

Principles of International Law



International vs Domestic

International Law	Domestic Law
Applies to a variety of countries	Specific to one country
No continual governing body to make laws	Has a governing body that creates laws
No law enforcement to implement penalties. Relies on international reputation.	Penalties defined by law, enforced by justice system.
Not all countries to participate.	People are not allowed to opt out of the legal system.

International Court of Justice

- Established in 1945
- Peace Palace, The Hague
- Settle disputes and give advisory opinions
- 15 judges, serves terms of 9 years
 - Elected by UN General Assembly and Security Council

International Court of Justice



Sources of International Law

Treaties

- Written agreements between countries
- Mutually binding
- Disagreements brought to the international court at the Hague
 - Cannot enforce

Customary Practices

- Not written
- Countries ethically bound
- Over time, customs become law with general consent
 - Codified
 - Eg) Geneva Convention

Precedents

- Valued but not binding as there is no **stare decisis** (rule of precedent)
- Eg) Resolutions of the General Assembly of the United Nations

General Principles of Law

- Natural law
 - Line of reasoning corresponds with justice and equity



Aquinas



Hobbes



Grotius

Sovereignty

- State sovereignty: the rights of a state over its territory
 - Make own laws
 - Exclude laws of other nations
 - Conduct relations with other nations
- Global interdependence after WWII
 - Give up some sovereignty to enter international agreements

Punishing Breaches in International Agreements

- International peer pressure
- International agreements, economic sanctions, trade boycotts, trade embargos
- Severance of diplomatic relations
- Military force

THAT DOES IT!
YOU LEAVE US NO CHOICE
BUT TO CONSIDER
THE POSSIBILITY OF
CONVENING TO VOTE ON
SANCTIONS AGAINST YOU!
AND I MEAN IT!



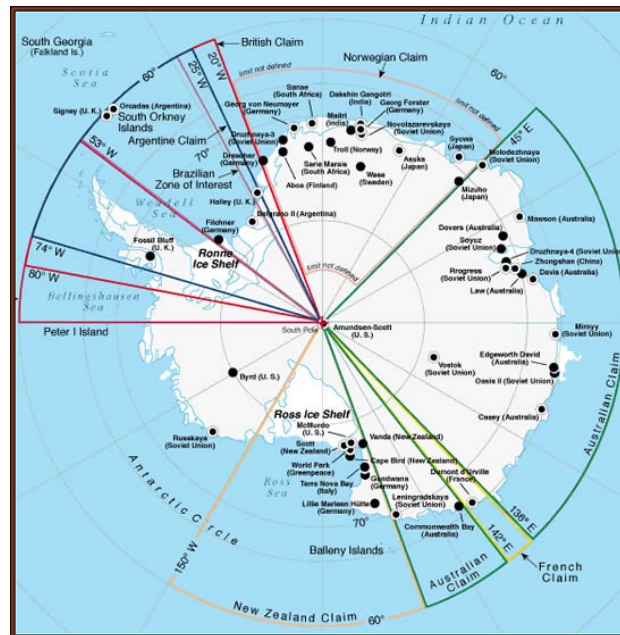
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Common Conflicts

The Land

- Boundaries issues can lead to commissions, arbitrations, conflicts
- Eg) 1959: the Antarctica Treaty
 - Madrid Protocol



The Seas

- 1400: coastal water and open seas
- 1600: open waters (free of sovereignty)
- Customary : nation can claim the area that extends three nautical miles outward from shoreline
- 1994: Convention on the Law of the Sea

