

# The International Rule of Law and the Role of the United Nations

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## I. Introduction

The consolidation and advancement of the international rule of law<sup>1</sup> has become a major challenge for the international community, and in particular for the United Nations, as we face the twenty-first century. Given the rapidly expanding role of treaties in setting international standards—including underpinning much of international interaction in the modern world with ever increasing implications in the domestic sphere—encouraging wider participation in, and ensuring compliance with, the multilateral treaty framework has become an essential part of this challenge. For centuries, a preoccupation of international lawyers and diplomats has been the consolidation and advancement of the international rule of law, which has now become centrally important to key segments of civil society and many individuals. The mystique and forbidding nature that once surrounded the issue has vanished. The business community, recognizing the implications of this development to business and industry, has also begun to engage itself in advancing this objective for its own interests. Individuals and non-governmental organizations (NGO), which increasingly acknowledged the significant ramifications of international law on people's lives and livelihood, have been at the forefront of many initiatives to influence and advance the international rule of law. This has occurred through their participation in the processes relating to the development of multilateral treaties and, subsequently, in the implementation of treaty rights and obligations.

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1. Depending on who is speaking, the call for the international rule of law may be fairly minimalist or fairly expansive. A minimalist view asserts that development depends on having relatively clear rules of the game that will be applied in consistent ways to citizens and foreigners alike. . . . A second, much more demanding, view asserts that the rule of law must meet certain substantive requirements, in addition to legal certainty, in order to promote economic development effectively . . .

G. Casper, Address at the International Advisory Council, Institute for International Studies, Stanford University (May 2, 2002). This paper does not discuss the definition of the term "the international rule of law."

Although establishing conditions under which justice and respect for the obligations arising from treaties and other sources of international law is a key goal of the Charter of the United Nations,<sup>2</sup> for many years various factors, including the persistent distractions resulting from the Cold War, operated as a critical constraint on the United Nations. Thus, they were prevented from devoting all the necessary energies for the realization of this objective. However, in the post Cold War environment, the international community has a clear opportunity to extend the reach and effectiveness of the international rule of law. This article will seek to provide an overview of the developments that have occurred in the context of the United Nations in recent years in advancing the reach of the international rule of law, including its implementation, taking particular note of multilateral treaties relating to sustainable development concluded under the auspices of the United Nations.

## II. Historical Context

During the height of the Cold War, the international legal framework that governs relations between states, including aspects that have an impact within their domestic spheres, saw some development; although, the results may be criticized for their lack of uniformity or effectiveness. While many issues were the subject of multilateral treaties, the need to balance a multitude of interests reflecting national and regional concerns and, at times, political rivalries, essentially resulted in the watering down of many standards. Other standards were adopted using vague terminology, providing ample opportunities for creative interpretations. Given its unique role in the world, the United Nations, along with its agencies, played a critical role in facilitating and assisting with the international negotiations that resulted in many of the multilateral treaties. In the area of international standard setting, the United Nations made remarkable progress in responding to the needs of the international community during the Cold War. Numerous multilateral treaties affecting various areas of international interaction were concluded under the auspices of the United Nations or its agencies since the inception of the Organization, and many of these have been deposited with the Secretary-General of the United Nations.<sup>3</sup> In many instances where a clear need to address a common problem manifested itself, and where the issues were clearly delineated without being overshadowed by narrow political considerations, the international community succeeded in overcoming its inherent divisions in order to achieve agreement and establish global mechanisms to address the issues in question. In a large number of cases, the pressure exerted on states by the non-governmental sector was the critical factor in bringing states to the negotiating table and working towards practical results.<sup>4</sup> Some of the treaties concluded during this period have been the result of major inter-governmental processes, encompassing not only the vast majority of the international community, but also the non-governmental sector playing a seminal role.<sup>5</sup>

2. See U.N. CHARTER.

3. See *United Nations Decade of International Law: Report of the Secretary General*, U.N. GAOR, 54th Sess., Annex, Agenda Item 154, U.N. Doc. A/54/362 (1999).

4. See Palitha T.B. Kohona, *The Role of Non-State Entities in the Making and Implementation of International Norms*, 2 J. WORLD INVEST. 537 (2001).

5. The Rio process, which resulted in the conclusion of two major conventions at the 1992 Earth Summit in Rio de Janeiro and led to further conventions and protocols, is an example. The two conventions are: United Nations Framework Convention on Climate Change, June 12, 1992, S. Treaty Doc. No. 102-38, 1771 U.N.T.S. 107 [hereinafter Framework Convention on Climate Change] and Convention on Biological Diversity, June 5, 1992, S. Treaty Doc. No. 103-20, 1760 U.N.T.S. 79.

