'…a masterly history of the "international law of decolonization", a rich and valuable addition to the literature on a topic that is finally receiving the attention it deserves.'
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'This is a gripping new take on the relationship between the historical process of decolonization and international law. The book offers a sustained engagement with a panoply of eminent and courageous jurists from the South, their allies, interlocutors, and rivals. The thoughtful alignment between orientation, method, and structure is a model for scholars of all stripes.'
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ISBN 978-1-108-42769-2

Özsu **Completing Humanity** CAMBRIDGE

Completing Humanity

The International Law of Decolonization, 1960–82

Umut Özsu

CAMBRIDGE

COMPLETING HUMANITY

After the Second World War, the dissolution of European empires and emergence of 'new states' in Asia, Africa, Oceania, and elsewhere necessitated large-scale structural changes in international legal order. In *Completing Humanity*, Umut Özsu recounts the history of the struggle to transform international law during the twentieth century's last major wave of decolonization. Commencing in 1960, with the General Assembly's landmark decolonization resolution, and concluding in 1982, with the close of the third UN Conference on the Law of the Sea and the onset of the Latin American debt crisis, the book examines the work of elite international lawyers from newly independent states alongside that of international law specialists from 'First World' and socialist states. A study in modifications to legal theory and doctrine over time, it documents and reassesses post-1945 decolonization from the standpoint of the 'Third World' and the jurists who elaborated and defended its interests.

UMUT ÖZSU is Associate Professor of Law and Legal Studies at Carleton University, Ottawa. He is the author of *Formalizing Displacement: International Law and Population Transfers* (2015), and the co-editor of several volumes and journal symposia.

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CAMBRIDGE
UNIVERSITY PRESS

Shaftesbury Road, Cambridge CB2 8EA, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India

103 Penang Road, #05-06/07, Visioncrest Commercial, Singapore 238467

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www.cambridge.org
Information on this title: www.cambridge.org/9781108427692

DOI: 10.1017/9781108566230

First published 2024

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data
Names: Özsu, Umut, author.
Title: Completing humanity : the international law of decolonization, 1960–82 / Umut Özsu, Carleton University, Ottawa.
Description: Cambridge, United Kingdom ; New York, NY : Cambridge University Press, 2023. | Includes bibliographical references and index.
Identifiers: LCCN 2023029242 (print) | LCCN 2023029243 (ebook) | ISBN 9781108427692 (hardback) | ISBN 9781108447041 (paperback) | ISBN 9781108566230 (epub)
Subjects: LCSH: Decolonization. | Colonies (International law) | International law–History–20th century. | United Nations. General Assembly. Special Committee on the Situation With Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples | Debts, External–Latin America. | MESH: United Nations Convention on the Law of the Sea (1982 December 10)
Classification: LCC KZ1269 .O97 2023 (print) | LCC KZ1269 (ebook) | DDC 341.26–dc23/eng/20230802
LC record available at https://lccn.loc.gov/2023029242
LC ebook record available at https://lccn.loc.gov/2023029243

ISBN 978-1-108-42769-2 Hardback

For Aklan and Allison, past, present, future

What is 'fair' distribution?

—Karl Marx

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ACKNOWLEDGEMENTS

This book concerns the failures and successes of a project – the project of decolonizing international law. This was a project that reached its peak during the 1960s and 1970s and has sputtered along, in fits and starts, ever since. Since late 2014, when I began working on the book, I have incurred many debts to ensure that it would eventually see the light of day. It is not possible to thank all those with whom I have had occasion to discuss it here. However, I owe special debts to Georges Abi-Saab, Antony Anghie, B. S. Chimni, and Muthucumaraswamy Sornarajah, each of whom took time to discuss finer points of personal experience and professional lore. As indicated by the enthusiastic footnotes and lengthy Bibliography, I benefited greatly from the work of many scholars, both past and present, and I have sought to build upon their writings. I am happy to extend particular thanks to Itty Abraham, Christopher Dietrich, Samuel Moyn, Surabhi Ranganathan, Quinn Slobodian, Meredith Terretta, Boyd van Dijk, and Natasha Wheatley, each of whom offered a sounding board on specific questions. Karen Knop, a mentor, left us less than a month before this book went to press; her abiding influence can be felt at a number of points. Surabhi and Cait Storr took the time to read a draft of Chapter 4; I am very grateful for their suggestions, which helped to improve the text. In addition to Natasha and Samuel, Nils Gilman, John Haskell, James Ingram, Martti Koskenniemi, Akbar Rasulov, Sadia Saeed, and Alina Sajed provided opportunities to discuss portions of the project in detail. I owe Esmat Elhalaby for last-minute help tracking down a hard-to-find reference, and George Rodrigo Bandeira Galindo for the suggestion to look into the Brazilian constitution. Dirk Moses gets a beer for the proverbial 'just get it done' prod, which came in at a critical juncture. I also thank Helyeh Doutaghi and Jay Ramasubramanyam for their meticulous research assistance. John Berger and Marianne Nield of Cambridge University Press supported this project, and Aiswarya Narayanan coordinated its production. The staff of the United Nations Archives in New York provided valuable

assistance, and Patricia Paquette and fellow librarians at Carleton University's MacOdrum Library helped to locate numerous sources that proved especially difficult to find. Finally, alongside Aklan and Allison, for whom this book was written and to whom it is dedicated, I thank Emma, our late cocker spaniel, and Bot, our whiny kitten, for keeping me company during its long gestation. For their love and support, I also thank Tamer and Nuran Özsu, Lynne Stuart, and Larry Glaser.

An earlier and less detailed version of Chapter 2 first appeared as 'An Anti-Imperialist Universalism? *Jus Cogens* and the Politics of International Law', in *International Law and Empire: Historical Explorations*, ed. Martti Koskenniemi, Walter Rech, and Manuel Jiménez Fonseca (Oxford: Oxford University Press, 2017), 295. I offered a prototype of Chapter 5's argument in 'Neoliberalism and Human Rights: The Brandt Commission and the Struggle for a New World', *Law and Contemporary Problems* 81 (2018), 139. Chapter 1 focuses on debates about self-determination in the context of the 1970 Friendly Relations Declaration, an instrument whose general conceptual architecture and legal-historical background Samuel Moyn and I examined in 'The Historical Origins and Setting of the Friendly Relations Declaration', in *The UN Friendly Relations Declaration at 50: An Assessment of the Fundamental Principles of International Law*, ed. Jorge E. Viñuales (Cambridge: Cambridge University Press, 2020), 23. I thank Cambridge University Press, Duke University Press, and Oxford University Press for permission to draw upon these materials.

NOTE ON TERMINOLOGY AND TRANSLATIONS

Readers familiar with the history of post-1945 decolonization are accustomed to a variety of terms used by lawyers, diplomats, and others in reference to different states, peoples, and regions. 'North' and 'South'; 'developed' and 'developing'; 'industrialized' and 'industrializing'; 'First World', 'Second World', and 'Third World'; 'capitalist', 'socialist', and 'nonaligned'. No great imagination is needed to recognize that these and other categories are replete with evasions and contradictions. The techno-politics of 'development' is built on centuries of civilizing missions. There has always been a 'South' in the 'North', as there has always been a 'North' in the 'South'. And just as many states marked as 'nonaligned' have aligned themselves rather decisively at specific moments, some 'socialist' states are perhaps better described as 'state capitalist' (leaving aside the fact that all states operate within an international state system undergirded by the capitalist mode of production). Nevertheless, I have chosen to retain most such terms. My reason for doing so is simple: since my central aim is to describe, explain, and analyze arguments about the international law of decolonization on their own terms, and since participants in the postwar project of developing an international law of and for decolonization relied extensively upon these terms, I have opted to remain faithful to the legal and diplomatic vernaculars favoured by decolonization's champions, critics, and commentators.

Unless otherwise indicated, all translations are mine.

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Universal Declaration of the Rights of Peoples, signed 4 July 1976, available at www.algerie-tpp.org/tpp/en/declaration_algiers.htm.

TABLE OF DOMESTIC STATUTES

ABBREVIATIONS

AALCC	Asian–African Legal Consultative Committee
AAPSO	Afro–Asian Peoples' Solidarity Organization
AFDI	*Annuaire français de droit international*
AJIL	*American Journal of International Law*
AJIL Sup.	*American Journal of International Law Supplement*
ASIL Pd.	*American Society of International Law Proceedings*
BFSP	British and Foreign State Papers
BISD	Basic Instruments and Selected Documents (GATT)
BYIL	*British Yearbook of International Law*
CDG77	*The Collected Documents of the Group of 77*, ed. Mourad Ahmia (Oxford: Oxford University Press, 2006–15)
CIEC	Conference on International Economic Cooperation
CJTL	*Columbia Journal of Transnational Law*
Comecon	Council for Mutual Economic Assistance
CTS	The Consolidated Treaty Series
ECOSOC	Economic and Social Council
EEC	European Economic Community
EJIL	*European Journal of International Law*
ESCOR	Economic and Social Council Official Records
FAO	Food and Agriculture Organization
Fed. Reg.	Federal Register (United States)
G77	Group of 77
GA	General Assembly
GAOR	General Assembly Official Records
GATT	General Agreement on Tariffs and Trade
HILJ	*Harvard International Law Journal*
IACHR	Inter-American Court of Human Rights
IADL	International Association of Democratic Lawyers
ICJ	International Court of Justice
ICJ Rep.	International Court of Justice Reports
ICLQ	*International and Comparative Law Quarterly*
IJIL	*Indian Journal of International Law*

ILA	International Law Association
ILC	International Law Commission
ILM	International Legal Materials
ILO	International Labour Organization
IMF	International Monetary Fund
ISBA	International Seabed Authority
JHIL	*Journal of the History of International Law*
LJIL	*Leiden Journal of International Law*
LNTS	League of Nations Treaty Series
NAM	Non-Aligned Movement
NATO	North Atlantic Treaty Organization
NIEO	New International Economic Order
NILR	*Netherlands International Law Review*
OAS	Organization of American States
OAU	Organization of African Unity
OECD	Organization for Economic Cooperation and Development
OPEC	Organization of the Petroleum Exporting Countries
PCIJ Rep.	Permanent Court of International Justice Reports
RBDI	*Revue belge de droit international*
RCADI	*Recueil des cours de l'Académie de droit international de La Haye*
REDI	*Revue égyptienne de droit international*
RGDIP	*Revue générale de droit international public*
RIAA	Reports of International Arbitral Awards
SC	Security Council
SCR	Supreme Court Reports (Canada)
SYIL	*Soviet Yearbook of International Law*
UN	United Nations
UNCLOS III	Third United Nations Conference on the Law of the Sea
UNCLOT	United Nations Conference on the Law of Treaties
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UNIDO	United Nations Industrial Development Organization
UNITAR	United Nations Institute for Training and Research
UNTS	United Nations Treaty Series
U.S.	United States Reports
U.S.C.	United States Code
VJIL	*Virginia Journal of International Law*
Yearbook ILC	*Yearbook of the International Law Commission*
ZaöRV	*Zeitschrift für ausländisches öffentliches Recht und Völkerrecht*

Introduction

On 24 October 1945, when the UN Charter entered into force, an estimated 750 million people, nearly a third of the world's population, lived in territories under direct or indirect foreign rule. By the end of 1990, thirty years after it adopted the landmark Declaration on the Granting of Independence to Colonial Countries and Peoples and established a special committee to oversee the process of decolonization,[1] this number had cratered to a few million and the UN General Assembly felt enough pride in its track record to celebrate the inception of an 'International Decade for the Eradication of Colonialism'.[2] Today, roughly 70 per cent of the world's population is descended from colonizers or colonial subjects, in many cases from both.[3] The experiences of

[1] Declaration on the Granting of Independence to Colonial Countries and Peoples, GA Res. 1514 (XV) (14 December 1960); also The Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, GA Res. 1654 (XVI) (27 November 1961). For the committee's expansion from seventeen to twenty-four members, as a result of which it has come to be known as the 'Committee of 24' or 'C-24' (despite currently having more than twenty-four members), see The Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, GA Res. 1810 (XVII) (17 December 1962). More committees included the Special Committee on Territories under Portuguese Administration and the Special Committee for South West Africa, both of which were dissolved in 1962, with the 'C-24' assuming their mandates. See Special Committee on Territories under Portuguese Administration, GA Res. 1809 (XVII) (14 December 1962); Special Committee for South West Africa, GA Res. 1806 (XVII) (14 December 1962).

[2] International Decade for the Eradication of Colonialism, GA Res. 43/47 (22 November 1988). These 'decades' continue to the present day: Second International Decade for the Eradication of Colonialism, GA Res. 55/146 (8 December 2000); Third International Decade for the Eradication of Colonialism, GA Res. 65/119 (10 December 2010); Fourth International Decade for the Eradication of Colonialism, GA Res. 75/123 (10 December 2020).

