International Law Mastering the Future: Global Governance Millennium Development Goal

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1 International Law in Development

By comparison with the Encyclopedia of Public International Law (EPIL) published between 1991 and 2001 under the direction of Rudolf Bernhardt, the 2012 Max Planck Encyclopedia of Public International Law [hereinafter MPEPIL]1 under the direction of Rüdiger Wolfrum includes quite a number of new subjects, such as community interest, democracy, global administrative law, governance, responsibility to protect (R2P), rule of law and universality. Moreover, the number of entries on terrorism increased substantially.2 In so doing, the MPEPIL shows convincingly the increasing significance of international law both at national and regional levels. It gives ample evidence of merging international law with international human rights law. This merger affects the principles the United Nations [hereinafter UN] and its members have to take into account, while acting in pursuit of the purposes of the Organization.3

The present chapter examines the relevance of international law for achieving the Millennium Development Goals (MDGs) in and beyond 2015. To that end it gives first of all a rough sketch of the present place of international law in the development agenda in respect of managing the

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1 RÜDiger WOLFRUM (ed.), The Max Planck Encyclopedia of Public International Law (2012) [hereinafter MPEPIL]. The Encyclopedia appeared in print and online. The tenfold printed version of roughly 1100 pages each contains around 1700 essays of over 800 authors from more than 80 countries. Illustrative for its extent is the additional Index and Tables Volume of over 1100 pages.

2 The half of MPEPIL’s size four-part EPIL contains 1300 essays of roughly 450 authors from 35 countries. The additional Lists-Indices Volume runs to 275 pages.

unpredictable and mastering the probable, both in a general way and as emerging international law of sustainable development. The latter provokes questions as to the reality of international law.

2 International Law in the Development Agenda

By analogy with a 1979 study of the Organisation for Economic Co-Operation and Development (OECD), the present paragraph focusses on managing the unpredictable of future international law and on its mastering the probable through computing development and the identification of MDGs. In that context the emergence of international development law as a regime or school of thought will be discussed. In doing so, fragmentation of international law and its impact on the global legal system pass in review, albeit in a bird’s-eye view.

2.1 Managing the Unpredictable

America’s then President Franklin D. Roosevelt excited the world in 1941 with his Four Freedoms4 as “a definitive basis for a kind of world attainable in our own time and generation”.5 The present international community faces, more than ever before, the challenge to adapt international law in such a way that the global market as self-regulated system secures freedom from want everywhere in the world as a condition for the realisation of the remaining three essential freedoms. This challenge was already implicit in the 1960 U.N. Declaration on the Granting of Independence to Colonial Countries and Peoples6 and explicit in the 1974 Declaration on the Establishment of a New International Economic

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4 State of the Union to the U.S. Congress of January 6, 1941. The four freedoms of every person everywhere are the freedom of speech and expression; the freedom to worship God in his own way; the freedom from want; and the freedom from fear.