Today, the number of multilateral treaties deposited with the Secretary-General totals more than 500,<sup>6</sup> and they cover the spectrum of human interaction. They include such topics as sustainable development, the oceans, human rights, humanitarian affairs, terrorism, international criminal matters, organized crime, refugees and stateless persons, disarmament, commodities, narcotics, transport, communications, outer space, and the like.<sup>7</sup> These treaties comprise a web of international norms of enormous importance, which have contributed significantly to improving the world.

### III. The Multilateral Treaty Framework

The ever-expanding body of multilateral treaties concluded by the international community address various aspects of sustainable development. In the late 1980s and in the 1990s, we witnessed an explosive growth in multilateral treaty making in the environmental field, a direct result of identifying a range of problems in the area of a global nature. Due to the nature of these problems, they could not be effectively addressed at the national level alone. Thus, they needed to be addressed by the international community as a whole.

With backing from scientists and enormous pressure from civil society, the international community negotiated a range of treaties designed to address problems relating to the depletion of the ozone layer, climate change caused by human activity, loss of biological diversity, desertification, transportation of hazardous wastes, long-range pollution, the problem of persistent organic pollutants, and other such matters. These treaties have been adopted by consensus. Continually, other treaties are being negotiated.

Early treaties tended to focus on narrowly defined areas with implications mainly for states, but today the emphasis is often on a much broader approach. Accordingly, with their tendency to cover a much wider scope, current treaties have implications in a complex range of areas. Given the continuing central role of the state in international relations, these treaties are essentially designed to govern the behaviour of states and establish, through meticulous negotiations, enforceable rights and obligations among themselves. However, the treaties increasingly reflect the concerns and dreams of ordinary people and civil society, and tend to directly impact their lives and livelihood.

Given the complex implications of multilateral treaties, the intimate involvement of civil society in negotiating these treaties has been a significant phenomenon in modern international relations.<sup>8</sup> Civil society was evident in the lead-up to the 1992 Earth Summit in Rio and has continued to play a central role in the ongoing effort to establish international norms governing human activity relating to certain critical aspects of the environment. Civil society is also a vital element in subsequent endeavours to ensure due compliance with these norms. More recently, NGOs played a critical role in the negotiation of the Rome Statute of the International Criminal Court<sup>9</sup> and its early entry into force, despite the serious concerns of certain countries.

6. See The United Nations Treaty Collection, available at <http://untreaty.un.org> (last visited Sept. 12, 2002).

7. *Millennium Summit: Multilateral Treaty Framework: An Invitation to Universal Participation*, U.N. Dep't of Public Info., U.N. Doc. [ST/DPI/2130 (2000)], available at <http://untreaty.un.org/English/millennium/law/index.html> [hereinafter *Invitation*].

8. See Phillippe J. Sands, *The Environment, Community and International Law*, 30 HARV. INT'L L.J. 389, 400 (1989).

9. See Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9\* (1998).

#### IV. Attitudes towards Compliance

A major issue arising in this context is the need to ensure compliance with the international standards by members of the international community. Significantly, the level of adherence by states to the rules of international law, whether treaty-based or custom-based, has been gradually consolidated. By and large, since the end of World War II, a growing expectation that states and other entities will comply with international rules of law has developed. The instances where norms of international law were breached received much publicity and were extensively discussed due to their exceptional nature. The attention that breaches of the rules of international law attracted indicates the importance that the international community has begun to place on the need for compliance. The role NGOs play in exerting pressure on governments to comply with their international obligations has been considerable. Even when a state chose not to comply with a particular rule of international law, such non-compliance was almost always justified on the basis of some other rule or an interpretation of the rules. The need to act within the law appears to have been almost always considered.

Undoubtedly, international rules of law are a major factor in international interaction. Most states voluntarily conduct their affairs in accordance with their international legal obligations, including treaty obligations, even in the absence of complex coercive mechanisms that ensure compliance. The advantages of an international society based on predictable rules are substantial. Reflecting a gradual development, the expectation of compliance with norms of international law is stronger today than at any time in the past. Many individual and national activities are undertaken on the basis of existing international legal rules, to the extent that their successful accomplishment is taken for granted.

The range of rules of international law adopted by states facilitates the seamless operation of private citizens and corporations in society. Examples include the posting of a letter in one country and its safe delivery to a recipient many thousands of miles away in a different country; the successful transporting of thousands of civilian aircraft carrying countless passengers and tons of cargo everyday across national borders along carefully determined flight paths, the ensuring of safety of passengers and cargo from a range of threats including terrorist attacks and contagious diseases; the connecting of millions of international telephone calls daily; the safe daily passage of thousands of ocean going vessels from one country to another, and so forth. Much of today's business activity could not take place if not for the intricate framework of international norms that have been carefully negotiated to safeguard national interests as well as the interests of the international community as a whole. The ultimate beneficiaries of this legal framework are individuals and corporations. Increasingly, a complex web of norms established by multilateral treaties affects humanity's interaction with the environment.

