary international law & peremptory norms (*jus cogens*) derived from the practice of States (overriding principles of IL from which no derogation is ever permitted)
- 3. General principles of law recognized by civilized nations;** and as a subsidiary means for the determination of rules of international law
- 4. Judicial decisions** and the writings of the most highly qualified publicists

# Sources of IL: Art. 38, Statute of International Court of Justice

## Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

- a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- b. international custom, as evidence of a general practice accepted as law;
- c. the general principles of law recognized by civilized nations;
- d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

The **Statute of the International Court of Justice** integral part of UN Charter as specified by Ch. 14 (Charter) which established ICJ. The statute's chapters are:

- Chapter I: Organization of the Court (Articles 2 - 33)
- Chapter II: Competence of the Court (Articles 34 - 38)
- Chapter III: Procedure (Articles 39 - 64)
- Chapter IV: Advisory Opinions (Articles 65 - 68)
- Chapter V: Amendment (Articles 69 & 70)

## Article 59

The decision of the Court has no binding force except between the parties and in respect of that particular case.



# Treaties between States:

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Vienna Convention on the Law of Treaties (Vienna 23 May 1969):

- **"Treaty"**: international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation
- **Agreements, Conventions, Exchanges of Notes, Protocols—main source of IL (States/IGOs)**
- Why binding on States parties? A rule of customary IL – *pacta sunt servanda* (*agreements must be kept*)– which requires all States to honor their treaties. Sources of obligation under law.

# VIENNA CONVENTION<sup>1</sup> ON THE LAW OF TREATIES

The States Parties to the present Convention,

Considering the fundamental role of treaties in the history of international relations,

Recognizing the ever-increasing importance of treaties as a source of international law and as a means of developing peaceful co-operation among nations, whatever their constitutional and social systems,

Noting that the principles of free consent and of good faith and the *pacta sunt servanda* rule are universally recognized,

Affirming that disputes concerning treaties, like other international disputes, should be settled by peaceful means and in conformity with the principles of justice and international law,

Recalling the determination of the peoples of the United Nations to establish conditions under which justice and respect for the obligations arising from treaties can be maintained,

Having in mind the principles of international law embodied in the Charter of the United Nations, such as the principles of the equal rights and self-determination of peoples, of the sovereign equality and independence of all States, of non-interference in the domestic affairs of States, of the prohibition of the threat or use of force and of universal respect for, and observance of, human rights and fundamental freedoms for all,

<sup>1</sup> Came into force on 27 January 1980, i.e., on the thirtieth day following the date of deposit of the thirty-fifth instrument of ratification or accession with the Secretary-General of the United Nations, in accordance with article 84 (1):

State	Date of deposit of the instrument of ratification or accession (a)	State	Date of deposit of the instrument of ratification or accession (a)
Argentina* .....	5 December 1972	Morocco* .....	26 September 1972

ples of international law embodied in the Charter of principles of the equal rights and self-determination equality and independence of all States, of non-irs of States, of the prohibition of the threat or use of or, and observance of, human rights and fundamental

.., on the thirtieth day following the date of deposit of the thirty-fifth instrumentary-General of the United Nations, in accordance with article 84 (1):

Date of deposit of the instrument of ratification or accession (a)	State	Date of deposit of the instrument of ratification or accession (a)
ber 1972	Morocco* .....	26 September 1972
1974 a	Nauru .....	5 May 1978 a
1979 a	New Zealand .....	4 August 1971
1971	Niger .....	27 October 1971 a
er 1970 a	Nigeria .....	31 July 1969
ber 1971 a	Paraguay .....	3 February 1972 a
ber 1976 a	Philippines .....	15 November 1972
1976	Republic of Korea .....	27 April 1977
t 1977	Spain .....	16 May 1972 a
er 1974 a	Sweden .....	4 February 1975
ry 1977	Syrian Arab Republic* .....	2 October 1970 a
iber 1979	Togo .....	28 December 1979 a
1974	Tunisia* .....	23 June 1971 a
1970	United Kingdom of Great Britain and Northern Ireland* .....	25 June 1971
iber 1975 a	United Republic of Tanzania* .....	12 April 1976 a
1972 a	Yugoslavia .....	27 August 1970
y 1973 a	Zaire .....	25 July 1977 a

force for the following State on the thirtieth day following the date of session with the Secretary-General of the United Nations, in accordance with