[3] Bouda Etemad, *Possessing the World: Taking the Measurements of Colonisation from the Eighteenth to the Twentieth Century*, trans. Andrene Everson (New York: Berghahn, 2007 [2000]), 1–2.

countless occupied territories, oppressed nations, unrecognized states, secessionist movements, and Indigenous peoples, to say nothing of those struggling against ongoing neocolonialism, make it clear that colonialism has not come to an end – and that it certainly cannot be reduced to the formal processes of decolonization coordinated by states and international organizations. But the fact remains that over eighty states gained their independence within a single generation after the Second World War, with most colonial territories thereby reconstituted as states possessed of de jure sovereignty. Fewer than two million now live in the seventeen territories that continue to be designated as 'non-self-governing' on the United Nations' admittedly incomplete and controversial list.[4]

How was it possible for a transformation on this scale to unfold so rapidly? What was international law's role in it? Decolonization, as a historical process, certainly did not arise *ex nihilo* after the Second World War. Its histories include the Haitian and Greek revolutions and the independence of settler states in the Americas during the late eighteenth and nineteenth centuries. Nor was decolonization ever limited spatially to Asia, Africa, Oceania, and the Caribbean. In central and eastern Europe, new states were created after the Second World War, as they were after the dissolution of the German, Ottoman, Russian, and Austro–Hungarian empires two decades earlier. The very term 'decolonization', which seems to have first appeared in print in nineteenth-century discussions of France's occupation of Algeria and the Mexican–American

[4] These territories are American Samoa, Anguilla, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands (Malvinas), French Polynesia, Gibraltar, Guam, Montserrat, New Caledonia, Pitcairn, Saint Helena, Tokelau, Turks and Caicos Islands, US Virgin Islands, and Western Sahara. Report of the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples for 2022, UN Doc. A/77/23 (2022). Territories not officially designated include many administered as dependencies by Australia, Denmark, France, the Netherlands, New Zealand, Norway, the United Kingdom, and the United States. Also unrecognized as non-self-governing are a large number of disputed territories (e.g. Kashmir, Kurdistan, Palestine), territories like those controlled by Spain in northern Africa (Alhucemas Islands, Ceuta, Chafarinas Islands, Melilla, Peñón de Vélez de la Gomera, and Perejil Island), territories claimed by various states in Antarctica, military bases on territories administered by foreign states (e.g. Akrotiri and Dhekelia, Guantánamo Bay), and *sui generis* systems like the regime instituted by the 1920 Svalbard Treaty, the League of Nations-backed settlement of the Åland Islands dispute between Finland and Sweden, and the 'special administrative regions' crafted for Hong Kong and Macau as part of China's 'one country, two systems' principle.

War,[5] was popularized during the interwar period by German émigré economist Moritz Bonn, who translated his neologism *Gegenkolonisation* into English to conceptualize what he saw as a long-term development stretching back to the American War of Independence.[6] Yet the heyday of decolonization came after the establishment of the United Nations, an organization often distinguished from the League of Nations by its recognition of what one observer called 'the need for accommodation in a revolutionary stage of transition'.[7] This was a time when nations and peoples the world over secured formal emancipation from colonial rule. It was also a time when many pushed to fashion a new and decolonized international law. The specific dynamics and mechanisms differed, from time to time and place to place. The removal of direct imperial control was a different matter, for instance, from the termination of a protectorate arrangement. A 'peaceful transition' in one territory might well be complemented by rebellions and counterinsurgency operations in a neighbouring territory. Some colonial powers welcomed withdrawal as a means of shrugging off increasingly burdensome legal, financial, and administrative responsibilities, as well as the prospect of enhanced migration three-time prime minister Édouard Herriot had in mind when declaring in 1946 that France did not wish to become a 'colony of her former colonies'.[8] Others resorted to brutal violence to

[5] Charles-Robert Ageron, 'Décolonisation', in *Encyclopædia Universalis*, available at www.universalis.fr/encyclopedie/decolonisation/; Todd Shepard, *The Invention of Decolonization: The Algerian War and the Remaking of France* (Ithaca: Cornell University Press, 2006), 5–6.

[6] Stuart Ward, 'The European Provenance of Decolonization', *Past & Present* 230 (2016), 227. Bonn was a member of the German delegation to the Paris Peace Conference, and his bitterness toward the final settlement led him to argue that Germany was well-placed to act as 'an intermediary for peoples threatened by colonization and, as a leader of states without colonies, ensure the seamless transition from the age of colonization to the age of *Gegenkolonisation*'. Quoted in Ward, 'The European Provenance of Decolonization', 238–39. For a key English-language statement, see Moritz Bonn, 'The Age of Counter-Colonisation', *International Affairs* 13 (1934), 845. On the eastern European connection, see James Mark and Quinn Slobodian, 'Eastern Europe in the Global History of Decolonization', in *Oxford Handbook of the Ends of Empire*, ed. Martin Thomas and Andrew Thompson (Oxford: Oxford University Press, 2018), 351, at 352ff; James Mark et al., *Socialism Goes Global: The Soviet Union and Eastern Europe in the Age of Decolonization* (Oxford: Oxford University Press, 2022), 15, 27.

[7] Hans Kohn, 'The United Nations and National Self-Determination', *Review of Politics* 20 (1958), 526, at 531.

[8] *Journal officiel de la République française. Débats de l'Assemblée nationale constituante*, 27 August 1946, 3334. On the ensuing debate (in which Léopold Senghor, the poet, scholar, and eventual Senegalese president, declared 'This is racism!'), see Frederick

suppress independence movements, as well as related protests and uprisings. In the words of Amílcar Cabral, the Marxist and pan-Africanist revolutionary, Portugal could not 'afford the luxury of practising neocolonialism', being too weak to retain economic control without forcibly maintaining political control, and this was why its effort to hold back the tide of history was ultimately doomed.[9]

An international legal history of what many have come to term 'the long 1970s',[10] *Completing Humanity* documents the rapid rise and equally rapid fall of the most sustained attempt to decolonize international law ever undertaken. It commences in 1960, the year of the decolonization resolution, and concludes in 1982, with the close of the third UN Conference on the Law of the Sea and the onset of the Latin American debt crisis. The postwar decolonization push began in the late 1940s and 1950s, advancing alongside a boom in development planning,[11] but its political and economic consequences made their force felt

Cooper, *Citizenship between Empire and Nation: Remaking France and French Africa, 1945–1960* (Princeton: Princeton University Press, 2014), 105–6, 195.

[9] Cabral continued even more bluntly: 'If Portugal were economically advanced, if Portugal could be classified as a developed country, we should surely not be at war with Portugal today.' Amilcar Cabral, 'The Options of CONCP' [1965], in *Unity and Struggle: Speeches and Writings*, trans. Michael Wolfers (New York: Monthly Review Press, 1979), 251, at 252.

[10] See, for example, Bruce J. Schulman, *The Seventies: The Great Shift in American Culture, Society, and Politics* (New York: Free Press, 2001); J. R. McNeill, 'The Environment, Environmentalism, and International Society in the Long 1970s', in *The Shock of the Global: The 1970s in Perspective*, ed. Niall Ferguson et al. (Cambridge, MA: Harvard University Press, 2010), 263; Poul Villaume, Rasmus Mariager, and Helle Porsdam (eds), *The 'Long 1970s': Human Rights, East–West Détente and Transnational Relations* (Abingdon: Routledge, 2016); Priscilla Roberts and Odd Arne Westad (eds), *China, Hong Kong, and the Long 1970s: Global Perspectives* (Cham: Palgrave Macmillan, 2017).

[11] From a large literature, see esp. H. W. Arndt, *Economic Development: The History of an Idea* (Chicago: University of Chicago Press, 1987); Nick Cullather, 'Development? It's History', *Diplomatic History* 24 (2000), 641; Gilbert Rist, *The History of Development: From Western Origins to Global Faith*, 4th ed., trans. Patrick Camiller (London: Zed, 2014); Joseph Morgan Hodge, 'Writing the History of Development', *Humanity* 6 (2015), 429 and 7 (2016), 125 (in two parts); Stephen J. Macekura and Erez Manela (eds), *The Development Century: A Global History* (Cambridge: Cambridge University Press, 2018); Sara Lorenzini, *Global Development: A Cold War History* (Princeton: Princeton University Press, 2019). For the modernization theory that provided much of the ideological baggage for postwar US development programs, see Michael E. Latham, *Modernization as Ideology: American Social Science and 'Nation Building' in the Kennedy Era* (Chapel Hill: University of North Carolina Press, 2000); Nils Gilman, *Mandarins of the Future: Modernization Theory in Cold War America* (Baltimore: Johns Hopkins University Press, 2003); David C. Engerman et al. (eds), *Staging Growth: Modernization, Development, and the Global Cold War* (Amherst: University of Massachusetts Press, 2003). On socialist development

on the plane of international law most fully during the 1960s and 1970s. Growth in the per capita income of many 'developing' countries slowed during the 1950s and 1960s, and the United Nations designated the 1960s, 1970s, and 1980s as 'development decades'.[12] Formed in 1964, the year after the General Assembly adopted the Declaration on the Elimination of All Forms of Racial Discrimination,[13] the UN Conference on Trade and Development (UNCTAD) became an important venue for discussions about economic development, particularly in regard to problems of 'unequal exchange' – the long-term downward trend in the price of primary commodities, especially those produced in 'peripheral' states, relative to the price of manufactured goods. By the mid-1970s, though, the postwar cycle of global economic expansion had sputtered to an end after years of declining rates of profit for many US and other firms, hard on the heels of the effective demise of the Bretton Woods monetary order following US President Richard Nixon's decision to take the dollar off the gold standard in late 1971 and the first of the decade's two major 'oil crises' in 1973–74.[14] Building on deals they had struck with trade unions and working-class movements during the interwar period, the national and transnational capitalist classes of the postwar North Atlantic had entrenched broadly Keynesian models of countercyclical demand management, partly through a significant

programs in the Third World, see esp. David C. Engerman, 'The Second World's Third World', *Kritika* 12 (2011), 183; Abigail Judge Kret, '"We Unite with Knowledge": The Peoples' Friendship University and Soviet Education for the Third World', *Comparative Studies of South Asia, Africa and the Middle East* 33 (2013), 239; Oscar Sanchez-Sibony, *Red Globalization: The Political Economy of the Soviet Cold War from Stalin to Khrushchev* (Cambridge: Cambridge University Press, 2014), ch. 4; Jeremy Friedman, *Shadow Cold War: The Sino–Soviet Competition for the Third World* (Chapel Hill: University of North Carolina Press, 2015); Tobias Rupprecht, *Soviet Internationalism after Stalin: Interaction and Exchange between the USSR and Latin America during the Cold War* (Cambridge: Cambridge University Press, 2015); Małgorzata Mazurek, 'Polish Economists in Nehru's India: Making Science for the Third World in an Era of De-Stalinization and Decolonization', *Slavic Review* 77 (2018), 588. For comparison see also Sandrine Kott, 'Cold War Internationalism', in *Internationalisms: A Twentieth-Century History*, ed. Glenda Sluga and Patricia Clavin (Cambridge: Cambridge University Press, 2016), 340, at 352–56.

[12] United Nations Development Decade: A Programme for International Economic Co-operation (I), GA Res. 1710 (XVI) (19 December 1961); International Development Strategy for the Second United Nations Development Decade, GA Res. 2626 (XXV) (24 October 1970); International Development Strategy for the Third United Nations Development Decade, GA Res. 35/56 (5 December 1980).

[13] GA Res. 1904 (XVIII) (20 November 1963).

[14] The decade's second such crisis occurred in 1979, triggered by the Iranian Revolution.

expansion in the state's authority and capacity to provide social services. This had stabilized capitalist social relations in most industrialized countries, raising wages, employment levels, and rates of profit from the late 1940s through the mid-1960s, the core of what is still often regarded as a 'golden age' for global capitalism. By the 1970s, however, competition-induced overproduction in the United States and the introduction into its markets of goods from western Europe and east Asia, particularly Japan and West Germany, increased pressure on US corporations and state institutions to weaken organized labour, drive down wages for domestic workers, jettison high-cost lines of production, relocate manufacturing abroad, and deregulate the financial sector.[15] These developments exposed the contradictions in the postwar class compromise. Brought together through open distaste for Keynesian managerial techniques and a commitment to the price mechanism, neoliberals like Friedrich Hayek and Milton Friedman came to enjoy greater power at this juncture, jockeying for influence with socialists and partisans of reform packages like the New International Economic Order (NIEO) in a contest to reconfigure the world economy. The world of floating exchange rates and increased capital mobility that resulted from such struggles was littered with new commodity and value chains, stifled by persistent suppression of growth in real wages, undergirded by ever more complex legal and logistical structures, and characterized above all by frequent recessions, asset bubbles, and financial crises.