#### V. The Role of the United Nations

Against this background, the United Nations launched an initiative in 1999 to identify the key policy goals for the Organization in the new century. At a time when resources were diminishing and concerns about the direction of the United Nations were expressed, this was part of an exercise to refocus the efforts of the Organization on its core responsibilities, consistent with the objectives of the Charter. Not surprisingly, the United Nations identified consolidation and advancement of the international rule of law as the second most important goal for the Organization in the new century. The others were peace and

security, human rights and humanitarian affairs, development, and the environment. As the Secretary-General observed, "The expansion of the rule of law in international relations has been the foundation of much of the political, social and economic progress achieved in recent years. Undoubtedly, it will facilitate further progress in the new Millennium."<sup>10</sup> He further noted, "The new millennium is an appropriate occasion to reaffirm the primary objectives of our Organization and focus on them anew. Establishing the rule of law in international affairs is a central priority."<sup>11</sup>

The Organization clearly recognized that the advancement of the international rule of law could contribute to peace and security, human rights, the environment, development, and various other aspects of international relations, thus impacting positively the lives and livelihood of individuals.<sup>12</sup> Similarly, the development of the international rule of law would certainly contribute to improving predictability and security in international relations, accountability for breaches of international norms and, increasingly, protection of the global commons and individual rights. Against this background the United Nations developed *A Strategy for an Era of Application of International Law*.<sup>13</sup>

The Organization, in its Millennium Declaration,<sup>14</sup> further affirmed the importance of the international rule of law, specifically devoting several paragraphs to the need for the peaceful resolution of disputes; implementation of treaties in areas such as arms control and disarmament; international humanitarian and human rights law; and concerted action against terrorism, promoting democracy, and all internationally recognized human rights and fundamental freedoms, including the right to development.<sup>15</sup>

## VI. Treaty Events

In 2000, as a key awareness-raising measure in its endeavors to promote the international rule of law, the Organization decided to initiate a program to encourage wider participation by states in the multilateral treaties deposited with the Secretary-General. Wider participation in the multilateral treaty framework by states was considered to be an essential step in the process of consolidating and further advancing the international rule of law, including its due implementation. The initial program, launched to coincide with the Millennium Summit of the United Nations held in New York in September 2000, was focused on the range of multilateral treaties deposited with the Secretary-General.

Many such treaties, meticulously negotiated to reflect both national and regional interests, and adopted with great enthusiasm by the international community, had not achieved universal participation even after many years. Some had not even entered into force. Many treaties, though signed by states, still remained to be ratified. The Secretary-General invited the Heads of State and Government intending to participate in the Millennium Summit to

10. *Invitation*, *supra* note 7.

11. *Report of the Secretary-General on the Work of the Organization*, U.N. GAOR, 55th Sess., Supp. No. 1, ¶ 273, U.N. Doc. No.A/55/1 (2000).

12. See G.A. Res. 55/2, *United Nations Millennium Declaration*, U.N. GAOR, 55th Sess., Agenda Item 60(b), U.N. Doc. A/RES/55/2 (2000) [hereinafter *Millennium Declaration*].

13. U.N. Office of Legal Affairs, *A Strategy for An Era of Application of International Law*, available at [http://untreaty.un.org/ola-internet/action\\_plan.htm](http://untreaty.un.org/ola-internet/action_plan.htm) and at <http://untreaty.un.org> (last visited Sept. 12, 2002) [hereinafter *Strategy*].

14. See *id.*

15. See *Millennium Declaration*, *supra* note 12.

undertake treaty actions relating to treaties deposited with him. Given that treaties are the major source of international law today, the Heads of State and Government, by undertaking treaty actions in such a public setting reaffirmed their commitment to the international rule of law, in particular to the multilateral treaty framework.<sup>16</sup>

A core group of twenty-five treaties were identified as the focus of a campaign to encourage signature, ratification, and accession. These represented the fundamental objectives of the United Nations, and dealt with human rights, humanitarian affairs, sustainable development, disarmament, and penal matters. A U.N. publication entitled *Millennium Summit: Multilateral Treaty Framework—An Invitation to Universal Participation*<sup>17</sup> containing summaries of the key provisions of this core group of treaties and their status was compiled in English and French and widely distributed.<sup>18</sup> The response to the Secretary-General's invitation to Heads of State and Government was encouraging. Eighty-four countries participated in the signature, ratification, and accession event organized by the United Nations during the Millennium Summit. Monarchs, presidents, and prime ministers represented fifty-nine of these. In all, 274 treaty actions were undertaken in relation to forty treaties during three days of the Millennium Summit.