Space

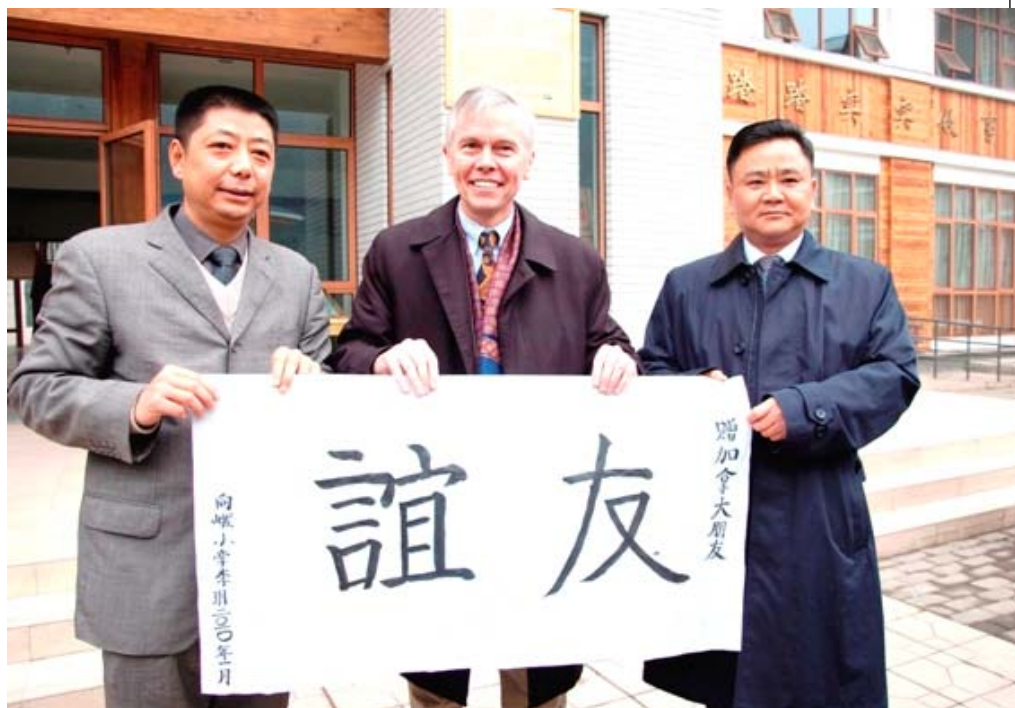
- 1967: Outer Space Treaty
- No nation can claim the moon, space, or any celestial body
- Military activities, liability for damages, rescue of astronauts, sharing of information



Diplomats

Diplomatic Relations

- Exchange of diplomats
- Originally sent only to negotiate specific agreements
- Began sending representatives to live in other nation-states
- Rules for protection of diplomats and their families codified during the Congress of Vienna (1815)



Diplomats

- Canadian Foreign Affairs and International Trade Department responsible for embassies
- Diplomats governed by
 - *Foreign Missions and International Organizations Act*
 - *Vienna Convention on Diplomatic Relations*

Diplomats

- **Diplomatic immunity:** exemption from certain laws in the host country
- Correspondences are private and cannot be opened by the host country
- Host country may expel diplomats

Case

- In 2001, a Russian diplomat in Ottawa was driving home drunk
- Struck and killed a woman
- Since he could not be prosecuted in Canada, he was expelled from the country
- The Canadian government asked the Russian government to waive diplomatic immunity so that he could be tried in Canada
- Moscow refused but promised to prosecute him in Russia

Discussion Question

- Is the principle of diplomatic immunity from court proceedings justified in the modern world? Do you think diplomats should be allowed this degree of protection?

Consulate

- Protect the rights of citizens in a foreign country
- Obtain legal representation for citizens charged with crimes in the host country
- Arresting government must inform the consulate

William Sampson case

- A Canadian arrested in Saudi Arabia and sentenced to public beheading



William Sampson Case

- Sampson criticized the Canadian government for their actions while he was imprisoned
- Canadian representatives knew he was being tortured
- Accepted the Saudi's claim that he was guilty without sufficient evidence

Extradition

- Surrendering of a person by a state to the jurisdiction of another state or international organization to face trial
- Steps for extradition

Dual Criminality

- The crime must be a crime in both nations and must be a serious crime



Extradition Hearing

- Does the evidence establish *prima facie*
- ***Prima facie***: legally sufficient to establish a fact or case unless disproved by contrary evidence
- Not beyond reasonable doubt
- Not all Charter rights are afforded

Minister of Justice

- Very political stage
- If there is sufficient evidence, the person is extradited



Challenging Extradition

- Punished for race, religion, gender, etc.
- Death penalty
- Political offence
- Double jeopardy
- Conviction occurred without the presence of the accused
- The accused is under 18 years old

Thanks for Listening!