Making Progress in International Institutions and Law

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A. Introduction

The early 21st Century finds a world without military conflicts between major powers and benefiting from considerable, though unevenly distributed, economic growth. Promising recent trends toward democracy, market economics, and more widespread respect for human rights continue in some countries. But progress in these respects is slowing or even receding elsewhere.

Helping support and channel these developments is an underlying mixture of international institutions and international law, as well as regional and bilateral arrangements. These operate alongside the continuing role of national governments.

The international law and institutions that now exist have demonstrated a remarkable evolution in the 60 years since a burst of activity immediately after World War II created much of the international institutional system. Although remarkable, that evolution still gives rise to compelling concerns and rigorous questions as to whether the present institutions and international legal norms are adequate to deal constructively with major contemporary problems—e.g., the growing fiscal imbalances among major economies, global warming, the antagonisms of some Muslims toward so-called Western values, and continuing terrorist threats.

We might briefly recall the period about 100 years ago when Europe, the United States, and some other areas were experiencing a golden age in economic growth and increased international trade, partly as the result of technological developments such as the steam engine, telegraph, and telephone. This period was cut short by World War I and then the world’s failure to develop strong political, trade, and financial arrangements to deal with international developments. The Great Depression, starting around 1929, resulted from collapsing national economies brought on in part by high tariff barriers and weak international financial

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mechanisms. Although Professor Manley O. Hudson was still optimistic in his series of lectures in 1931 at the University of Idaho on progress in international organizations, the gaps and weaknesses in the existing international system for peacekeeping were visible.\footnote{In spite of President Woodrow Wilson’s efforts, the United States had not become a member of the League of Nations, which began to operate in 1920. And, although the League had some success in the 1920s, it was unable to check Japanese aggression in Manchuria in 1931, and then it failed to sanction Italy effectively after Italy’s 1935 invasion of Ethiopia.} The United States and other key countries did not have the vision or will to make the necessary improvements to the international institutions, which contributed to worsening economic and political conditions, which, in turn, eventually led to World War II.

B. The Creation and Evolution of International Institutions

The vast destruction and searing experience of the Second World War led the victorious Allied leaders to try creatively to build the political and economic structures necessary to avoid further world wars and depressions. The central institution was to be the United Nations. Its primary purpose was to prevent military conflict among its members and to settle international disputes. As a supplement to the U.N., the International Court of Justice (ICJ or World Court) was established as the formal judicial body to resolve legal disputes among nations.

Other key international institutions were designed to deal with economic issues. The International Monetary Fund (IMF) was created to promote international monetary cooperation and stability in foreign exchange. The tremendous instability in the period before World War II had been triggered in part by rapid fluctuations in the value of individual nations’ currencies and numerous currency restrictions. The International Bank for Reconstruction and Development (or World Bank) was established to help provide funds for the reconstruction of war-ravaged nations and to promote economic development.

An International Trade Organization (ITO) was planned as an institution to provide a structure and enforcement for rules that would regularize and encourage international trade. The worldwide economic problems of the 1930s had also been caused in part by the high tariff barriers adopted by the United States and other countries. Congressional opposition to the ITO, however, meant that the organization never came into existence. A subsidiary agreement, the General Agreement on Tariffs and Trade (GATT), was allowed instead to metamorphose into a skeletal institutional arrangement.