The event proved to be such a success for the Organization that it decided to conduct a similar treaty event during each annual gathering of the General Assembly. In 2001, a treaty event entitled *Focus 2001—Rights of Women and Children* was organized to coincide with the U.N. General Assembly Special Session on Children and the General Debate of the 56th General Assembly. Both events were postponed due to the tragic occurrences of September 11, 2001 in New York, the host city. The booklet published in connection with *Focus 2001—Rights of Women and Children* contained the summaries of, and the status information on, twenty-three multilateral treaties relating to the rights of women and children and is available in hard copy and on the Internet in English and French.<sup>19</sup> Despite the disruption caused by the terrorist attacks, sixty-one states participated in this treaty event and undertook 135 treaty actions. The *Treaty Event—Terrorism Related Treaties* followed this in November 2001. This special event, which was one of the Organization's immediate responses to the September 11th terrorist attacks, reflecting the strength of feeling among the membership of the Organization, attracted seventy-nine state participants who undertook 180 treaty actions. It was evident from the large number of treaty actions undertaken during these treaty events that states consider it important to become party to the multilateral treaties of relevance to them, both for the legal rights and obligations that ensue and for the message such actions convey to the international community and the public.

In view of the importance of the World Summit on Sustainable Development held in Johannesburg in August-September 2002, the focus of the U.N. treaty event in 2002 was multilateral treaties on sustainable development. A group of twenty-five core treaties reflecting not only the international community's environmental concerns, but also its wider sustainable development concerns, was at the center of this event.<sup>20</sup> These treaties incor-

16. See *Invitation*, *supra* note 7.

17. *Id.*

18. See United Nations Treaty Source, at <http://untreaty.un.org> (last visited Sept. 12, 2002) [hereinafter Treaty Source].

19. *Multilateral Treaty Framework: An Invitation to Universal Participation. Focus 2001: Rights of Women and Children*, U.N. Secretariat (2001), available at <http://untreaty.un.org/English/TreatyEvent2001/index.htm> (last visited Sept. 12, 2002), at Core List of Treaties.

20. *Multilateral Treaty Framework: An Invitation to Universal Participation: Focus 2002: Sustainable Development*, U.N. Secretariat (2001), available at <http://untreaty.un.org/English/TreatyEvent2002/index.htm> (last visited Sept. 12, 2002).

porate the international community's aspirations to preserve the environment for future generations while facilitating efforts to achieve economic, social and political advancement. A book entitled *Focus 2002—Sustainable Development* has been produced in English and French, and incorporates the summaries of the twenty-five treaties and their status.<sup>21</sup>

## VII. Teaching of International Law

The *Strategy for an Era of Application of International Law* further recommended that the United Nations initiate measures designed to ensure the application of the rules set out in these multilateral treaties and sustain and underpin the values embodied in them, including the better training of lawyers and judges on the rules of international law.<sup>22</sup>

Notably, a significant number of law schools around the world do not offer international law as a subject. This is surprising given the large number of modern international legal norms that have a direct impact on the lives and livelihood of individual persons and on the business activities of corporations. Increasingly, norms adopted at the international plane, particularly those dealing with sustainable development, have extensive consequences in the domestic legal arena. For example, in addition to its global implications for the rights and obligations of states, certain constraints arising under the United Nations Framework Convention on Climate Change and its Kyoto Protocol<sup>23</sup> will have a significant impact on the way that people work, their types of work, their modes of transportation, their use of creature comforts such as heating and air conditioning, the use of traditional forms of energy for various purposes, and so forth. Some sectors of the energy and insurance industries have already recognized the long-term implications of the Kyoto Protocol. With the emergence of emissions trading, the framework set up by the Kyoto Protocol will influence capital markets. Once a state has become a party to these international instruments, the rights and obligations contained in them will need to be effectuated in the domestic sphere. A reasonable familiarity with the wide array and scope of international norms impacting on the domestic arena would facilitate the work of many domestic lawyers.<sup>24</sup>

The Legal Counsel of the United Nations has taken the unprecedented step of writing to legal advisors of foreign ministries seeking their assistance in encouraging deans of law schools to include international law in their curricula if they have not already done so. Assistance may be available within the U.N. system, other multilateral organizations, certain NGOs, professional associations, and through bilateral aid donors for those countries that seek to develop the teaching of international law in their law schools. A Web site developed by the Office of Legal Affairs of the United Nations ([www.un.org/law](http://www.un.org/law)) seeks to provide guidance in locating such sources of assistance within the U.N. system.

21. The book is available in limited numbers in hard copy and on the Internet.

22. *Strategy*, *supra* note 13, *Suggested Action 3. Training of Judges and Practicing Lawyers*.