A tumultuous tide of historical and political developments roiled these shifting forces: the Vietnam War; India's annexation of Goa, Daman, and Diu; the Soviet invasion of Afghanistan; colonial wars in Portuguese Angola, Guinea, and Mozambique; the 1967 and 1973 Arab–Israeli Wars; conflicts and massacres in Cambodia, Ethiopia, Indonesia, Lebanon,

[15] See esp. Robert Brenner, *The Economics of Global Turbulence: The Advanced Capitalist Economies from Long Boom to Long Downturn, 1945–2005* (London: Verso, 2005). Ernest Mandel, the Belgian Marxist, was a key advocate of a similar position: *Late Capitalism*, trans. Joris De Bres (London: Verso, 1978 [1972]); *The Second Slump: A Marxist Analysis of Recession in the Seventies*, trans. Jon Rothschild (London: New Left Books, 1980), esp. 22–46; *Europe vs. America: Contradictions of Imperialism* (New York: Monthly Review Press, 2009 [1968]), 91–92. See further Folker Fröbel, 'The Current Development of the World-Economy: Reproduction of Labour and Accumulation of Capital on a World Scale' [1980], in *Transforming the World-Economy? Nine Critical Essays on the New International Economic Order*, ed. Herb Addo (London: Hodder & Stoughton, 1984), 51, at 51–55, 68–69, 77–78.

Nigeria, and Pakistan; and a large number of national liberation movements that did not always prove amenable to tidy legal distinctions between 'international' and 'non-international' armed conflicts.[16] These were the years of second-wave feminism and the space race, the Soweto uprising and the Iranian Revolution, the 1975 Helsinki Accords and the Strategic Arms Limitation Talks, the measles vaccine and the 1972–75 worldwide food crisis. The normalization of neoliberal models of legal and economic 'reform', first in Europe and the United States and then elsewhere,[17] went hand in hand with the operational 'breakthrough' of transatlantic human rights organizations, devoted in the first instance to combatting torture and defending prisoners of conscience.[18] Military dictatorships rose and fell, in southern Europe, Latin America, and

[16] Affirmed in the 1949 Geneva Conventions, this distinction received further attention in their 1977 additional protocols. See Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted 8 June 1977, 1125 UNTS 3; Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), adopted 8 June 1977, 1125 UNTS 609.

[17] The literature is enormous. Especially notable contributions include Philip Mirowski and Dieter Plehwe (eds), *The Road from Mont Pèlerin: The Making of the Neoliberal Thought Collective* (Cambridge, MA: Harvard University Press, 2009); Yves Dezalay and Bryant G. Garth, *The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States* (Chicago: University of Chicago Press, 2002); David Harvey, *A Brief History of Neoliberalism* (New York: Oxford University Press, 2005); Daniel Stedman Jones, *Masters of the Universe: Hayek, Friedman, and the Birth of Neoliberal Politics* (Princeton: Princeton University Press, 2012); Wendy Brown, *Undoing the Demos: Neoliberalism's Stealth Revolution* (New York: Zone, 2015); Melinda Cooper, *Family Values: Between Neoliberalism and the New Social Conservatism* (New York: Zone, 2017); Werner Bonefeld, *The Strong State and the Free Economy* (London: Rowman & Littlefield, 2017); Quinn Slobodian, *Globalists: The End of Empire and the Birth of Neoliberalism* (Cambridge, MA: Harvard University Press, 2018). The legal dimensions receive attention in 'Law and Neoliberalism' (symposium), *Law and Contemporary Problems* 77 (2014); Honor Brabazon (ed), *Neoliberal Legality: Understanding the Role of Law in the Neoliberal Project* (Abingdon: Routledge, 2017); Ben Golder and Daniel McLoughlin (eds), *The Politics of Legality in a Neoliberal Age* (Abingdon: Routledge, 2017).

[18] For the 'breakthrough' thesis see Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA: Harvard University Press, 2010); Jan Eckel and Samuel Moyn (eds), *The Breakthrough: Human Rights in the 1970s* (Philadelphia: University of Pennsylvania Press, 2013). But see also Steven L. B. Jensen, *The Making of International Human Rights: The 1960s, Decolonization, and the Reconstruction of Global Values* (Cambridge: Cambridge University Press, 2016); Meredith Terretta, 'Where Are the Lawyers, the Activists, the Claimants, and the Experts?', *Human Rights Quarterly* 39 (2017), 226. See further Jessica Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism* (London: Verso, 2019).

elsewhere, even as anxieties about 'silent springs' and 'limits to growth' circled out of the fringes of environmentalist activism and economic policy-making to seep into popular consciousness.[19]

It was in this rapidly changing context that the last major waves of decolonization unfolded. Driven to achieve and reinforce their sovereignty and independence, states struggling with legacies of uneven colonial-era development and often bundled together in a nominally uniform 'Third World' (the term is generally traced to an 1952 article by French social scientist Alfred Sauvy[20]) began to organize themselves on the international legal plane. They did so in significant part through the Non-Aligned Movement (NAM) and Group of 77 (G77), formed in 1961 and 1964, respectively. They also worked through UN bodies like UNCTAD, also established in 1964, and the General Assembly, particularly its fourth committee (responsible for considering 'special political' and decolonization-related issues) and sixth committee (responsible for considering legal matters and producing draft conventions). Some of the 'new states' identified first and foremost as 'capitalist' or 'socialist', with different interpretations of those terms in the offering. The majority, though, elected to position themselves as 'nonaligned', a term that Jawaharlal Nehru had used in the late 1940s and that began to enjoy widespread popularity during the 1960s, often being used interchangeably with older and explicitly geographical expressions like 'Afro–Asian'.[21] As the debates of the 1960s gained steam, the 'ideological troika' of capitalism, socialism, and nonalignment (or 'neutralism') gained increased visibility, circulating alongside postwar distinctions between 'developed' and 'developing' states.[22]

The roots of this large and pivotal network of nonaligned states, committed to maintaining distance from a 'First World' of market

[19] Rachel Carson, *Silent Spring* (Boston: Houghton Mifflin, 1962); Donella H. Meadows et al., *The Limits to Growth: A Report for the Club of Rome's Project on the Predicament of Mankind* (New York: Universe Books, 1972).

[20] Alfred Sauvy, 'Trois mondes, une planète', *L'Observateur* 118 (14 August 1952), 5.

[21] Lorenz M. Lüthi, 'Non-Alignment, 1946–1965: Its Establishment and Struggle Against Afro–Asianism', *Humanity* 7 (2016), 201, at 202–3. Cf. C. G. Fenwick, 'The Legal Aspects of "Neutralism"', *AJIL* 51 (1957), 71; R. P. Anand, *Development of Modern International Law and India* (Baden-Baden: Nomos, 2005), 111.

[22] For the 'ideological troika' appellation see M. M. Flory, 'Inégalité économique et évolution du droit international', in Société française pour le droit international, *Colloque d'Aix-en-Provence: Pays en voie de développement et transformation du droit international* (Paris: Pedone, 1974), 11, at 29.

capitalism and a 'Second World' of 'democratically deficient' socialism,[23] have typically been traced to debates about independence, self-determination, and resource sovereignty in the late 1940s and 1950s. In particular, they have been linked to the 1945 Pan-African Congress in Manchester and similar meetings in Africa,[24] the 1955 Bandung Conference,[25] and growing reliance upon non-European conceptions of international law, such as the *Panchsheel* or 'five principles' (nonaggression, noninterference, 'peaceful coexistence', equality and mutual benefit, and respect for sovereignty and territorial integrity) to which Nehru, China's Zhou Enlai, and many others expressed fidelity.[26] In reality,

[23] Alternative 'three worlds' models were always available, a classic example being Mao's effort to position China in a 'Third World' flanked on the one side by the United States and USSR and on the other by a 'Second World' comprised mainly of Canada, Japan, and European states. For Deng Xiaoping's exposition of the idea see *Speech by Chairman of the Delegation of the People's Republic of China, Teng Hsiao-ping, at the Special Session of the U.N. General Assembly, April 10, 1974* (Beijing: Foreign Languages Press, 1974).

[24] Hakim Adi and Marika Sherwood (eds), *The 1945 Manchester Pan-African Congress Revisited* (London: New Beacon, 1995); Hakim Adi, *Pan-Africanism: A History* (London: Bloomsbury, 2018), 122–27. Meetings were held in Accra, Addis Ababa, Brazzaville, Casablanca, Monrovia, and elsewhere during the 1950s and 1960s; for retrospective consideration see Mohammed Bedjaoui, 'Brief Historical Overview of Steps to African Unity', in *The African Union: Legal and Institutional Framework – A Manual on the Pan-African Organization*, ed. Abdulqawi A. Yusuf and Fatsah Ouguergouz (Leiden: Brill, 2012), 9, at 13–14.

[25] From a growing body of new scholarship on Bandung, see Seng Tan and Amitav Acharya (eds), *Bandung Revisited: The Legacy of the 1955 Asian–African Conference for International Order* (Singapore: NUS Press, 2008); Christopher J. Lee (ed), *Making a World after Empire: The Bandung Moment and Its Political Afterlives* (Athens: Ohio University Press, 2010); Robert Vitalis, 'The Midnight Ride of Kwame Nkrumah and Other Fables of Bandung (Ban-doong)', *Humanity* 4 (2013), 261; Cindy Ewing, 'The Colombo Powers: Crafting Diplomacy in the Third World and Launching Afro–Asia at Bandung', *Cold War History* 19 (2019), 1; Carolien Stolte, '"The People's Bandung": Local Anti-Imperialists on an Afro–Asian Stage', *Journal of World History* 30 (2019), 125. Bandung's international legal dimensions are explored in Luis Eslava, Michael Fakhri, and Vasuki Nesiah (eds), *Bandung, Global History, and International Law: Critical Pasts and Pending Futures* (Cambridge: Cambridge University Press, 2017).

[26] A 1954 treaty between China and India expressed support for the *Panchsheel*; see Agreement (with Exchange of Notes) on Trade and Intercourse between Tibet Region of China and India, signed 29 April 1954, 299 UNTS 57. Most of the ten principles listed in the Bandung Conference's final communiqué were derived from the *Panchsheel*; see Text of Final Communiqué of Asian–African Conference, reproduced in *Selected Documents of the Bandung Conference: Texts of Selected Speeches and Final Communiqué of the Asian–African Conference, Bandung, Indonesia, April 18–24, 1955*, ed. William L. Holland (New York: Institute of Pacific Relations, 1955), 29, at 35. For background see Nirupama Rao, *The Fractured Himalaya: India, Tibet, China 1949–1962* (New Delhi: Penguin Viking, 2021). The Chinese origins of the concept (and its relation to the concept

though, they stretched back to interwar communist and anti-imperialist organizations like the League Against Imperialism, a transnational network of communist and anticolonial militants.[27] After holding its first formal meeting in Belgrade in September 1961, five years after Yugoslavia's Josip Tito hosted Nehru and Egypt's Gamal Abdel Nasser for preliminary discussions, the NAM began to translate many of the claims made during these and other meetings into new arguments about international law. Its efforts interlaced with the work of a variety of new organizations. The Cairo-based Afro–Asian Peoples' Solidarity Organization (AAPSO), the New Delhi-based Asian–African Legal Consultative Committee (AALCC), the Soviet-backed International Association of Democratic Lawyers (IADL), the Havana-headquartered Organization of Solidarity with the Peoples of Asia, Africa, and Latin America, and the World Federation of Trade Unions – a range of political and intellectual networks grew after the Second World War, facilitating cooperation between activists and prisoners in the colonies and cause lawyers and other progressives in the metropoles.[28] Developing in competitive tension with US-sponsored groups like the International Commission of Jurists and International League for Human Rights, their meetings interlaced with the gatherings of a growing number of UN bodies and regional groups like the Organization of African Unity (OAU, founded in 1963), the Association of Southeast Asian Nations (founded in 1967), and the Caribbean Community (founded in 1973). International legal arguments old and new were

of international *jus cogens*) are emphasized in Wang Tieya, 'International Law in China: Historical and Contemporary Perspectives', *RCADI* 221 (1990–II), 195, at 263–87.

[27] Fredrik Petersson, *Willi Münzenberg, the League against Imperialism, and the Comintern, 1925–1933*, 2 vols. (Lewiston: Queenston Press, 2013); Kasper Braskén, *The International Workers' Relief, Communism, and Transnational Solidarity: Willi Münzenberg in Weimar Germany* (Houndmills: Palgrave Macmillan, 2015); Michele L. Louro, *Comrades against Imperialism: Nehru, India, and Interwar Internationalism* (Cambridge: Cambridge University Press, 2018). See also Vijay Prashad, *The Darker Nations: A People's History of the Third World* (New York: New Press, 2007), 16–30; Michael Goebel, *Anti-Imperial Metropolis: Interwar Paris and the Seeds of Third World Nationalism* (New York: Cambridge University Press, 2015), esp. 199–215.