Date of deposit of the  
instrument of accession (a)  
3 January 1980 a

.)  
declarations made upon ratification or accession, see p. 501 of this volume.

# **Custom:** Customary international law & peremptory norms (*jus cogens*) derived from the practice of States

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- Oldest source of IL—rules binding upon states
- Not a written source (unlike treaties)
- E.g. requiring States to grant immunity to visiting head of State
- 2 elements:
  1. Widespread and consistent State practice (settled)
  2. *Opinio Juris*: a belief in legal obligation/duty

# ICJ opinions

‘Not only must the acts concerned be a settled practice, but they must also be such, or be carried out in such a way, as to be **evidence of a belief that this practice is rendered obligatory by the existence of a rule requiring it. ... The States concerned must feel that they are conforming to what amounts to a legal obligation.**’ (*North Sea Continental Shelf* cases, ICJ Reps, 1969, p. 3 at 44)

‘In order to deduce the existence of customary rules, the Court deems it sufficient that the conduct of States should in general be consistent with such a rule; and that **instances of State conduct inconsistent with a given rule should generally have been treated as breaches of that rule, not as indications of the recognition of a new rule.**’ (*ICJ in Nicaragua* ICJ Reps, 1986, p. 3 at 98.)

# STATE: KEY UNIT OF INTERNATIONAL SYSTEM

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1. With Peace of Westphalia (1648), from 17-19<sup>th</sup> centuries European development of concept of **sovereign "nation-state"**: why?
2. **Sovereign state** under IL: juridical entity represented by one central government w/ sovereignty over geographic area & boundaries.
3. In IL sovereign states have **4 features**: regular/permanent population, defined territory & boundaries, one government; capacity to enter into state relations: 1933 Montevideo Convention on the Rights and Duties of States
4. Sovereign—not dependent nor subjected to any other power or state.

# HISTORY, INTERNATIONAL SYSTEM, UNITS

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- ❖ The state as a person of international law should possess the following qualifications: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states.
- ❖ **Nation (cultural entity) + State (political entity)**
- ❖ **Nationalism—defined often by ethnicity, language, cultural heritage, ancestry**
- ❖ **Civic definitions of belonging—US (not “race,” ethnicity).**



# CHAPTER 3. Our Areas of Law

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# STRUCTURE OF IL & REFUGEE LAW

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- **PUBLIC INTERNATIONAL LAW:** Law between sovereign nation states in contexts of war, peace, security, and protection of territories (UN Charter, 1948).
- **INTERNATIONAL MIGRATION LAW:** International law that governs the movement of people between sovereign states.
- **INTERNATIONAL REFUGEE & ASYLUM LAW:** Governs forced migration and displacement

# Public International Law

1951 United Nations Convention Relating to the Status of Refugees  
1967 Protocol Relating to the Status of Refugees

International humanitarian law  
International human rights law  
International criminal law

Other instruments (Torture, Smuggling)

Regional Law

Domestic Law

Soft Law; UNHCR

# Private International Law

## Conflict of laws

# INTERNATIONAL LAW:

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**International Law:** Rules & principles governing relations between sovereign states. Scope expanded to include relations between states, international organizations, and individuals. Public and private international law (conflicts of law) eroding.

**Domains:** International economic law (trade, finance); security law; criminal law; environmental law; diplomatic law; humanitarian law (IHL) laws of war; human rights law (IHRL).