23. Framework Convention on Climate Change, *supra* note 5; Kyoto Protocol to the United Nations Framework Convention on Climate Change, Dec. 11, 1997, available at <http://unfccc.int/resource/docs/convkp/kpeng.html> (last visited Sept. 12, 2002).

24. See Edith Brown Weiss, *The New International Legal System*, in *PERSPECTIVES ON INTERNATIONAL LAW 67* (Nandasiri Jasenthuliyana ed. 1995) (1995).

### VIII. U.N. Treaty Collection

In this connection, the Treaty Section of the United Nations, with a view to contributing further to the dissemination of international legal norms, has made available on the Internet its massive collection of treaties numbering more than 50,000 bilateral treaties. In addition, a similar number of related actions registered with the United Nations are included on the Internet giving substantial effect to Article 102 of the Charter of the United Nations and the Regulations.<sup>25</sup> The status information relating to more than 500 multilateral treaties is also deposited with the Secretary-General.<sup>26</sup>

The full texts of bilateral treaties in their original languages with translations into English and French (where necessary), registered up to 1998, are now available on the Internet. The goal by the end of 2002 (depending on financial resources) is to have available treaties registered up to 2000. Furthermore, it is now possible to access the daily updated status of all multilateral treaties deposited with the Secretary-General (more than 500).<sup>27</sup> The full texts of most of these multilateral treaties in the six official languages are now available on this site and it is proposed to make all of them so accessible in the near future. Given its comprehensive nature, this unique collection has become a major source of information for lawyers, diplomats, academics, and civil society. Practicing lawyers, especially those engaged in legal matters with international implications, find the daily updated status of multilateral treaties deposited with the Secretary-General extremely helpful.

The U.N. Treaty Collection on the Internet provides a ready source of precedents, contributes to the development of legal principles, and ensures transparency in international interaction—a key objective of the draftsmen of the Charter when they incorporated article 102.

At a time when individuals and NGOs are beginning to play an increasingly proactive role in the development and subsequent implementation of international legal norms, it is hoped that the ready Internet availability of the U.N. treaty collection will facilitate more informed discussions and assist in the further democratization of the international law making processes.

NGOs are now a constant factor in international negotiations. They lobby governments in capitals, are present in large numbers at international negotiations ensuring that their viewpoints are registered, and some are even a feature in national delegations. They are becoming a critical element in the national implementation of treaty obligations due to their wider resources and vigilance.<sup>28</sup> The U.N. Treaty Collection on the Internet has received a Smithsonian Computerworld citation for innovation and is currently accessed more than 800,000 times every month by users around the world. It is available free of charge to NGOs and users from developing countries, in addition to the U.N. family and governments.

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25. Registration and Publication of Treaties and International Agreements: Regulation to Give Effect to Article 102 of the Charter of the United Nations, 859 U.N.T.S. xii (1973). Article 102 of the Charter was incorporated to ensure transparency and open diplomacy.

26. See Treaty Source, *supra* note 18.

27. Daily updated information relating to signatures, ratifications, accessions, reservations, and declarations are available at this site.

28. See Kohona, *supra* note 4.

## IX. Technical Assistance on Legal Matters

In his Millennium Report, referring to the advancement of the international rule of law, the Secretary-General emphasized the need to give effect to treaty obligations in the domestic sphere.

It is not enough for States to give their consent to be bound by treaties. If the peoples of all nations are to participate in the emerging global legal order and enjoy its benefits, States must also respect and implement the obligations that the treaties in question embody. Realizing the promise of the framework of global norms developed by the international community is of critical importance. Without such a commitment, the rule of law in international affairs will remain little more than a remote abstraction.<sup>29</sup>

Recognizing the difficulties involved in domestic jurisdictions in realizing this goal, the Secretary-General also said,

... all too often, individuals and corporations find that they are denied the rights and benefits that international law and treaties provide for. Sometimes national authorities refuse to recognize and respect their obligations under international law, even where the state has voluntarily subscribed to the relevant treaties. More often though, such authorities simply lack the necessary expertise or resources to ensure that their obligations are properly implemented and applied. . . .<sup>30</sup>

With a view to addressing this issue, he said,

In order to build national capacities to implement treaties more effectively, I have requested every office, department, program, fund, and agency of the United Nations to review, its current activities and to consider what else it might do, within its existing mandate and given existing resources, to promote the application of international law, and to provide technical assistance to help Governments implement their commitments under the treaties to which they are or might wish to become parties.<sup>31</sup>

Consistent with the sentiments of the Secretary-General, a further measure, recommended by the *Programme for an Era of Application of International Law* was to increase the assistance provided by the U.N. system to countries to enable them to participate in the international treaty framework. This recommendation further recognizes the need for states that undertake international rights and obligations by becoming party to treaties to give effect to these rights and obligations within their domestic jurisdictions, and the need for assistance from the international community in certain cases to achieve this objective.