[28] See in particular Meredith Terretta, 'Anti-Colonial Lawyering, Postwar Human Rights, and Decolonization across Imperial Boundaries in Africa', *Canadian Journal of History* 52 (2017), 448; Meredith Terretta, 'Decolonizing International Law? Rights Claims, Political Prisoners, and Political Refugees during French Cameroon's Transition from Trust Territory to State', *Comparative Studies of South Asia, Africa and the Middle East* 42 (2022), 3.

woven in and out of the ensuing discussions. The interstate system was undergoing significant change, and so too were the legal structures that formalized its distributions of politico-economic power. Many pieces of *lex ferenda* thereby slipped, *lex lata*-bound, into the doctrinal hardware of positive international law, whose basic structures had become 'incomparably more complex than in the past'.[29]

By the mid-1960s, it was clear that neither economic depression nor two global wars had been enough to generate the sort of world state about which legal theorists like Hans Kelsen and international lawyers like Louis Sohn speculated in the 1940s and 1950s.[30] Desire to forge a new international law was nothing new. It was prefigured in the Universal Declaration of Human Rights' invocation of a right to 'a social and international order' in which other rights might be realized.[31] It was also reflected in Chilean jurist Alejandro Álvarez's call for 'a new international law' grounded in equity and oriented toward 'social interdependence' in the 1949 *Corfu Channel* case before the International Court of Justice (ICJ).[32] But the topography of international law had been reorganized. Complicated by a growing 'détente' whose implications would be felt in everything from nuclear nonproliferation[33] to intellectual property law,[34] the Cold War's 'east–west' axis was now complemented with newer relations between a 'global North' and a 'global South'.[35] The push to reconstitute international law, so that it might accommodate these

[29] Michel Virally, 'Le droit international en question', *Archives de philosophie du droit* 8 (1963), 145, at 154.

[30] Hans Kelsen, *Peace through Law* (Chapel Hill: University of North Carolina Press, 1944), 5–13; Grenville Clark and Louis B. Sohn, *World Peace through World Law: Two Alternative Plans* (Cambridge, MA: Harvard University Press, 1958). On the broader political and intellectual context see Paul Kennedy, *The Parliament of Man: The United Nations and the Quest for World Government* (London: Allen Lane, 2006), pt. 2; Or Rosenboim, *The Emergence of Globalism: Visions of World Order in Britain and the United States, 1939–1950* (Princeton: Princeton University Press, 2017).

[31] Universal Declaration of Human Rights, Art. 28, GA Res. 217A (III), UN Doc. A/810 at 71 (10 December 1948).

[32] *The Corfu Channel Case (UK v. Albania) (Merits)*, [1949] ICJ Rep. 4, at 40 (separate opinion of Judge Álvarez).

[33] See esp. Treaty on the Non-Proliferation of Nuclear Weapons, signed 1 July 1968, 729 UNTS 161; Treaty on the Limitation of Anti-Ballistic Missile Systems, signed 26 May 1972, 944 UNTS 13.

[34] Peter B. Maggs, 'New Directions in US–USSR Copyright Relations', *AJIL* 68 (1974), 391.

[35] These expressions are fraught with analytical problems: some states associated with the 'North' had industrialized only recently (e.g. Greece, Portugal); others were included in the 'South' despite being widely understood as 'high income' (e.g. Qatar, Singapore). As explained in the Note on Terminology and Translations, I use them in this book on

changes and become a force of economic and political emancipation, came to the fore powerfully at the time. It found expression in the 'eagerness of the new states to participate actively in the life of the international society', a desire that fuelled the creation of new foreign ministries and diplomatic services, the move to formalize their admission to the United Nations, and the growth of new networks of knowledge production in the southern hemisphere.[36] It also involved a dual strategy marked by considerable internal tension.

On the one hand, jurists and diplomats from the predominantly nonaligned 'new states' sought to conserve those elements of the international legal system generated after the Second World War and constitutionalized in the UN Charter that underscored the foundational status of sovereignty, nonintervention, and territorial integrity. The goal here was to harness international law's normative and ideological appeal in order to minimize foreign interference and support state-building projects designed to produce rapid and sustained socioeconomic transformation. Typically supported by their counterparts from socialist states, Third World lawyers and diplomats defended those elements of international law they deemed useful for the achievement and consolidation of national sovereignty. State forms inherited from colonial rule or adapted from broadly European models – and the legal frameworks that formalized and legitimated them – were not to be cast aside so much as revamped, and in some instances partly radicalized, with a view to augmenting control of natural resources. 'Perhaps it may even be said to be a matter of surprise that so much respect has been shown for the traditions of Western Europe', scoffed one US international law specialist in 1966, turning his conceit into hostility by adding that this remained the case 'apart from occasional psychopathic reactions that relate rather to matters of policy than of general international law'.[37] Such arrogance aside, it was hard to deny that the further universalization of international

account of the frequency with which they were employed by those involved in efforts to decolonize international law. On the difficulties posed by the 'Cold War' paradigm, see the exchange between Anders Stephanson, 'Cold War Degree Zero' and Odd Arne Westad, 'Exploring the Histories of the Cold War: A Pluralist Approach', in *Uncertain Empire: American History and the Idea of the Cold War*, ed. Joel Isaac and Duncan Bell (New York: Oxford University Press, 2012), 19 and 51.

[36] A. A. Fatouros, 'International Law and the Third World', *Virginia Law Review* 50 (1964), 783, at 792.

[37] Charles G. Fenwick, 'International Law: The Old and the New', *AJIL* 60 (1966), 475, at 481.

law, even in substantially transformed form, facilitated the further universalization of both European state structures and the capitalist world economy to which they were integral. International law's expansion and development was at root a reflection of capitalism's own expansion and development.

On the other hand, those who gave legal voice to the Third World also underscored shared experiences of colonial and semi-colonial domination. They did so in order to establish collaborative institutions premised on shared need and mutual benefit. However committed they may have been to safeguarding their newfound sovereignty, those governing the world's newest states were keenly aware of their institutional limitations and economic dependence on the very powers from which they had liberated themselves. Most believed that cultivating trade partnerships, attracting foreign investment, consolidating political and military alliances, and fostering regional organizations with powers of functional coordination were central to their security and prosperity, even their survival. Julius Nyerere, the first prime minister and president of independent Tanganyika and long-time president of its successor Tanzania, was widely influential for his vision of *ujamaa* – a cooperative society led by a one-party state that prioritizes rural development, harnessing key industries and natural resources to this end, and in which collective ownership is instituted through the 'villagization' of production. Notably, though, even he merged this commitment to national sovereignty with a broader commitment to building a new international order. Nyerere is widely known for his dedication to 'self-reliance' – the view that '[a] country, or a village, or a community, cannot *be* developed; it can only develop itself'.[38] But he also affirmed the need for developing states and peoples to forge a common front on the model of an international trade union, admitting that prioritization of political and economic independence did not reduce their need for foreign aid, technical assistance, and capital investment.[39] Most Third World jurists and diplomats

[38] Julius K. Nyerere, 'The Intellectual Needs Society' [1968], in Julius K. Nyerere, *Man and Development* (Dar es Salaam: Oxford University Press, 1974), 5, at 8 (original emphasis).

[39] Julius K. Nyerere, 'Developing Tasks of Non-Alignment' [1970], in Julius K. Nyerere, *Man and Development* (Dar es Salaam: Oxford University Press, 1974), 65, at 71–80. For an early statement of *ujamaa* (Kiswahili for 'familyhood'), see Julius K. Nyerere, '*Ujamaa* – The Basis of African Socialism' [1962], in Julius K. Nyerere, *Freedom and Unity – Uhuru na Umoja: A Selection from Writings and Speeches, 1952–65* (Dar es Salaam: Oxford University Press, 1967), 162. For a key explanation see *The Arusha Declaration and TANU's Policy on Socialism and Self-Reliance* (Dar es Salaam: Publicity

toed a similar line. They defended the developmental state as an engine of social transformation. At the same time, they were active participants in transnational and intergovernmental networks seeking to accelerate international law's own transformation. Cutting across social, geopolitical, and ideological lines, the Third World's international lawyers frequently found themselves supporting mechanisms of interdependence that complicated their adherence to state sovereignty.

Forging unity out of such diversity was never an easy task. Given the rivalries between decolonized states and the shifting vectors of US and Soviet power, with wars, coups, famines, partitions, and forced migrations accompanying the resulting political and military struggles, designing a coherent legal program to socialize sovereignty into a new world order was almost as difficult as actually seeing it through to completion. The tension between national sovereignty and international solidarity fuelled political imaginations and rhetorics of statecraft in North and South alike. Much of what congealed to form 'modern international law' after 1945 was designed to ensure the dominance of great powers while facilitating liberalization of a world economy undergoing rapid expansion. In the 1960s and 1970s, questions were raised about how this law might be 'universalized' in light of decolonization, and how closely it would track earlier models of statehood, jurisdiction, and recognition. For German-Jewish émigré international lawyer Wolfgang Friedmann, writing in 1964 from his position at Columbia Law School, the 'international law of coexistence', rooted in nineteenth-century European thought, was in the process of being replaced by a new international law, one devoted first and foremost to 'cooperation'.[40] This new 'international law of cooperation' (the expression would be Friedmann's most abiding contribution to the field's lexical warehouse) would reinforce national sovereignty, not by authorizing autarchy but by fostering 'regional or functional groupings' of states, 'often developing in mutual antagonism', until such time as 'common faith or necessity may bring about a truly universal world order'.[41] In practice, such cooperation called for the elaboration of new doctrines – so rarified that they rose as

Section, TANU, 1967). See further Priya Lal, *African Socialism in Postcolonial Tanzania: Between the Village and the World* (Cambridge: Cambridge University Press, 2015) and Andrew Coulson, *Tanzania: A Political Economy*, 2nd ed. (Oxford: Oxford University Press, 2013), ch. 19.

[40] Wolfgang Friedmann, *The Changing Structure of International Law* (New York: Columbia University Press, 1964).

[41] W. Friedmann, *Law in a Changing Society* (Harmondsworth: Penguin, 1964 [1959]), 365.

far as the moon and 'other celestial bodies', even as far as outer space, in some cases.[42] It also called for advocacy of more prosaic proposals for technology transfer and common development funds.

In 1972, well on his way to becoming a leading scholar of international law, Indian jurist R. P. Anand adopted a position broadly similar to Friedmann, arguing that a 'common law of mankind is a *sine qua non* in the present expanded world society'.[43] For Anand, this 'universal law of nations', though insufficient to do away with 'differences of opinion amongst the new states of Asia and Africa on the one hand, and European and North American countries on the other', was not indicative of any 'irresponsible attitude of the new states', which remained dedicated to 'the concept of the sovereign territorial state' and accepted the binding authority of the UN Charter and most key postwar treaties.[44] In his view, it was clear that the new campaign 'to establish a universal world order' reflected a 'revolutionary change on the international scene', with 'international society ha[ving] become a true world society' after forcing nineteenth-century Eurocentrism into retreat.[45] It was crucial to develop an international law that was 'responsive to the needs of the new factual situations to which it is being applied', and also illustrative of 'a consensus of the entire world community, including the new emerging states'.[46] Leaving aside 'occasional outbursts against the present system of international law and demand for its adaptation to present-day conditions', recently liberated states did not 'plea for its over-all rejection', as they had 'come to accept international law as such and they always plead their cases according to its rules', often to the point of claiming 'to be

[42] See, for example, Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, signed 27 January 1967, 610 UNTS 205; Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, adopted 5 December 1979, 1363 UNTS 3.

[43] R. P. Anand, 'Editor's Introduction', in *Asian States and the Development of Universal International Law*, ed. R. P. Anand (Delhi: Vikas, 1972), xi, at xii. Note, though, that Friedmann was skeptical of 'common law of mankind' talk. He criticized international lawyer C. Wilfred Jenks on the grounds that the expression suggested an unrealistic degree of convergence between legal traditions, regional orders, and supranational systems. See Wolfgang G. Friedmann, review of C. Wilfred Jenks, *The Common Law of Mankind* (1958), *Columbia Law Review* 59 (1959), 533, at 536–37; and also C. Wilfred Jenks, *The Common Law of Mankind* (London: Stevens & Sons, 1958).

[44] Anand, 'Editor's Introduction', xiv, xxix.

[45] R. P. Anand, 'Rôle of the "New" Asian–African Countries in the Present International Legal Order', *AJIL* 56 (1962), 383, at 384.

[46] Anand, 'Rôle of the "New" Asian–African Countries', 387.