# INTERNATIONAL LAW:

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**Sources:** Customary law (consistent state practice + *opinio juris* or sense of legal obligation, codified in [Vienna Convention on the Law of Treaties](#)); Conventions or treaties, international agreements by contracting parties following IL basic standards of international conduct by member states under UN Charter); jurisprudence; general principles common to systems of national law (secondary source of international law).

**Peremptory norms** (*jus cogens*), permitting no derogation.

**Consent-based governance**

# INTERNATIONAL LAW:

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**Treaty:** formal agreement between sovereign states in writing; central to the conduct of international relations: Treaties of Westphalia (1648), foundation of the modern state system; Treaty of Paris (1814), defined the end of the Napoleonic era; Versailles Treaty (1919), informed world leaders how *not* to secure postwar peace; modern system of world trade in 1948 General Agreement on Tariffs and Trade; 1995 Marrakesh agreement creating the World Trade Organization; post–World War II security arrangements 1949 North Atlantic Treaty and 1955 Warsaw Pact; 1960s human rights treaties creating the “rights revolution.” Agreement, protocol, covenant, pact, etc.

# CHAPTER 4.

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## REFUGEE CONVENTION 1951 & 1967 PROTOCOL



# INTERNATIONAL MIGRATION LAW (IOM):

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- No comprehensive legal instrument or framework governs migration, a set of legal rules constrain, regulate, and channel state authority over migration.
- Rules created via state-to-state relations, negotiations & practice
- Framework for cooperative migration governance: Reflects primarily the interests of states, their nationals and interstate relations
- Non-binding instruments and multilateral and bilateral treaties
- There are customs
- Recognition of human rights of migrants and need for HR promotion and protection by states
- IGO: International Organization for Migration (IOM) 1951 migration management frameworks (160+ member states).

**On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights the full text of which appears in the following pages. Following this historic act the Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories."**

## **PREAMBLE**

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

# UDHR 1948

## **Article 1.**

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

## **Article 2.**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

## **Article 3.**

Everyone has the right to life, liberty and security of person.

## **Article 4.**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

## **Article 5.**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

## **Article 6.**

Everyone has the right to recognition everywhere as a person before the law.

## **Article 7.**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## Article 02

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.



## Article 03

Everyone has the right to life, liberty and security of person.



## Article 04

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.



## Article 05

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.



## Article 06

Everyone has the right to recognition everywhere as a person before the law.

**Article  
12**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**Article  
13**

(1) Everyone has the right to freedom of movement and residence within the borders of each State.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

**Article  
14**

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

**Article  
16**

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**Article  
15**

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

## II. Legal Definition of Refugee

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Art. I of the Convention as amended by 1967 Protocol:

“A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”



CONVENTION  
AND  
PROTOCOL  
RELATING TO THE  
STATUS OF  
REFUGEES

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**Art 1. A-F. Definitions**  
(Exclusions)

**Art 2. Obligations**  
(beginning with the  
refugee to national laws)

**Art.3 Non-discrimination**

**Art. 4 Religion:** “treatment  
at least as favourable as  
that accorded to their  
nationals with respect to  
freedom to practice...”

## FINAL ACT

### of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons

I. The General Assembly of the United Nations, by Resolution 429 (V) of 14 December 1950, decided to convene in Geneva a Conference of Plenipotentiaries to complete the drafting of, and to sign, a Convention relating to the Status of Refugees and a Protocol relating to the Status of Stateless Persons.

The Conference met at the European Office of the United Nations in Geneva from 2 to 25 July 1951.

The Governments of the following twenty-six States were represented by delegates who all submitted satisfactory credentials or other communications of appointment authorizing them to participate in the Conference:

Australia	Italy
Austria	Luxembourg
Belgium	Monaco
Brazil	Netherlands
Canada	Norway
Colombia	Sweden
Denmark	Switzerland (the Swiss delegation also represented Liechtenstein)
Egypt	Turkey
France	United Kingdom of Great Britain and Northern Ireland
Germany, Federal Republic of	United States of America
Greece	Venezuela
Holy See	Yugoslavia
Iraq	
Israel	

The Governments of the following two States were represented by observers:

Cuba  
Iran

Pursuant to the request of the General Assembly, the United Nations High Commissioner for Refugees participated, without the right to vote, in the deliberations of the Conference.