The recommendation has implications on two levels. First, assistance must be provided to countries that seek such assistance to become party to treaties at the international level, that is, to sign and ratify, accede to, or undertake other treaty actions. Second, the United Nations must mobilize resources to assist countries wishing to give domestic effect to their international obligations. As the Secretary-General observed many countries do not become party to treaties, not due to a lack of political will or the absence of a sense of solidarity with the larger international community, but essentially due to a lack of technical skills and

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29. *Report of the Secretary-General on the Work of the Organization*, U.N. GAOR, 55th Sess., Supp. No. 1, ¶ 277, U.N. Doc. A/55/1 (2000) [hereinafter *Secretary-General's Report*].

30. *Id.* ¶ 278.

31. *Id.* ¶ 279.

resources in the area of signing and ratifying or acceding to treaties. Furthermore, a treaty that is not fully implemented in the domestic arena remains merely aspirational.

As an initial measure to address this problem, the Secretariat has prepared a treaty handbook,<sup>32</sup> which will provide step-by-step guidance to countries that wish to participate in the international treaty framework and undertake treaty actions. The Secretariat expects that this publication will address many of the perceptual and practical difficulties relating to participating in the multilateral treaty framework. The handbook is being supplemented with focused training organized by the Secretariat for legal officers assisting governments and other interested persons, including NGOs. The training module has been designed to facilitate its adaptation to accommodate the needs of a particular country or a region or be devoted to a particular subject matter. In addition, it is hoped that the handbook and the related training will further sensitize states, government lawyers, NGOs, and others of the importance of participation in the international treaty framework. The Treaty Handbook has been published in the six official languages of the Organization and has been distributed widely. It will also be available in these six languages through the Internet.

The initial training course conducted in New York in November 2001 was well received with all available places being taken. A second training seminar was held in May 2002 and was similarly well received. Given the interest in the seminar the Secretariat intends, resources permitting, to make this training program available to individual countries and to the regions.<sup>33</sup> Training resources in these areas may also be available through multilateral donor agencies and bilateral sources. An invitation has been extended to states to contact the Secretariat, should they be in need of such assistance.<sup>34</sup> Individual legal officers from Permanent Missions to the United Nations have been provided tailored training in the Secretariat on an exceptional basis.

At a secondary level, consistent with the sentiments expressed by the Secretary-General, the U.N. Secretariat will also seek to mobilize resources to assist countries that wish to give effect to their international obligations at the domestic level. Such assistance may involve providing detailed information on the rights and obligations incorporated in the treaties adopted under the auspices of the United Nations,<sup>35</sup> assisting with drafting of implementing legislation, training of lawyers and judges, assisting in the teaching of international law, improving the skills of administrators, and training law enforcement officers. For example, the complexities involved in the domestic implementation of a treaty such as the Kyoto Protocol to the United Nations Framework Convention on Climate Change 1997, cannot be underestimated. Assistance with a project of this nature would pose a major challenge, as the resources available to the United Nations for this purpose are woefully inadequate.

## X. Assistance Sources on the Internet

The Secretariat and the organs and agencies of the United Nations to make the best use of electronic medium to provide training and assistance to states on various aspects of the

32. U.N. TREATY SECTION OF THE OFFICE OF LEGAL AFFAIRS, TREATY HANDBOOK, U.N. Sales No. E.02.V.2 (2001).

33. The tight resources situation being the major constraint in responding favorably to requests to take the seminar to the regions.

34. *Multilateral Treaty Framework: An Invitation to Universal Participation. Focus 2001: Rights of Women and Children*, *supra* note 19, at Letter of Invitation of the Secretary-General.

35. See *United Nations Decade of International Law: Report of the Secretary-General*, U.N. GAOR, 44th Sess., Agenda Item 154, U.N. Doc. A/54/362 (1999) [hereinafter *U.N. Decade*].

international legal order, or simply to provide information have established a number of Web sites. The International Court of Justice maintains a site that provides information on matters before the Court including its judgements.<sup>36</sup> The United Nations Commission in International Trade Law (UNCITRAL) provides a range of information including its model laws. Case law on UNCITRAL Texts (CLOUT) is a "systematic collection and distribution mechanism for information on court decisions and arbitral awards relating to the Conventions and Model Laws that emanated from the work of the Commission."<sup>37</sup> The Division of Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the U.N. also maintains a very informative site.<sup>38</sup> The site maintained by the U.N. Codification Division of the Office of Legal Affairs provides a range of information and guidance on sources of assistance.<sup>39</sup> The Technical Assistance site maintained by the Office of Legal Affairs is a recent innovation intended to provide a comprehensive overview of the assistance available.<sup>40</sup> It also seeks to provide a one-stop information source on assistance.