"scrupulous" adherents to it'.[47] For Anand, post-partition India's acceptance of the binding legal character of more than six hundred treaties and agreements, going back to early nineteenth-century instruments with the East India Company, was only an illustration of the general tendency of 'Asian–African countries . . . [to] accept the old treaties concluded on their behalf by the former colonial Powers until they are modified, renegotiated or replaced with the consent of the other parties'.[48]

* * *

As is well-known, many European and American lawyers of the late nineteenth and early twentieth centuries relied upon models of world order rooted in explicitly or implicitly racist theories of 'civilization'. In some cases, most notoriously Scottish natural lawyer James Lorimer's 1883–84 *Institutes of the Law of Nations*, German law scholar Franz von Liszt's 1898 *Das Völkerrecht*, and the writings of Cambridge jurist John Westlake, they proposed models of jurisdiction and recognition that disaggregated 'humanity' into distinct groups and ascribed different sets of rights and obligations to each.[49] Lorimer's own schema, a particularly oft-referenced legal justification of European empire, consisted of fully 'civilized' states, 'barbarous' or 'semi-civilized' states meriting no more than semi-sovereignty and saddled with capitulations or 'unequal treaties', and 'savage' regions that supposedly fell short of the minimal requirements of 'organized political communities'.[50]

[47] Anand, 'Rôle of the "New" Asian–African Countries', 388. See also R. P. Anand, 'Attitude of the Asian–African States toward Certain Problems of International Law', *ICLQ* 15 (1966), 55, at 70–71; R. P. Anand, 'The Development of a Universal International Law', in *The Search for World Order: Studies by Students and Colleagues of Quincy Wright*, ed. Albert Lepawsky, Edward H. Buehrig, and Harold D. Lasswell (New York: Appleton-Century-Crofts, 1971), 157. Cf. Kenneth S. Carlston, 'Universality of International Law Today: Challenge and Response', *Howard Law Journal* 8 (1962), 79, at 84–85; S. Prakash Sinha, 'Perspective of the Newly Independent States on the Binding Quality of International Law', *ICLQ* 14 (1965), 121, at 121–22, 130–31.

[48] Anand, 'Attitude of the Asian–African States', 71.

[49] James Lorimer, *The Institutes of the Law of Nations: A Treatise of the Jural Relations of Separate Political Communities*, 2 vols. (Edinburgh: W. Blackwood & Sons, 1883–84); Franz von Liszt, *Das Völkerrecht, systematisch dargestellt* (Berlin: O. Haering, 1898); John Westlake, *The Collected Papers of John Westlake on Public International Law*, ed. L. Oppenheim (Cambridge: Cambridge University Press, 1914), ch. 9.

[50] Lorimer, *Institutes of the Law of Nations*, vol. 1, 101–3, 216–19. The secondary literature on Lorimer alone is vast. Especially notable contributions include Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960* (Cambridge: Cambridge University Press, 2001), esp. 62–70; Gerry Simpson, *Great*

The 'modern international law' cobbled together after the Second World War maintained an uneasy relationship with these earlier, 'classical' forms of international law. But it too was wracked by contradiction. The UN Charter spoke of the 'equal rights and self-determination of peoples'.[51] But it also stressed its respect for sovereign equality and nonintervention in matters falling within domestic jurisdiction.[52] Its text made no mention of 'civilization', or any 'standard of civilization'.[53] Yet the organization for which it served as a kind of constitution boasted an executive branch in which five self-selected states enjoyed veto powers, continuing a tradition of multilateral global rule stretching back to the Concert of Europe. It was also comprised of a legislative branch, whose chief function was to issue resolutions widely understood to be legally nonbinding in almost every instance, and a reformed League of Nations Mandates System, which carried its 'sacred trust of civilization' into the UN Trusteeship System and its own 'sacred trust' toward non-self-governing territories.[54] The ICJ took over the mantle of the 'World Court' from the League's Permanent Court of International Justice in 1946. But its enabling instrument counted 'general principles of law recognized by civilized nations' among its sources,[55] and the numerical weight of these 'civilized nations' on the court's bench drew as much scorn as its 1966 decision in the *South West Africa* proceedings that

Powers and Outlaw States: Unequal Sovereigns in the International Legal Order (Cambridge: Cambridge University Press, 2004), 238–39; 'The European Tradition in International Law: James Lorimer' (symposium), *EJIL* 27 (2016); Jennifer Pitts, *Boundaries of the International: Law and Empire* (Cambridge, MA: Harvard University Press, 2018), 171–73.

[51] UN Charter, Arts. 1(2), 55.

[52] UN Charter, Arts. 2, 76(d), 78.

[53] Much has been written on the 'standard of civilization'. See esp. Georg Schwarzenberger, 'The Standard of Civilisation in International Law', *Current Legal Problems* 8 (1955), 212; Gerrit W. Gong, *The Standard of 'Civilization' in International Society* (Oxford: Clarendon Press, 1984); Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press, 2005), 84–87; Ntina Tzouvala, *Capitalism as Civilisation: A History of International Law* (Cambridge: Cambridge University Press, 2020).

[54] Covenant of the League of Nations adopted by the Peace Conference at Plenary Session, Art. 22, 28 April 1919, *AJIL Sup.* 13 (1919), 128, at 137–38; UN Charter, Arts. 73–91. On the transition from the Mandates System to the Trusteeship System, see Marion Mushkat, 'The Process of Decolonization: International Legal Aspects', *Baltimore Law Review* 2 (1972), 16, at 18–22, 25–34.

[55] Statute of the International Court of Justice, Art. 38, 26 June 1945, 145 BFSP 832, at 840.

Ethiopia and Liberia had no legal standing in regard to the question of that territory's status.[56]

These inconsistencies were evident enough, the stuff of performative contradiction and diplo-legal *tu quoque*. Lurking behind them, though, was a more fundamental question: to what extent was it justifiable to characterize states formed through decolonization as 'newly independent', or even as 'new'? Many states presented themselves as having arisen through the restoration, or reversion, of a sovereignty that predated colonial encounters and which had never been extinguished. Some denied they had ever rightly been colonized. A state could be viewed as an entirely new subject of international law, free and clear of pre-existing legal encumbrances. It could also be regarded as the colonial-era state's legal successor, in which case it would typically be saddled with debts and duties initially assumed by the preceding administration. As noted by Richard Falk, the American international lawyer who acted as counsel to Ethiopia and Liberia in the *South West Africa* case, the rhetoric of 'newness' also made it difficult to understand why Yugoslavia, 'neither new nor Afro–Asian', was typically grouped together with these states while Rhodesia under white-settler rule, despite its geographic qualifications, was typically not included.[57] Emphasized by Charles Alexandrowicz, the peripatetic Polish legal historian who spent significant time at the University of Madras during the 1950s,[58] this question struck at the heart of debates about the degree to which 'new states' inherited treaties and

[56] *South West Africa Cases (Ethiopia v. South Africa; Liberia v. South Africa)*, [1966] ICJ Rep. 6. See also Declaration of President Percy Spender, [1966] ICJ Rep. 51. On regional representation at the ICJ, see Liliana Obregón, 'The Third World Judges: Neutrality, Bias or Activism at the Permanent Court of International Justice and International Court of Justice?', in *Research Handbook on International Courts and Tribunals*, ed. William A. Schabas and Shannonbrooke Murphy (Cheltenham: Edward Elgar, 2017), 181, at 187ff.

[57] Richard A. Falk, 'The New States and International Legal Order', *RCADI* 118 (1966–II), 1, at 12.

[58] Charles H. Alexandrowicz, 'New and Original States: The Issue of Reversion to Sovereignty', *International Affairs* 45 (1969), 465, esp. at 471ff; C. H. Alexandrowicz, 'The Afro–Asian World and the Law of Nations (Historical Aspects)', *RCADI* 123 (1968–I), 117, at 164–67. See further C. H. Alexandrowicz, *The Law of Nations in Global History*, ed. David Armitage and Jennifer Pitts (Oxford: Oxford University Press, 2017), pt. 4; Carl Landauer, 'The Polish Rider: CH Alexandrowicz and the Reorientation of International Law, Part I: Madras Studies', *London Review of International Law* 7 (2019), 321; Carl Landauer, 'The Polish Rider: CH Alexandrowicz and the Reorientation of International Law, Part II: Declension and the Promise of Renewal', *London Review of International Law* 9 (2021), 3.

other legal instruments like concession agreements.[59] The argument that states formed through decolonization succeeded to most such instruments, made notably by New Zealander jurist D. P. O'Connell,[60] was countered by the argument, voiced powerfully by Algerian lawyer and diplomat Mohammed Bedjaoui, that such states emerged free and clear of their predecessors' legal obligations.[61] Nyerere himself advocated a compromise position, according to which the 'new state' would be afforded an opportunity to consider these legal obligations and decide which if any should be retained.[62] This compromise found support in the

[59] From an enormous literature, see, for example, Erik Castrén, 'Obligations of States Arising from the Dismemberment of Another State', *ZaöRV* 13 (1951), 753; C. Wilfred Jenks, 'State Succession in Respect of Law-Making Treaties', *BYIL* 29 (1952), 105; Hersch Lauterpacht, 'State Succession and Agreements for the Inheritance of Treaties', *ICLQ* 7 (1958), 524; Ibrahim F. I. Shihata, 'The Attitude of New States toward the International Court of Justice', *International Organization* 19 (1965), 203, at 204–5; Karl Zemanek, 'State Succession after Decolonisation', *RCADI* 116 (1965–III), 182; Maurice Flory, 'Décolonisation et succession d'États', *AFDI* 12 (1966), 577; Okon Udokang, *Succession of New States to International Treaties* (Dobbs Ferry: Oceana, 1972).

[60] '[A] state, when it commences to exist as a state, does so in a structural context which gains its form from law, just as a child when born into a society becomes subjected to it by virtue of the order of being in which it is integrated': D. P. O'Connell, 'The Role of International Law', *Daedalus* 95 (1966), 627, at 636. See also D. P. O'Connell, *The Law of State Succession* (Cambridge: Cambridge University Press, 1956); D. P. O'Connell, 'Independence and Succession to Treaties', *BYIL* 38 (1962), 84; D. P. O'Connell, 'Recent Problems of State Succession in Relation to New States', *RCADI* 130 (1970–II), 95.

[61] See, for example, Mohammed Bedjaoui, Special Rapporteur on Succession of States in Respect of Matters Other Than Treaties, Second Report on Succession in Respect of Matters Other Than Treaties, UN Doc. A/CN.4/216/Rev.1, in *Yearbook ILC* (1969), vol. 2, UN Doc. A/CN.4/216/Rev.1 (1969), 69; Mohammed Bedjaoui, 'Problèmes récents de succession d'États dans les États nouveaux', *RCADI* 130 (1970–II), 455. On the debate see Matthew Craven, *The Decolonization of International Law: State Succession and the Law of Treaties* (Oxford: Oxford University Press, 2007), 80–90; Brigitte Stern, 'La succession d'États', *RCADI* 262 (1996–VII), 9; Anna Brunner, 'Acquired Rights and State Succession: The Rise and Fall of the Third World in the International Law Commission', in *The Battle for International Law: South–North Perspectives on the Decolonization Era*, ed. Jochen von Bernstorff and Philipp Dann (Oxford: Oxford University Press, 2019), 124; Grégoire Mallard, 'We Owe You Nothing: Decolonization and Sovereign Debt Obligations in International Public Law', in *Sovereign Debt Diplomacies: Rethinking Sovereign Debt from Colonial Empires to Hegemony*, ed. Pierre Pénet and Juan Flores Zendejas (Oxford: Oxford University Press, 2021), 189.

[62] Julius K. Nyerere, 'Problems of State Succession in Africa: Statement of the Prime Minister of Tanganyika', *ICLQ* 11 (1962), 1210. On this see further Yilma Makonnen, 'State Succession in Africa: Selected Problems', *RCADI* 200 (1986–V), 93, at 121–48.

work of many Third World international lawyers, with Indian-American professor Prakash Sinha pointing out that newly independent states distinguished pragmatically between 'treaties which represent burdens inherited from the colonial past' and 'treaties which enable their continued participation in the normal life of the international community'.[63]

The question of 'new states' also had important implications for customary international law. Third World states had a real interest in reinforcing certain types of customary international law, since this was the body of law in which they sought to anchor the authority of General Assembly resolutions, where their strength grew significantly during the 1960s and 1970s. Unlike most international lawyers from industrialized countries, Third World international lawyers tended to support the thesis that General Assembly resolutions constitute binding customary international law,[64] even after that view received a blow in the 1966 *South*

[63] S. Prakash Sinha, *New Nations and the Law of Nations* (Leiden: Sijthoff, 1967), 78.