The International Labour Organisation and the International Refugee Organization were represented at the Conference without the right to vote.

The Conference invited a representative of the Council of Europe to be represented at the Conference without the right to vote.

Representatives of the following Non-Governmental Organizations in consultative relationship with the Economic and Social Council were also present as observers:

#### CATEGORY A

International Confederation of Free Trade Unions  
International Federation of Christian Trade Unions  
Inter-Parliamentary Union

#### CATEGORY B

Agudas Israel World Organization  
Caritas Internationalis  
Catholic International Union for Social Service  
Commission of the Churches on International Affairs  
Consultative Council of Jewish Organizations  
Co-ordinating Board of Jewish Organizations  
Friends' World Committee for Consultation  
International Association of Penal Law  
International Bureau for the Unification of Penal Law  
International Committee of the Red Cross  
International Council of Women  
International Federation of Friends of Young Women  
International League for the Rights of Man  
International Social Service  
International Union for Child Welfare  
International Union of Catholic Women's Leagues  
Pax Romana  
Women's International League for Peace and Freedom  
World Jewish Congress



## Preamble

THE HIGH CONTRACTING PARTIES,

**CONSIDERING** that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

**CONSIDERING** that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

**CONSIDERING** that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and protection accorded by such instruments by means of a new agreement,

**CONSIDERING** that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international scope and nature cannot therefore be achieved without international co-operation,

**EXPRESSING** the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

**NOTING** that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

**HAVE AGREED** as follows:

## Chapter 1.

### Article 1

#### **DEFINITION OF THE TERM "REFUGEE"**

**A.** For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(1) Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization;

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section;

(2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

**B.(1)** For the purposes of this Convention, the words "events occurring

before 1 January 1951" in article 1, section A, shall be understood to mean either:

- (a) "events occurring in Europe before 1 January 1951"; or
- (b) "events occurring in Europe or elsewhere before 1 January 1951", and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if:

- (1) He has voluntarily re-availed himself of the protection of the country of his nationality; or
- (2) Having lost his nationality, he has voluntarily re-acquired it; or
- (3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
- (4) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
- (5) He can no longer, because the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;  
Provided that this paragraph shall not apply to a refugee falling under section A(1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;
- (6) Being a person who has no nationality he is, because of the circumstances in connexion with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence;

Provided that this paragraph shall not apply to a refugee falling under section A (1) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that:

- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 2

**GENERAL OBLIGATIONS**

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3

**NON-DISCRIMINATION**

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4

**RELIGION**

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.

Article 5

**RIGHTS GRANTED APART FROM THIS CONVENTION**

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

Article 6

**THE TERM "IN THE SAME CIRCUMSTANCES"**

For the purposes of this Convention, the term "in the same circumstances" implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7

**EXEMPTION FROM RECIPROCITY**

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.
2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.



4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

#### Article 8

##### **EXEMPTION FROM EXCEPTIONAL MEASURES**

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees.

#### Article 9

##### **PROVISIONAL MEASURES**

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

# Chapter 5. Theories of IR → IL

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# WALT: IR/GEOPOLITICAL THEORIES

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**International relations (IR):** systematic study of international politics, geopolitics, and actors (states, IGOs, NGOs, MNC)—how entities relate to one another in terms of power and the world systems created as a result.

**Is the world unraveling? 3 views:** Reductions in global poverty, great power/interstate war, scientific advances, information & education revolutions...

**Realism redux:** Geopolitics can be scientifically studied (positivist) in recurring patterns with continuities established by power, anarchy, lack of world governance, and security competition & rise of nonstate actors (states rivalry/proxy games).