The U.N. family has begun to employ the electronic medium extensively, due to cost and convenience, to provide assistance and information to states on technical and substantive matters. For example, the United Nations Environment Programme (UNEP) maintains a very comprehensive Web site. In addition to providing an extensive overview of its work, it also provides guidance on the assistance available.<sup>41</sup> The High Commissioner for Human Rights also provides a range of assistance.<sup>42</sup>

Significant training takes place in the relevant areas through U.N. bodies and specialized agencies such as the United Nations Development Programme (UNDP), the United Nations Childrens Fund (UNICEF), the World Intellectual Property Organisation (WIPO) and the International Labour Organisation (ILO). Similarly, assistance with regard to the domestic implementation of treaty obligations is made available to countries that seek such assistance through the same sources. Certain NGOs provide training and, increasingly, are being sub-contracted for this purpose by U.N. bodies and governments. The International Committee of the Red Cross is very active in the areas of human rights and humanitarian affairs.<sup>43</sup> The International Union for the Conservation of Nature provides extensive assistance in the sustainable development field.<sup>44</sup> Government-funded bilateral assistance is increasingly utilized for this purpose.

Training assistance is an area where the United Nations could seek to further cooperate with key NGOs and even private sector firms, professional associations, and other private sector actors. This is a valuable opportunity for non-state entities to make a practical con-

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36. International Court of Justice Web site, at <http://www.icj.cij.org> (last visited Sept. 1, 2002).

37. U.N. Commission on International Trade Law, *Case Law on UNCITRAL Texts*, at <http://www.uncitral.org/english/clout> (last visited Sept. 1, 2002).

38. U.N. Division for Ocean Affairs and the Law of the Sea, *Oceans and Law of the Sea*, at <http://www.un.org/depts/los/index.htm> (last visited Sept. 1, 2002).

39. U.N. Office of Legal Affairs, Codification Division, at <http://www.un.org/depts/los/index.htm> (last visited Sept. 1, 2002).

40. U.N. Office of Legal Affairs, *Technical Assistance Provided to States in Legal Matters*, at <http://www.un.org/law/technical/technical.htm> (last visited Sept. 1, 2002).

41. U.N. Environment Programme, at <http://www.unep.org> (last visited Sept. 1, 2002).

42. U.N. Office of the High Commissioner for Human Rights, *available at* <http://www.unhcr.ch> (last visited Sept. 1, 2002).

43. See *U.N. Decade*, *supra* note 35.

44. The World Conservation Union (IUCN), at <http://iucn.org/2000/about/content> (last visited Sept. 1, 2002).

tribution to the consolidation and advancement of the international rule of law. Mechanisms for making such contributions are being refined and, at present, they may be channelled through the appropriate agencies of national governments or in collaboration with the United Nations and its agencies. An interesting and groundbreaking collaboration has commenced between the American Bar Association and the UNDP to deliver legal technical skills to developing countries.<sup>45</sup> The prospect of collaborating with law firms and legal professional associations in providing a range of assistance to states to enhance their domestic legal systems poses interesting challenges both to the United Nations and the law firms.

## XI. U.N. Coordination

Following the commitments made in the Millennium Report<sup>46</sup> and the Millennium Declaration, an Inter-Departmental Group (IDG) has been established within the United Nations to prevent duplication and overlap and ensure effective delivery of assistance. This IDG will seek to ensure that the limited resources available within the U.N. system are disbursed effectively to achieve the maximum effect. Among the tasks are compiling a registry of services provided by the different departments at headquarters and by the different agencies; making this compilation widely available, including placing a copy on-line; and encouraging partnerships that would not only involve governments, but also NGOs and private sector firms with the appropriate skills and experience. It is intended that the work of the IDG will result in broader and more effective compliance with the treaties and the implementation of obligations under the treaties deposited with the Secretary-General of the United Nations by a more comprehensive range of countries.

## XII. Conclusions

The opportunities and the challenges in this area are highlighted by the range and complexity of some of the multilateral treaties adopted by the international community in recent years. In the case of most of these multilateral treaties, which cover the spectrum of human interaction, it was the United Nations along with its bodies and agencies that provided the negotiating fora and secretarial support. The United Nations and its agencies continue to be the forum for many new multilateral treaties being negotiated in the areas of the environment, health, food and agriculture, organized crime, terrorism, human rights, humanitarian affairs, and disarmament. Key treaties recently adopted under the auspices of the United Nations and its agencies include the two protocols to the Convention on the Rights of the Child, adopted in 2000,<sup>47</sup> dealing with the problems of child prostitution, child pornography, and children in armed combat. In December 2000, the Palermo Convention against organized crime with its two protocols (on trafficking in women and children and

45. See ABA-UNDP International Legal Resource Center, available at <http://www.abanet-org/intlaw/ilrc> (last visited Sept. 1, 2002).