[64] Key contributions to the debate include F. Blaine Sloan, 'The Binding Force of a "Recommendation" of the General Assembly of the United Nations', *BYIL* 25 (1948), 1; D. H. N. Johnson, 'The Effect of Resolutions of the General Assembly of the United Nations', *BYIL* 32 (1955–56), 97; Michel Virally, 'La valeur juridique des recommandations des organisations internationales', *AFDI* 2 (1956), 66; Rosalyn Higgins, *The Development of International Law through the Political Organs of the United Nations* (London: Oxford University Press, 1963); Ingrid Detter, *Law Making by International Organizations* (Stockholm: P.A. Norstedt & Söners Förlag, 1965); Obed Y. Asamoah, *The Legal Significance of the Declarations of the General Assembly of the United Nations* (The Hague: Nijhoff, 1966); Richard A. Falk, 'On the Quasi-Legislative Competence of the General Assembly', *AJIL* 60 (1966), 782; Jorge Castañeda, *Legal Effects of United Nations Resolutions*, trans. Alba Amoia (New York: Columbia University Press, 1969); Mohammed Bedjaoui, *Towards a New International Economic Order* (New York / Paris: Holmes & Meier / UNESCO, 1979), 129, 138–92; Stephen M. Schwebel, 'The Effect of Resolutions of the U.N. General Assembly on Customary International Law', *ASIL Pd.* 73 (1979), 301; Maurice Mendelson, 'The Legal Character of General Assembly Resolutions: Some Considerations of Principle', in *Legal Aspects of the New International Economic Order*, ed. Kamal Hossain (London: Frances Pinter, 1980), 95; Oswaldo de Rivero, *New Economic Order and International Development Law* (Oxford: Pergamon, 1980), 122–23; R. P. Anand, 'Towards a New Economic Order', in *Use of Economic Force by States with Near Monopoly of Special Resources: Problems of Law, Organisation and Policy*, ed. J. N. Saxena (Delhi: University of Delhi, 1981), 132, at 146–47; Mark E. Ellis, 'The New International Economic Order and General Assembly Resolutions: The Debate over the Legal Effects of General Assembly Resolutions Revisited', *California Western International Law Journal* 15 (1985), 647. For a radical variant of the argument that GA resolutions may produce customary international law, see Bin Cheng, 'United Nations Resolutions on Outer Space: "Instant" International Customary Law?', *IJIL* 5 (1965), 23.

West Africa judgment.[65] On the other hand, many rules of customary international law, particularly in its 'general' form, had emerged on the basis of relations between European states, with little direct participation on the part of non-European states and peoples. As Mexican lawyer and diplomat Jorge Castañeda wrote in regard to foreign investment, a vital outlet for Northern capital that typically yielded generous returns,[66] the relevant rules 'were not only created independently of the interested small states, but even against their desires and interests'.[67] What was called 'customary international law' had to a significant extent evolved behind their backs, without their conscious deliberation or direct involvement. There was little reason to believe that it warranted immediate trust or respect.

Third World representatives were aware of the role played by the Soviet Union and other socialist states in the creation of new international law, including customary international law.[68] They were also aware of Soviet support for most positions of the NAM and G77, within and beyond the General Assembly. At the 1922 Genoa Conference, the first case of Soviet participation in a large multilateral diplomatic conference, Maxim Litvinov was reported to have declared that 'there was not one world but two – a Soviet world and a non-Soviet world', with 'no third world to arbitrate' between them.[69] Litvinov's successors in the

[65] 'The persuasive force of [General] Assembly resolutions can indeed be very considerable, – but this is a different thing. It operates on the political not the legal level: it does not make these resolutions binding in law.' *South West Africa*, 50–51, para. 98.

[66] As a study of postwar monopoly capitalism put it, the return on this investment helped Britain to 'maintain the world's largest leisure class and to pay for a military establishment which played the role of global policeman', a vocation the United States later inherited. Paul A. Baran and Paul M. Sweezy, *Monopoly Capitalism: An Essay on the American Economic and Social Order* (New York: Monthly Review Press, 1966), 105.

[67] Jorge Castañeda, 'The Underdeveloped Nations and the Development of International Law', *International Organization* 15 (1961), 38, at 39.

[68] From recent reappraisals of Soviet contributions to international humanitarian law see 'Revisiting State Socialist Approaches to International Criminal and Humanitarian Law' (symposium), *JHIL* 21 (2019); Boyd van Dijk, '"The Great Humanitarian": The Soviet Union, the International Committee of the Red Cross, and the Geneva Conventions of 1949', *Law and History Review* 37 (2019), 209; Michelle Penn, '"Genocide Is Fascism in Action": Aron Trainin and Soviet Portrayals of Genocide', *Journal of Genocide Research* 22 (2020), 1; Ned Richardson-Little, *The Human Rights Dictatorship: Socialism, Global Solidarity and Revolution in East Germany* (Cambridge: Cambridge University Press, 2020).

[69] Quoted in Oliver J. Lissitzyn, *International Law in a Divided World* (Washington: Carnegie Endowment for International Peace, 1963), 29. On his role at the 1922 Genoa Conference, see Carole Fink, *The Genoa Conference: European Diplomacy, 1921–1922*

decolonization era could not adopt such a posture. They elected instead to present international law as a useful framework for coordinating the wills of different states, facilitating 'peaceful coexistence' with capitalist states and furthering the interests of 'proletarian internationalism' in connection with socialist states.[70] Like their Chinese allies-turned-rivals, Soviet officials were conscious of the leverage afforded by their ties to decolonized states, just as they were aware that such leverage could be used to reorient customary and other forms of international law. 'In many cases, especially where change is needed, the situation of the newly independent states resembles that of the Soviet Union in its early days', wrote a young Georges Abi-Saab in 1962, already on his way to building a reputation as among the most influential of all Third World international lawyers.[71] Customary international law was a reflection of

(Chapel Hill: University of North Carolina Press, 1984), 293–99. The statement was discussed widely during the decolonization era. See, for example, Georg Schwarzenberger, 'The Impact of the East–West Rift on International Law', *Transactions of the Grotius Society* 36 (1950), 229, at 236; M. K. Nawaz, 'Historical Introduction: An Inquiry into the Historical Development of Certain Cardinal Principles of International Law', in *The Legal Principles Governing Friendly Relations and Co-operation among States in the Spirit of the United Nations Charter: Lectures Delivered during the Seminar Organized by the World Federation of United Nations Associations, Smolenice Castle, Czechoslovakia, April 20–24, 1965*, ed. M. K. Nawaz et al. (Leiden: Sijthoff, 1966), 15, at 25.

[70] See, for example, Ivo Lapenna, *Conceptions soviétiques de droit international public* (Paris: Pedone, 1954); W. W. Kulski, 'The Soviet Interpretation of International Law', *AJIL* 49 (1955), 518; Werner Hänisch and Gerhard Herder, 'Der proletarische Internationalismus, das Grundprinzip in den Beziehungen zwischen den sozialistischen Staaten', *Staat und Recht* 7 (1959), 789; Jan F. Triska and Robert M. Slusser, *The Theory, Law, and Policy of Soviet Treaties* (Stanford: Stanford University Press, 1962); Edward McWhinney, *'Peaceful Coexistence' and Soviet-Western International Law* (Leiden: Sijthoff, 1964); John B. Quigley Jr, 'The New Soviet Approach to International Law', *Harvard International Law Club Journal* 7 (1965), 1; John N. Hazard, 'Renewed Emphasis upon a Socialist International Law', *AJIL* 65 (1971), 142; G. I. Tunkin, *Theory of International Law*, trans. William E. Butler (Cambridge, MA: Harvard University Press, 1974 [1970]); Kazimierz Grzybowski, *Soviet International Law and the World Economic Order* (Durham: Duke University Press, 1987), ch. 2. On the relation between 'peaceful coexistence' and 'proletarian internationalism', see John N. Hazard, 'Development and "New Law"', *University of Chicago Law Review* 45 (1978), 637, at 643–44.

[71] Georges M. Abi-Saab, 'The Newly Independent States and the Rules of International Law: An Outline', *Howard Law Journal* 8 (1962), 95, at 101. For an overview of his life and career, see Laurence Boisson de Chazournes, 'Portrait de Georges Abi-Saab', in *The International Legal System in Quest of Equity and Universality: Liber Amicorum Georges Abi-Saab*, ed. Laurence Boisson de Chazournes and Vera Gowland-Debbas (The Hague: Kluwer, 2001), 3. Like many others involved in the struggle for an international law of decolonization, Abi-Saab was influenced by Marxism but did not identify as a Marxist per se. Personal telephone interview with Georges Abi-Saab, 2 June 2020.

inequality on the international plane, but decolonization had brought to the surface what K. Venkata Raman called its 'democratic' potential, its promise to give prescriptive voice to 'the common interests of the whole community'.[72] Socialist support for Third World positions, in and beyond the General Assembly, was important in this effort, providing the Third World with additional votes and leverage repeatedly during the 1960s and 1970s.[73]

Above all, though, the most significant contradiction of the international law of decolonization turned on the relation between national sovereignty and international order. For the lawyers and diplomats who wrote and spoke on behalf of the world's economically and politically weaker states, national sovereignty was to be defended not by spurning international law but by augmenting and reconfiguring it in the service of stronger relations of interdependence. The new 'international law of cooperation' was not antithetical but supplementary to – and transformative of – the older 'international law of coexistence'. At its sharpest, this transformative project encouraged incisive critique of existing legal structures, and of international law's role in shaping and justifying both capitalism and colonialism. It also called forth ambitious formulations of law's capacity to catalyze social and economic change, even romantic dreams that a world of cooperation and mutual prosperity might one day be built. The decolonized states of Asia, wrote Indonesian international lawyer J. J. G. Syatauw in 1961, were torn between their need for 'closer contact with other countries' to ensure economic development and their sensitivity to the sacrifices necessary for their newfound independence, which conferred upon their 'newly acquired sovereignty a halo of national sanctity'.[74] Syatauw himself saw this as reflecting not 'the luxury of capriciousness and arbitrariness' but a tendency to 'accept part of the body of international law and reject the remainder', at times acting with 'egotistic purpose' and at other times 'walk[ing] on tiptoe through this

[72] K. Venkata Raman, 'Toward a General Theory of International Customary Law', in *Toward World Order and Human Dignity: Essays in Honor of Myres S. McDougal*, ed. W. Michael Reisman and Burns H. Weston (New York: Free Press, 1976), 365, at 366, 388.

[73] On voting procedures and the General Assembly's 'democratic' credentials, see R. P. Anand, 'Sovereign Equality of States in International Law – II', *International Studies* 8 (1966), 386, at 399–421.

[74] J. J. G. Syatauw, *Some Newly Established Asian States and the Development of International Law* (The Hague: Nijhoff, 1961), 11.

treasure-house with unnecessary diffidence and a lack of critical sense'.[75] This was 'a legalistic as well as a non-legalistic approach', he observed, in what could just as well have been a motto for the international law of decolonization.[76] As Indonesian officials put it in a paper prepared for the NAM's summit in September 1973, where preparations were made for the NIEO's formalization in the General Assembly the following spring, 'the problem is not simply one of radical rejection, which at this stage may in some cases prove self-defeating, but rather of the need for worldwide regulation of rights and responsibilities to the common benefit and justice for all'.[77]

* * *

Completing Humanity is a socio-historical analysis of an 'international legal field' in transition.[78] Postwar decolonization breathed legal life into self-determination, spawned the development of new conceptions of resource sovereignty, and led to doctrinal innovations like *jus cogens* and the 'common heritage of mankind' concept. Far from going by the wayside, or entering a period of protracted decline, international law expanded rapidly and remarkably during the long 1970s.

This book focuses on the interventions and scholarly writings of a regionally diverse group of elite international lawyers from the Third World – nearly all of whom, it is important to note, were men.[79] The names read like a 'who's who' of late twentieth-century international law,

[75] J. J. G. Syatauw, 'The Relationship between the Newness of States and Their Practices of International Law', in *Asian States and the Development of Universal International Law*, ed. R. P. Anand (Delhi: Vikas, 1972), 10, at 16–18.

[76] Syatauw, *Asian States*, 225.

[77] Indonesia, 'The Role of Non-Alignment Today' (4 September 1973), UN Archives, Folder Ref. No. S-0972-0003-04, 9.

[78] I borrow the concept of the 'legal field' from Bourdieu's outline for a social theory of law: Pierre Bourdieu, 'The Force of Law: Toward a Sociology of the Juridical Field', trans. Richard Terdiman, *Hastings Law Journal* 38 (1987), 814. For my own thoughts on Bourdieusian approaches to international legal theory, see 'International Legal Fields', *Humanity* 5 (2014), 277; 'Legal Form', in *Concepts for International Law: Contributions to Disciplinary Thought*, ed. Jean d'Aspremont and Sahib Singh (Cheltenham: Edward Elgar, 2019), 624.

