Unit 55

Hand-out 2:

Glossary of terms

**Accountability**: The obligation on the part of public officials to report on the use of public resources and responsibility for failing to meet stated performance objectives.

**Agreement (international law)**: These legal instruments are usually less formal and deal with a narrower range of subject-matter than ‘treaties’. There is a general tendency to apply the term ‘agreement’ to bilateral or restricted multilateral treaties.

**Bilateral organizations** receive funding from the government in their home countries, and use the funding to aid developing countries.

**Charter (international law)**. The term ‘charter’ is used for particularly formal and solemn instruments, such as the constituent treaty of an international organization.

**Commons / Public domain**: Resources openly available to all. Examples include air, the ocean, and public parks, as well as cultural resources that are freely available to all. The existence of a commons is a policy issue: should particular resources be owned by private entities or by the public? Regulation of the commons also presents policy dilemmas: should one individual be restricted in his or her use of the commons, or allowed unregulated access, in which case the resource could be used up, or conflicting uses (e.g., two or more people using the same radio frequency for broadcasts) could make the commons unusable.

**Convention (international law)**. Term generally used for formal multilateral treaties with a broad number of parties. Conventions are normally open for participation by the international community as a whole, or by a large number of states.

**Declaration (international law)**. The term ‘declaration’ is used for various international instruments. However, declarations are not always legally binding. The term is often deliberately chosen to indicate that the parties do not intend to create binding obligations but merely want to declare certain aspirations. Some instruments entitled ‘declarations’ were not originally intended to have binding force, but their provisions may have reflected customary international law or may have gained binding character as customary law at a later stage. Such was the case with the 1948 Universal Declaration of Human Rights.

**Indigenous communities** are generally understood to be specific groups of people defined on an ethnic and cultural basis who have an association with a specific territory that they have occupied before colonization or similar territorial appropriations, and they often share a common history of oppression or marginalization. In Asia[[1]](#footnote-1) and Africa[[2]](#footnote-2) there has been considerable debate about the usefulness of such a definition, for example in the preparatory meetings for the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007). The African Commission’s Working Group recognized that most Africans could describe themselves as indigenous, and defined indigenous groups as those (especially hunter-gatherer or pastoralist communities) associated with a specific territory, self-identifying with a specific culture, identified as a group by themselves and others, and sharing a common experience of marginalization.[[3]](#footnote-3)

**Instrument (legal instrument).** In legal terms, this means a law, regulations or an agreement, treaty, declaration or other legal document that prescribes certain behaviour.

**International law** refers to treaty law made in and between sovereign states. This includes treaties, agreements, conventions, charters, protocols, declarations, memoranda of understanding, modus vivendi and exchange of notes between States.

**Legislation** is a term for law enacted by a legislature or other competent authority. This could include legislation at national and sub-national (e.g. provincial) level, as well as international law. *Statutory* law or statute law is written law (as opposed to oral or customary law) set down by a legislature (as opposed to regulatory law promulgated by the executive or common law of the judiciary) or by a legislator (in the case of an absolute monarchy).

**Minority** or **minority group:** usually refers to groups defined on a national, or an ethnic, religious or linguistic basis (United Nations Minorities Declaration 1992), often without a specific territorial claim, whose national, ethnic, linguistic or religious identity differs from that of the majority population.[[4]](#footnote-4)

**Multilateral organizations** obtain their funding from multiple governments and spend it on projects in various countries, e.g. UNDP.

**Optional Protocol** to a treaty is an instrument that establishes additional rights and obligations to a treaty, subject to independent ratification; not all parties of the general treaty may consent to this optional protocol. The Optional Protocol to the International Covenant on Civil and Political Rights of 1966 is a well-known example.

**Participatory democracy**: A political and philosophical belief in direct involvement by affected citizens in the processes of governmental decision making essential to the existence of democratic government.

**Policy implementation**: A general political and governmental process of carrying out programs in order to fulfil specified policy objectives; a responsibility chiefly of administrative agencies.

**Pro-poor policymaking:** a process that focuses the policy design and implementation on achieving pro-poor objectives (defined in the Millennium Development Goals).

**Proportionality principle:** the extent of the action must be in keeping with the aim pursued. This means that when various forms of intervention are available to an institution, it must, where the effect is the same, opt for the approach which leaves the greatest freedom to other agencies.

**Public policy:** The broad aims, methods and principles that a government will use to guide actions including, but not restricted to, the development of more specific legislation and regulations. Also used to describe the set of programs enacted and implemented by the government.

**Public-private partnership (PPP)**: all the formalized types of relations between the public and the private sectors which aim to ensure the realization of goals of general interest, as infrastructures and services, through the joint funding and the co-operating of public authorities and private bodies. Involvement of private enterprise (in the form of management expertise and/or monetary contributions) in the government projects aimed at public benefit.

**Sovereign state.** In international law, a sovereign state is a nonphysical juridical entity that is represented by one centralized government that has sovereignty over a geographic area.

**Subsidiarity:** the idea that a central authority should have a subsidiary function, performing only those tasks which cannot be performed effectively at a more immediate or local level.

**Treaty (international law).** The expressions ‘treaty’ and ‘international agreement’ embrace a wide variety of instruments, including unilateral commitments. Usually the term ‘treaty’ is reserved for matters of some gravity that require more solemn agreements.

**Signatories and Parties.** The term ‘Parties’, which appears in the header of each treaty, in the publication Multilateral Treaties Deposited with the Secretary-General, includes both ‘Contracting States’ and ‘Parties’. For general reference, the term ‘Contracting States’ refers to States and other entities with treaty-making capacity which have expressed their consent to be bound by a treaty where the treaty has not yet entered into force or where it has not entered into force for such States and entities; the term ‘Parties’ refers to States and other entities with treaty-making capacity which have expressed their consent to be bound by a treaty and where the treaty is in force for such States and entities.

#### **Sources**

* UN Public Administration Glossary <http://www.unpan.org/DPADM/ProductsServices/Glossary/tabid/1395/language/en-US/Default.aspx>
* Definition of key terms used in the UN Treaty Collection <https://treaties.un.org/Pages/overview.aspx?path=overview/definition/page1_en.xml>

1. . Antons, C. ‘Asian Borderlands and the Legal Protection of Traditional Knowledge and Traditional Cultural Expressions’, Modern Asian Studies, Volume 47, Issue 04, July 2013, pp.1403­-1433 <http://dro.deakin.edu.au/eserv/DU:30054576/antons-asianborderlands-2013.pdf> [↑](#footnote-ref-1)
2. . Gilbert, J. 2011. ‘Indigenous peoples’ human rights in Africa: the pragmatic revolution of the African Commission on Human and People’s Rights’. International and Comparative Law Quarterly, 60, pp.245-270. [↑](#footnote-ref-2)
3. . Report of the African Commission’s Working Group of Experts on Indigenous Populations/Communities 2005 cited in Gilbert, J. 2011. ‘Indigenous peoples’ human rights in Africa’, p.250. [↑](#footnote-ref-3)
4. . See <http://www.ohchr.org/EN/Issues/Minorities/Pages/internationallaw.aspx> [↑](#footnote-ref-4)