46. *Secretary-General's Report*, *supra* note 29.

47. *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict*, G.A. Res. 263, U.N. GAOR, 54th Sess., U.N. Doc. A/54/RES/263 (2002); *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, G.A. Res. 263, U.N. GAOR, 54th Sess., U.N. Doc. A/54/RES/263 (2002).

on smuggling illegal immigrants)<sup>48</sup> was opened for signature and in the first four days attracted the signatures of over 120 countries, reflecting the serious concerns of the international community.

A further protocol to the Palermo Convention, dealing with the illicit manufacturing of and trafficking in small arms was adopted in 2001.<sup>49</sup> The Rome Statute of the International Criminal Court, 1998, will pose a clear challenge for domestic legal draftsmen, which has attracted 139 signatures and seventy-six ratifications.<sup>50</sup> The Rome Statute creates an international tribunal with jurisdiction over certain crimes defined as particularly egregious by the international community (genocide, war crimes, crimes against humanity, and aggression) and contains complex provisions requiring translation into the domestic jurisdictions. Treaties adopted recently in the field of the environment deal with the questions of persistent organic pollutants,<sup>51</sup> liability and compensation for damage resulting from the transboundary movement of hazardous wastes,<sup>52</sup> prior informed consent procedure relating to certain hazardous materials,<sup>53</sup> and bio-safety.<sup>54</sup>

Reflecting the strong sentiments of the international community, two conventions on terrorism, terrorist bombings, and financing of terrorism have been adopted recently. These conventions, by themselves, are not sufficient to address the underlying problems. They need to be implemented effectively by the international community, both at the international plane and at domestic level. It is the implementation at domestic level, through the adoption of necessary legislation, establishment of the appropriate administrative apparatus, enforcement through the judicial organs, and awareness of their rights and obligations by individuals and civil society, that will pose the major challenge.

The United Nations and its agencies continue to provide the forum and the facilities for the conclusion of multilateral agreements to address issues of concern to the international community. The Sixth Committee of the General Assembly, which has been a major forum for the development of a number of conventions adopted in recent times, continues to play a key role. A draft convention on nuclear terrorism and a draft comprehensive convention on terrorism are currently under consideration in the Sixth Committee. The issue of developing a convention on human cloning has also been submitted to the Committee. A number of initiatives addressing small arms and biological weapons continue to be discussed in U.N. fora. As has been the case with a number of past proposals, some of these initiatives may take many years before reaching agreement within the international community. The International Law Commission continues its invaluable task of considering rules of inter-

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48. *U.N. Convention Against Transnational Organized Crime*, U.N. GAOR, 55th Sess., Agenda Item 105, U.N. Doc. A/55/255 (2001).

49. *Id.*; see Treaty Source, *supra* note 18.

50. The Rome Statute of the ICC received the sixty ratifications required for it to enter into force on April 11, 2002. Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9\* (1998), available at <http://www.un.org/icc> (last visited Sept. 1, 2002).

51. Stockholm Convention on Persistent Organic Pollutants, May 23, 2001, available at <http://www.epa.gov/oppead1/cb/csb-page/updates/popsley.htm> (last visited Sept. 2, 2002).

52. Basel Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal, Dec. 10, 1999, available at [http://untreaty.un.org/English/TreatyEvent2002/Basle\\_Prot\\_17.htm](http://untreaty.un.org/English/TreatyEvent2002/Basle_Prot_17.htm) (last visited Sept. 2, 2002).

53. See Treaty Source, *supra* note 18. Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, Sept. 10, 1998, available at <http://untreaty.un.org/English/TreatyEvent2002/Rotterdam.24.htm> (last visited Sept. 2, 2002).

54. See Treaty Source, *supra* note 18.

national law and making recommendations to the international community. Recently it presented its report on state responsibility.

The contribution made by the United Nations to consolidating and advancing the international rule of law has been significant. Although the U.N.'s role in this regard has not been dramatic and has not been the subject of heart-stopping headlines, it has been a quiet and effective achievement. In one respect it has been clearly successful. The culture of compliance with the international rules of conduct, which largely pervades the international community today, may be attributed to a significant extent to the work and the influence of the Organization over the years. However, much remains to be done before it could be claimed that the Organization has realized its Charter-mandated responsibility. The aspirations of the Secretary-General reflect this sentiment.

It is this author's hope that as we enter the twenty-first century nations would leave behind a world that was governed for most of history by a reliance on might and become more dependent on the international rule of law as envisaged by the Charter to guide their relations among each other.<sup>55</sup>

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55. *Invitation*, *supra* note 7, at Foreword.