[79] Men have long dominated the international legal profession; international lawyers from decolonized states were not exceptional in this regard. From new scholarship on the work and experiences of women international lawyers before recent moves toward gender parity, see esp. Immi Tallgren (ed), *Portraits of Women in International Law: New Names and Forgotten Faces?* (Oxford: Oxford University Press, 2023). See further Patricia Owens, Katharina Rietzler, Kimberly Hutchings, and Sarah C. Dunstan (eds), *Women's*

also unfortunately mainly an affair of elite men: Georges Abi-Saab, R. P. Anand, Upendra Baxi, Mohammed Bedjaoui, Mohamed Bennouna, Boutros Boutros-Ghali, Jorge Castañeda, B. S. Chimni, Taslim Elias, Francisco V. García-Amador, Kamal Hossain, Abdul G. Koroma, Kéba M'Baye, Satya Nandan, Francisco Orrego Vicuña, Radhabinod Pal, Ibrahim Shihata, Issa Shivji, Muthucumaraswamy Sornarajah, J. J. G. Syatauw, Doudou Thiam, U. O. Umozurike, Christopher Weeramantry, and Hasan Zakariya, among many others. Most of these lawyers hailed from the upper or middle classes in their home countries (Bedjaoui, an orphan raised in a working-class neighbourhood, is a notable exception).[80] Most were social democrats or socialists, of one or another persuasion. A small but vocal minority drew from the Marxist tradition (Chimni and Shivji are its most articulate exponents).[81] Nearly all of them received training, partly if not entirely, in elite European and North American universities, sometimes in politics, economics, or other disciplines in addition to law itself. And nearly all occupied positions of considerable legal and political power throughout their careers, from time spent advising national liberation movements or holding down ministerial posts to years in the world of commercial arbitration or on the bench of an international tribunal. Their writings – learned, wide-ranging, and often crafted with poetry as much as precision – were published in progressive law reviews like the *Howard Law Journal* and mainstream academic outlets like the British Institute of International and Comparative Law-affiliated *International and Comparative Law Quarterly*. They also appeared in newly founded Third World periodicals like the *Indian Journal of International Law* and the Arab League-

International Thought: Towards a New Canon (Cambridge: Cambridge University Press, 2022).

[80] Mohammed Bedjaoui, *Une révolution algérienne à hauteur d'homme* (Paris: Riveneuve, 2018). See further Fatsah Ouguergouz and Tahar Boumedra, 'Il était une fois – A Charmed Life', in *Liber Amicorum Judge Mohammed Bedjaoui*, ed. Emile Yakpo and Tahar Boumedra (The Hague: Kluwer, 1999), 2.

[81] For Chimni see, for example, 'Towards a Third World Approach to Non-Intervention: Through the Labyrinth of Western Doctrine', *IJIL* 20 (1980), 243; *International Commodity Agreements: A Legal Study* (London: Croom Helm, 1987); also *International Law and World Order: A Critique of Contemporary Approaches* (New Delhi: Sage, 1993). For Shivji see, for example, *Class Struggles in Tanzania* (New York: Monthly Review Press, 1976); 'Law in Independent Africa: Some Reflections on the Role of Legal Ideology', *Ohio State Law Journal* 46 (1985), 689; *The Concept of Human Rights in Africa* (London: CODESRIA, 1989); also *Accumulation in an African Periphery: A Theoretical Framework* (Dar es Salaam: Mkuki na Nyota, 2009).

oriented *Revue égyptienne de droit international*. These and countless other publications showcased the reach of the new international law under construction. The professors, practising lawyers, dissertation authors, state functionaries, and revolutionary militants who struggled to transform international law during the 1960s and 1970s may not have had an Institute of International Law or International Law Association (ILA) of their own. They did, however, play leading roles in a broadly shared project of reshaping international law.[82] This was a project with inherent limitations, political as much as theoretical. And it ultimately produced only partial results. But it is still the most sustained enterprise in large-scale transformation ever attempted in international law's formal forcefield.

In addition to figures from the Third World, this book examines the views and writings of international law specialists from capitalist and socialist states who became involved in various facets of the decolonization project. This group (once again comprised overwhelmingly of men) included Suzanne Bastid, Derek W. Bowett, Antonio Cassese, Charles Chaumont, Percy Corbett, Ingrid Detter, John Dugard, René-Jean Dupuy, Richard Falk, A. A. Fatouros, Charles Fenwick, Maurice Flory, Thomas Franck, Wolfgang Friedmann, Louis Henkin, Rosalyn Higgins, C. Wilfred Jenks, Robert Jennings, Philip Jessup, Manfred Lachs, Ivo Lapenna, Myres McDougal, Arvid Pardo, Bert Röling, Oscar Schachter, Julius Stone, Grigory Tunkin, J. H. W. Verzijl, Michel Virally, Gillian White, and Quincy Wright. Aside from their writings, these figures often trained or lent assistance to their counterparts in the Third World, with

[82] And also international legal scholarship, in that these figures also lay the foundations for what would eventually come to be called 'Third World Approaches to International Law' (TWAIL), a theoretically heterogeneous network of scholars and lawyers committed to reshaping the study and practice of international law around the concerns of the world's poorer peoples and countries. For cardinal statements of TWAIL's aims see Makau Mutua, 'What Is TWAIL?', *ASIL Pd.* 94 (2000), 31; B. S. Chimni, 'Third World Approaches to International Law: A Manifesto', *International Community Law Review* 8 (2006), 3; Obiora Chinedu Okafor, 'Critical Third World Approaches to International Law (TWAIL): Theory, Methodology, or Both?', *International Community Law Review* 10 (2008), 371. For useful accounts of its development, see James Thuo Gathii, 'TWAIL: A Brief History of Its Origins, Its Decentralized Network, and a Tentative Bibliography', *Trade, Law and Development* 3 (2011), 26; James Thuo Gathii, 'The Promise of International Law: A Third World View', *American University International Law Review* 36 (2021), 377; Antony Anghie, 'Rethinking International Law: A TWAIL Retrospective', *EJIL* 34 (2023), 7. For a critique of 'generational' models of TWAIL, see George Rodrigo Bandeira Galindo, 'Splitting TWAIL?', *Windsor Yearbook of Access to Justice* 33 (2016), 37.

many from Africa, Asia, and Latin America spending time in the universities of Britain, France, Switzerland, and the United States. The struggle to decolonize the theory, doctrine, and institutional architecture of international law was spearheaded by young lawyers and legal scholars from the global South, but many of their counterparts in the global North were willing to provide significant support. Joint conferences involving participants from both North and South, or different states in a given region, were held regularly. The American Bar Association convened a series of large regional and international meetings as part of the 'world peace through law' project it launched in 1958.[83] The United Nations, the International Commission of Jurists, and the Carnegie Endowment for International Peace organized conferences and training courses the world over.[84] These events ran alongside meetings like the 1967 African Conference on International Law and African Problems in Lagos, a landmark conference at the Indian School of International Studies in New Delhi the same year,[85] and a series of Nigerian legal reform and institution-building conferences that culminated in the creation of a new Commission of African Jurists in 1963 and its absorption into the OAU the following year.[86] If Third World figures gained influence in the

[83] The project was spearheaded by Charles S. Rhyne, the ABA's young president. From Rhyne's voluminous writing on the project, see, for example, 'World Peace through Law: The President's Annual Address', *American Bar Association Journal* 44 (1958), 937; 'World Peace through Law', *Denver Journal of International Law and Policy* 2 (1972), 1; 'Internationalization of Law to Meet Needs of Internationalization of Life – A Comment on Abidjan World Conference on World Peace through Law', *Pennsylvania Bar Association Quarterly* 45 (1974), 106. Rhyne's vision for the project did not lack for ambition; see, for example, 'The Computer Will Speed a Law-Full World', *American Bar Association Journal* 53 (1967), 420. The ABA's World Peace Through Law Centre issued a variety of publications, including Julius Stone and Robert K. Woetzel (eds), *Toward a Feasible International Criminal Court* (Geneva: World Peace Through Law Center, 1970).

[84] T. O. Elias, *Africa and the Development of International Law*, ed. Richard Akinjide (Dordrecht: Nijhoff, 1988), 29–31.

[85] For the published results, see *African Conference on International Law and African Problems* (Lagos: Nigerian National Press, 1967); *The Establishment of the African Institute of International Law and the Documentation Centre – Verbatim Report of the Proceedings of the Standing Committee Meeting of the African Conference on International Law and African Problems* (Apapa: Nigerian National Press, 1970); R. P. Anand (ed), *Asian States and the Development of Universal International Law* (Delhi: Vikas, 1972).

[86] The commission was short-lived, being abolished in 1965. See Elias, *Africa*, 29–30; T. O. Elias, 'The Charter of the Organization of African Unity', *AJIL* 59 (1965), 243, at 264–65; Fatsah Ouguergouz, *The African Charter on Human and Peoples' Rights: A Comprehensive*

international legal field during these years, it was partly because key members of the still preponderantly Euro-American 'invisible college' understood that their discipline's authority and legitimacy depended upon its ability to adapt to decolonization.[87]

A study in changes to legal theory and doctrine over historical time, *Completing Humanity* considers five debates about international law during the twentieth century's last major wave of decolonization. This is a process of formal legal emancipation and substantive social transformation that reached its peak in the long 1970s. It is also a process that has never come to an end, as demonstrated by recent ICJ cases on Israel's West Bank security wall,[88] frontier disputes in western Africa,[89] questions of sovereignty and self-determination in the Indian Ocean and southeast Asia,[90] and the persecution of ethno-confessional minorities in Myanmar.[91] Each of these debates was concerned with basic questions of international law's status and structure in a world of shifting distributions of power and authority. In no sense were they the only such debates at the time. From traditional doctrines of international legal obligation, as understood by judicial and arbitral bodies, to the outer limits of

Agenda for Human Dignity and Sustainable Democracy in Africa, trans. Hal Sutcliffe (The Hague: Nijhoff, 2003 [1993]), 689–90. For the original list of commissions see OAU, Charter of the Organization of African Unity, Art. 20, done 25 May 1963, 479 UNTS 69, at 80–82.

87 In 1977, Oscar Schachter characterized international lawyers as an 'invisible college', an expression originally used to describe seventeenth-century British scholarly associations. He underscored their commitment to *la conscience juridique* as well as their *dédoublement fonctionnel*, or dual role, in regard to scholarship and government employment. Oscar Schachter, 'The Invisible College of International Lawyers', *Northwestern University Law Review* 72 (1977), 217, at 218, 225–26.

88 *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, [2004] ICJ Rep. 136.

89 See, for example, *Case concerning the Frontier Dispute (Benin v. Niger)*, [2005] ICJ Rep. 90; *Frontier Dispute (Burkina Faso v. Niger)*, [2013] ICJ Rep. 44. One example of a dispute that may yet be taken to the ICJ relates to the Indian–Nepalese border; see, for example, M. Vinaya Chandran, 'Revisiting the 1816 Sugauli Treaty for Resolution of India–Nepal Boundary Quandary at Kalapani', *Calcutta Journal of Global Affairs* 5 (2021), 17.

90 See, for example, *Case concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia v. Malaysia)*, [2001] ICJ Rep. 575, [2002] ICJ Rep. 625; *Case concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia v. Singapore)*, [2008] ICJ Rep. 12; *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius in 1965*, Advisory Opinion, [2019] ICJ Rep. 95.

91 *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar)*, Judgment of 22 July 2022, available at www.icj-cij.org/en/case/178.

international law's recognition of human and peoples' rights, gender equality, and ecological sustainability, few of the rules, practices, and institutions that comprise the social field of international law today remained untouched by decolonization. Disputes broke out and battle lines were drawn in nearly every quarter of the field. Even so, the five debates on which this book focuses – each turning on the form and substance of a specific concept of international law – illuminate with especial clarity the stakes of the Third Worldist bid to transform international law.

Chapter 1 focuses on collective self-determination, the first of the book's five core legal concepts. It does so by analyzing the negotiations for the 1970 Friendly Relations Declaration,[92] the high-water mark of efforts by socialist and nonaligned states to win support for an expansive interpretation of national self-determination.[93] As a cornerstone of the effort to forge a new international law, the concept attracted an extraordinarily high degree of interest after the Second World War. Lawyers and diplomats from the global North typically argued that the right to self-determination could be exercised in a number of different ways, from reconstitution into an 'independent sovereign state' to loose association or confederation. They also contended that self-determination, understood as a human right, could be secured through adequate political and legal recognition within states and did not necessarily require secession or outright independence. By contrast, those speaking on behalf of the states and peoples of Asia, Africa, and other zones of decolonization generally framed self-determination in broader and more capacious terms, as a right to 'economic' no less than 'political' sovereignty.

[92] Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations, GA Res. 2625 (XXV) (24 October 1970).

[93] Since this and other analyses in the book rely partly on official UN records alongside archival materials, policy documents, and contemporaneous scholarship and journalistic commentary, it is important to note the limitations of many UN records, particularly summary records. Unlike *procès-verbaux*, or verbatim transcriptions of discussions, UN summary records are edited by international civil servants with significant technocratic decorum. They may thus omit or distort key terms and expressions used in the recorded negotiations. Still, even such summary records, which are often remarkably detailed and intricate, help to reveal the basic structural parameters within which competing legal arguments are articulated. For one analysis of the problem and its broader methodological implications, see Nathan Kurz, '"Hide a Fact Rather than State It": The Holocaust, the 1940s Human Rights Surge, and the Cosmopolitan Imperative of International Law', *Journal of Genocide Research* 23 (2021), 37. See also Boyd van Dijk, *Preparing for War: The Making of the Geneva Conventions* (Oxford: Oxford University Press, 2022), 23.

Arguing that formal independence meant little if newly sovereign states remained hampered by earlier arrangements, they called for an international redistribution of rights and resources, which they saw as the realization of self-determination's promise. They also stressed that the right to self-determination permitted armed struggle against colonial and occupying powers, contemplating provision of military and other forms of assistance for that purpose. Crafted through close engagement with such arguments, the 1970 resolution formalized an unsteady, provisional compromise between these two approaches, encouraging self-determination but never so far as to destabilize a fragile interstate system undergoing extensive reconfiguration.