# WALT: IR/GEOPOLITICAL THEORIES: CONT.

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**Realism redux:** WWII 1945 forward—(democratic) peace, prosperity (western), Cold War bipolarity (US/USSR) & nuclear deterrence ironically tamped down on conflict, reigned in USSR & other bad actors, EU, etc. [Thucydides, EH Carr, Morgenthau, Kenneth Walz]

**Results:** Growing democracy (until 2000, Diamond 2015/16); economic interdependence (globalization) & international trade, *Pax Americana* (security umbrella, western hemisphere+), liberal order & international law (impunity, cooperation, global governance)—but all is fraying: robust democracies are fragile, no common enemy, European countries won't fight to defend their systems/values, Brexit—and migration?

# Freedom in the World 2016 ▼

# Anxious Dictators, Wavering Democracies: Global Freedom under Pressure



WORLD

## AMERICAS

## ASIA-PACIFIC

EURASIA

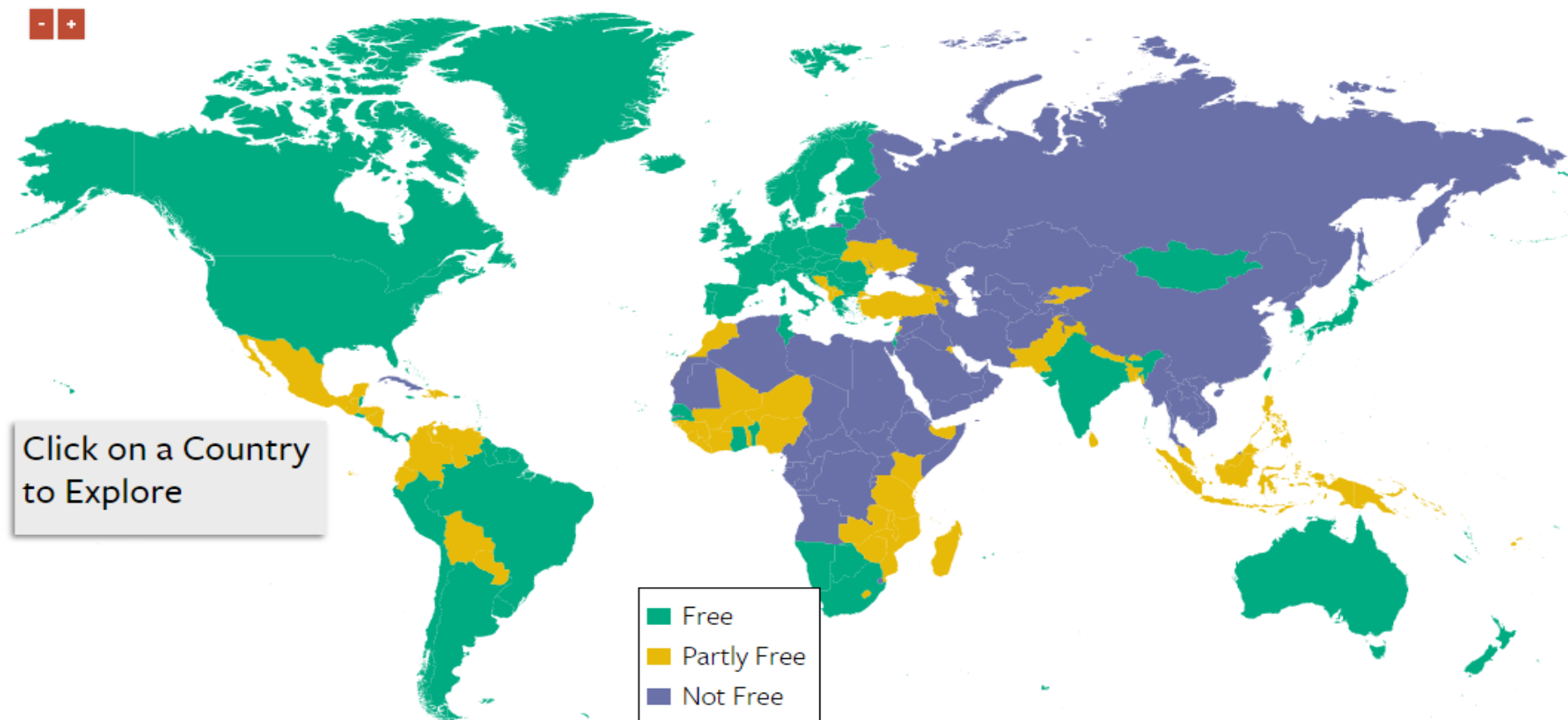
EUROPE

MENA

## SUB-SAHARAN AFRICA



Click on a Country  
to Explore



# WALT: IR/GEOPOLITICAL THEORIES: CONT.

**Liberal resilience?** International system not anarchic in negative sense—states, as key actors, can share interests, cooperate, create common norms, rules, and institutions stressing interdependence; exemplar in free markets and economic neoliberalism (Hedley Bull, Adam Smith, Immanuel Kant harnessing individual self-interest to promote social welfare; Woodrow Wilson mutual gain from cooperation in light of severe destructiveness of war).

**Results:** Liberal, rules-based order, w/ US protection & benevolence—but democracies in retreat, authoritarian tendencies rising, freedom in decline ([Freedom House](#) 105 states in 10 years). From a long view human rights expanding & democracy comes in waves—each wave is bigger (Huntington 1991)...

# WALT: IR/GEOPOLITICAL THEORIES: CONT.

**Liberal results:** Martin Luther King Jr. “the arc of history is long, but it bends toward justice.” Powerful secular forces inclining world toward liberal ideals and institutions, growth of literacy, greater economic development & interdependence, overall superior economic performance of representative governments. Post-WWII liberal order will not fail—no descend back into 19th-century power politics.

**Radical Uncertainty:** Geopolitics is regularized, patterned, driven by powerful structural forces—not chaotic: but what about an accidental view of geopolitics? Black swan events, contagion behavior toward new ideologies, catastrophic natural disasters, pandemics, nuclear incident, critical mass of failed states...

# WALT: IR/GEOPOLITICAL THEORIES: CONT.

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**Realism redux:** WWII 1945 forward—(democratic) peace, prosperity (western), Cold War bipolarity (US/USSR) & nuclear deterrence ironically tamped down on conflict, reigned in USSR & other bad actors, EU, etc. [Thucydides, EH Carr, Morgenthau, Kenneth Walz]

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# WALT: IR/GEOPOLITICAL THEORIES: CONT.

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# OTHER GEOPOLITICAL THEORIES?

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**Marxism:** conflict of classes (Global North/South) & dependency theories

**Constructivism:** perceptions and ideological frameworks (and clashes) play a role in the world system; role of religion



# Chapter 6. Addendum UDHR

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# Universal Declaration of Human Rights

*Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948*

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights the full text of which appears in the following pages. Following this historic act the Assembly called upon all Member countries to publicize the text of the Declaration and "to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories."

## PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

## Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

## Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

## Article 3.

Everyone has the right to life, liberty and security of person.

## Article 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

## Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

## Article 6.

Everyone has the right to recognition everywhere as a person before the law.

## Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## Article 02

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.



## Article 03

Everyone has the right to life, liberty and security of person.



## Article 04

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.



## Article 05

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.



## Article 06

Everyone has the right to recognition everywhere as a person before the law.

## Article 07

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## Article 11

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

## Article 08

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

## Article 09

No one shall be subjected to arbitrary arrest, detention or exile.

## Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

## Article 17

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

## Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

## Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

## Article 20

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

## Article 21

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right to equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

## Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

## Article 23

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

## Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

## Article 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.



## Article 26

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

## Article 27

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

## Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

## Article 29

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

## Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.