Chapter 2 concerns the concept of *jus cogens*, examining the process through which it was introduced into international law during the 1968–69 Vienna Conference on the Law of Treaties, the first large-scale treaty-making conference involving a significant number of 'new states'. The 1969 Vienna Convention on the Law of Treaties, the conference's final product, recognized *jus cogens* by endorsing the view that some rules of international law command universal authority and application. Formerly limited for the most part to cases of piracy, slavery, and the slave trade, *jus cogens* now found expression in Article 53 of the Vienna Convention, which declared that a 'peremptory norm of general international law' is 'a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted' (without specifying exactly which norms counted as such).[94] But the negotiations whereby *jus cogens* entered into the law of treaties were marked by wide-ranging debates about the nature and limits of the treaty-making power, and ultimately about the basic structure and orientation of international law more generally. On the one hand were lawyers and diplomats from socialist and nonaligned states for whom the concept was potentially useful as a means of undercutting the legality of unequal treaties, colonial concession agreements, and other substantively unjust instruments. On the other hand were lawyers and diplomats from leading industrialized countries who were committed to upholding the traditional principle of *pacta sunt servanda* – the 'sanctity of compacts' – and deeply skeptical of any attempt to introduce a nebulous spectrum in which a select group of legal rules would have controlling authority over all others. As the most abstract of all abstractions imagined on behalf of

[94] Vienna Convention on the Law of Treaties, Art. 53, concluded 23 May 1969, 1155 UNTS 331, at 344.

decolonization's international law, the meaning and scope of *jus cogens* was thus contested from the outset. For Taslim Elias, one of the leading international lawyers and judges of his generation and a key player in the Vienna negotiations, the Vienna Convention was to be celebrated for proclaiming 'a new universal principle, a new *ordre public* for the moral guidance of States in their *future* treaty relations'.[95] No such 'new *ordre public*' ever materialized, but this was certainly not for lack of effort on the part of *jus cogens*' partisans and enthusiasts.

Chapter 3 examines the concept of permanent sovereignty over natural resources, as it was articulated in the NIEO and the debates that engendered it. Comprising the core of the NIEO program was a call for enhanced aid, debt-relief, and technology transfer, as well as the establishment of a specific international right to development, the stabilization of primary commodity prices, the normalization of preferential and nonreciprocal treatment for developing states, and the institution of mechanisms of regulatory oversight in regard to foreign investors and multinational corporations. But arguably its most significant element was the push to consolidate the legal status of the idea of 'permanent sovereignty' over natural resources. This idea rose to prominence in UN discourse in 1952 on the back of a series of nationalizations, running from Argentina to Iran and presenting itself on both sides of the English Channel.[96] Among other things, its champions argued that ownership and control of the natural resources of the relevant territory is an essential and necessary element of statehood, one that involves the right to nationalize foreign-held property in addition to pursuing tactics like acquiring majority interests in corporate subsidiaries or requiring them to hire nationals of the host state.[97] By contrast, those opposed to strong formulations of resource sovereignty contended that no principle could be said to entail rights to expropriate or nationalize the assets of foreign

[95] T. O. Elias, *New Horizons in International Law* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1979), 15 (original emphasis). For more on Elias' life and work, see 'The Periphery Series: Taslim Olawale Elias' (symposium), *LJIL* 21 (2008).

[96] See esp. Integrated Economic Development and Commercial Agreements, GA Res. 523 (VI) (12 January 1952); Right to Exploit Freely Natural Wealth and Resources, GA Res. 626 (VII) (21 December 1952). The year 1952 is often emphasized, as a kind of *annus mirabilis*, in the relevant literature. See, for example, P. J. O'Keefe, 'The United Nations and Permanent Sovereignty over Natural Resources', *Journal of World Trade* 8 (1974), 239, esp. at 239, 242, 250; Ian Brownlie, 'Legal Status of Natural Resources in International Law (Some Aspects)', *RCADI* 162 (1979–I), 245, at 253, 255–56.

[97] Adeoye Akinsanya and Arthur Davies, 'Third World Quest for a New International Economic Order: An Overview', *ICLQ* 33 (1984), 208, at 216–17.

investors without compensation. They also insisted that the quantity of such compensation should be determined by international law, or through international arbitration, in the event of disagreement. Most aspects of the NIEO program, including resource sovereignty, had been debated for some time, partly during broader discussions of neocolonialism, uneven development, and the question of a long-term deterioration in the terms of trade for commodity producers within UNCTAD, where international lawyers like Abi-Saab mingled with revolutionaries like Che Guevara.[98] Yet it was only in 1974 that the project was formalized in a set of General Assembly resolutions.[99] The program was largely the expression of a desire on the part of political and legal elites in the global South to renegotiate their roles in the world capitalist system, reforming rather than repudiating the existing international order. Even so, it was never fully implemented, those demands that saw the light of legal day being diluted in a torturously tedious process marked by circular negotiations and protracted delays. By 1982, the NIEO was effectively dead. The outbreak of the Latin American debt crisis, the consolidation of neoliberal policy-making in Washington and London, and the normalization of structural adjustment in lending to developing countries all combined to sound its death knell.

Chapter 4 considers debates about the concept of 'common heritage of mankind' during the 1973–82 UN Conference on the Law of the Sea. Once President Harry Truman proclaimed US authority over the resources of the continental shelf's seabed near its coasts in September 1945, only a few weeks after Japanese officials surrendered aboard the USS *Missouri*, many Latin American and other countries advanced jurisdictional claims of their own over ever larger portions of the world's oceans, issuing declarations or adopting domestic legislation to that effect. Running against the grain of traditional legal rules about freedom on the high seas, '[t]hese national claims are rolling out to sea like the great flow of lava which is engulfing the Icelandic island of Heimaey', worried US international lawyer and former ICJ judge Philip Jessup in 1973, adding pointedly that they 'could consume the patrimony of the international

[98] Lucinda Low et al., 'Hudson Medal Luncheon: A Conversation with Georges Abi-Saab', *ASIL Pd.* 111 (2017), 209, at 212.

[99] Declaration on the Establishment of a New International Economic Order, GA Res. 3201 (S-VI) (1 May 1974); Programme of Action on the Establishment of a New International Economic Order, GA Res. 3202 (S-VI) (1 May 1974); Charter of Economic Rights and Duties of States, GA Res. 3281 (XXIX) (12 December 1974).

community'.[100] This phenomenon of 'creeping jurisdiction' raised the possibility of an unregulated and destabilizing scramble for maritime rights, resources, and territories, culminating in what was often described as the steady and irreversible enclosure of the oceanic commons. It also lent additional urgency to developing countries' calls for a new and more comprehensive law of the sea treaty that would reflect their own rights claims. The result was a series of complex and fractious negotiations, with eleven rounds of bargaining stretching across nine long and acrimonious years. At the centre of the negotiations was the question of how the deep seabed and its resources were to be managed, and what precisely it might mean to claim that they fell within the 'common heritage of mankind'. G77 states sought an international organization authorized to manage the deep seabed's resources, oversee its exploration and exploitation, and coordinate the global distribution of resulting benefits. By contrast, industrialized maritime states proposed a licensing system in which states and corporations would be granted concessions to operate in the international zone, with any new institution being confined to largely administrative functions. Ultimately, 'common heritage' rhetoric proved central to the treaty that was crafted through these negotiations. But the 'parallel' or 'public/private' system of seabed mining it legalized had the effect of ensuring that the ocean floor's resources would be controlled to a significant degree by those with financial wealth and technological means.

Chapter 5 focuses on the debates about development, human rights, and 'basic needs' that defined much of the campaign to craft a decolonized international law during the late 1970s and early 1980s. In particular, it considers the emergence of the international right to development, and the relation between international human rights and poverty-reduction strategies like the 'basic needs' approach in NIEO-related discussions, against the background of the rise of neoliberalism and organized human rights movements during the 1970s and early 1980s. It does so partly through a close reading of the two reports produced by the 'North–South Commission' chaired by former West German Chancellor Willy Brandt.[101] Building on elements of the NIEO, the

[100] Philip C. Jessup, 'Non-Universal International Law', *CJTL* 12 (1973), 415, at 421–22.
[101] For the Brandt Commission's reports, see Independent Commission on International Development Issues, *North–South: A Programme for Survival* (Cambridge, MA: MIT Press, 1980) and Independent Commission on International Development Issues, *Common Crisis North–South: Cooperation for World Recovery* (London: Pan, 1983).

commission recommended increased aid, lending, debt-relief, investment, technology transfer, and a variety of other measures to further growth and satisfy 'basic needs' in the global South. These measures would, in turn, help to slow inflation and reduce unemployment in the global North. Despite its overarching commitment to a renewed form of 'global Keynesianism', the commission expounded a broadly rights-friendly approach to development that absorbed many of the neoliberal assumptions then on the rise. Its proposals included greater liberalization of international trade, expansion of markets and market institutions in developing countries, and fiscal 'discipline' coordinated with the assistance of international financial institutions. These proposals were defended partly through appeals to the rights and dignity of human beings. Considered alongside contemporaneous debates about development and human rights, particularly the World Bank-supported notion of prioritizing 'basic needs' for poverty reduction, the Brandt Commission's published reports thus provide an entryway into the contradictions of the North–South divide that shaped the failed project of decolonizing international law. As Abi-Saab noted in 1980, shortly before his Hague Academy of International Law lectures on the Geneva Conventions and national liberation wars appeared in print,[102] there had been a movement 'in diplomatic language from the label "backward" (which was still in use in the immediate aftermath of the Second World War) via "underdeveloped" to the current and rather hypocritical one of "developing" countries'.[103] The push to work up an international right to development reflected an attempt on the part of states in Africa, Asia, Latin America, and elsewhere to harness one of the era's defining political metonyms for the purpose of liberating international law from its past. When US President Ronald Reagan and British Prime Minister Margaret Thatcher dismissed the Brandt Commission's recommendations at the 'North–South Summit', held in Cancún in October 1981, the moment signalled the end of the struggle to cultivate an international law of development that would live up to the ideal of an international law of decolonization.

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[102] Georges Abi-Saab, 'Wars of National Liberation in the Geneva Conventions and Protocols', *RCADI* 165 (1979–IV), 353. The volume was published in 1981.

[103] Georges Abi-Saab, 'The Legal Formulation of a Right to Development (Subjects and Content)', in *The Right to Development at the International Level*, ed. René-Jean Dupuy (Alphen aan den Rijn: Sijthoff & Noordhoff, 1980), 159, at 169.

Efforts by India, South Africa, and other countries to suspend World Trade Organization intellectual property rules for vaccines. Concerns about the implications for workers and peasants of 'mega-regional' trade agreements like the proposed Transatlantic Trade and Investment Partnership. Disenchantment with economic models premised on linear growth and the extraction of nonrenewable resources rising as states and corporations clamour to mine rare metals and minerals off the ocean floor (and on asteroids). Questions about international 'guidelines' and corporate 'codes of conduct' that purport to regulate business practices, including the acquisition of land in developing countries by wealthy states and companies seeking to outsource food and biofuel production. Invocations of the UN Declaration on the Rights of Indigenous Peoples to strengthen the land and resource rights of Indigenous peoples, even as Evo Morales' Indigenous-supported government is ousted in Bolivia and officials in Canada and the United States permit oil companies to build pipelines through Indigenous land.[104] Activists waging campaigns like #RhodesMustFall in South Africa, #IdleNoMore in Canada, and #BlackLivesMatter in the United States, partly on university campuses whose libraries house large and rapidly expanding collections of books on 'decolonization'.

These snapshots of the current conjuncture illustrate the implications of international legal debates about the end of empire, both formal and informal. *Completing Humanity* – itself a series of snapshots rather than an exhaustive account of a received tradition or pre-fabricated canon – analyzes the crises and transformations of international law during the transition to a nominally postimperial world. Decolonization has always been far more than mere 'metaphor'.[105] There are few better ways to appreciate its import than to consider the international law it made both possible and necessary.

[104] United Nations Declaration on the Rights of Indigenous Peoples, GA Res. 61/295 (13 September 2007).

[105] Eve Tuck and K. Wayne Yang, 'Decolonization Is Not a Metaphor', *Decolonization: Indigeneity, Education & Society* 1 (2012), 1; Robbie Richardson, 'Afterword: Beyond Gestural Politics', *Eighteenth-Century Fiction* 33 (2020), 227. The political implications are far-reaching; see, for example, Louis Allday, 'The Palestinians' Inalienable Right to Resist', *Ebb Magazine* (22 June 2021), available at www.ebb-magazine.com/essays/the-palestinians-inalienable-right-to-resist ('Decolonisation is a word now frequently used in the West in an abstract sense or in relation to curricula, institutions and public art, but rarely anymore in connection to what actually matters most: land.').