

International Law: From Historical Foundation to Contemporary Challenges

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Abstract

International Law is a set of principles that regulate relations among sovereign states and other international actors to maintain peace and cooperation. The term was introduced by Jeremy Bentham. This study examines the meaning, nature, scope, historical background, sources, and implementation of international law. Its origins trace back to Greek and Roman practices, with major developments from Grotius' *De Jure Belli ac Pacis* and the Treaty of Westphalia. The primary sources, as stated in Article 38 of the ICJ Statute, are customary law, treaties, judicial decisions, and scholarly writings. Institutions like the UN General Assembly and Security Council play key roles, though enforcement remains limited. Despite major instruments such as the Universal Declaration of Human Rights and the Genocide Convention, challenges like forced labor and torture persist. The paper concludes that international law is essential for global peace, but its effectiveness depends on stronger state compliance and enforcement.

Keywords: International Law, Sources of International Law, Customary Law, Treaties, United Nations, Implementation

INTRODUCTION

A set of principles that are formed to establish friendly ties between and among states is known as International Law. The term International Law was introduced in World Politics by Jeremy Bentham.

NATURE & SCOPE OF INTERNATIONAL LAW

In light of Jeremy Bentham's definition international law can be defined as a set of rules which facilitate strong relations between states. The nature of International Law has transformed and taken a new dimension. Under the umbrella of International Law, the players or actors are sovereign states, groups of powerful people like influential organizations, and strong and charismatic personalities. This law provides rules and regulations for war & peace, implementation of human rights, economic and trade issues, space laws, and land & sea laws.

International Law organizations are mostly restricted. Like, the UN General Assembly has 193 members. It has complete power of legislation but less power of execution. It can only give recommendations and never force any resolution. The UN General Assembly has the power of budget formation, appointing new members for the UN, and making appointments of judges for ICJ. Compared to the other organs of the UNO the UN Security Council exercises more powers. Its five permanent members including the UK, USA, France, China & Russia have the veto power. They can decline any resolution forwarded by the UN General Assembly. (1)

HISTORY OF INTERNATIONAL LAW:

International Law dates back to the Greek and Roman periods when principles were established to maintain relations between Roman citizens and Non-Romans residents. The set of principles was also used to build peaceful ties between the Greek city-states. A slight difference has been witnessed between the Modern European States and East Asian countries. The latter has adopted the cosmological supremacy of the sovereign. The greatest example of cosmological supremacy is that of the sovereign of China. (2)

In the first half of the seventeenth century, two important documents were presented by Hugo Grotius. His two important publications included *De Jure Belli ac Pacis* 1625 and the Congress or Treaty of Westphalia in 1648. (3)

He presented his most popular theory of law (jurisprudential). This theory highlighted that states can engage in wars against each other to gain maximum benefit with minimum bloodshed. In the course of acquiring political benefits, human rights should not be violated. He provided a different notion related to the sea laws in his book "The Free Sea" published in 1609. In this masterpiece, Grotius declared that nations can exploit the sea without any restriction to gain desired goals. (4)

SOURCES OF INTERNATIONAL LAW:

International Law or the “law of nations” originated from different mediums. The first and most important source is customs and traditions. The second most crucial source of this law is treaties. The next important source of international law is decisions from minor and major courts. The last source of International Law is scholarly writings.

The modern approach declares that the most authentic source of International Law is the International Court of Justice which is the major organ of UNO. Article 38 of ICJ contains the most valuable statement related to international law. (5)

CUSTOMARY INTERNATIONAL LAWS:

The customary laws are also known as ancient laws that are not written. Their two important characteristics include consistency & they are implemented in a larger area of a state. Examples of such customary laws include SS. Lotus Case (1927) & the Advisory Opinion on Nuclear Weapons (1996).

Besides this term *Opinio Juris* which means “An opinion of law or a necessity” a Latin approach was also adopted in a case “The North Sea Shelf Continental Cases” in 1969. (6)

Other examples of Customary International Law include the Congress of Vienna (1815). It is not connected with the International Law. It was created during conferences and meetings for the codification of existing laws.

Some examples of accelerated customary International Law include: the Prohibition of Genocide in the Convention on Genocide (1948) and the Truman Doctrine of 1945 contained rules related to the continental shelf of states that were lately enclosed in the Geneva Convention on The Continental Shelf (1958). (7)

JUDICIAL DECISIONS:

The judicial decisions are also an important source of International law. Article 38 of the International Court of Justice contained additional sources of law. The set of laws related to the delimitation of the territorial seas was created by judges in the Anglo-Norwegian Case of 1952. (8)

The international tribunals are approved by the International Court of Justice that they can refer any decision to International law. There are many international tribunals including The European Union, the International Court of Justice, and the International Criminal Court. Issues that are International come under the jurisdiction of the International Tribunal. Conflicts that rise between individuals or corporations of states are either resolved by the National Courts or through arbitration. (9)

TREATIES & CONVENTIONS:

Treaties or International Conventions are agreements that are signed between and among states. These conventions are binding upon states during peacetimes & to discontinue war crimes and the approach of suppression. (10)

EXAMPLES OF TREATIES:

- Eternal Peace Treaty (532) was signed between the Byzantine Eastern Roman & Sassanian Persian Empire.
 - The Treaty of Hudaibiyya (628) was signed between the Muslims & Quraish.
 - Peace Treaty (783) was signed between China & Tibet to resolve crises between the parties. Finally, peace was restored in (822) through another agreement.
 - The Treaty of Westphalia (1648) proved to be a landmark as it contributed towards the end of the thirty-year war & the eighty-year war.
 - The Treaty of Paris (1815). This treaty resulted in the defeat of Napoleon in the Battle of Waterloo.
 - The Treaty of Paris (1856). After this treaty, the Crimean War ended.
 - Treaty of Versailles (1919). Formally the First World War ended along with the disarmament of Germany, demilitarization of the Rhineland (area lying in western Germany) & reparation to the allies.
 - Indus Basin Water Treaty (1960) was signed between India & Pakistan to resolve the Water crises.
 - Simla Agreement (1972)
 - SALT I & SALT II were signed in 1972 & 1979 respectively between the Soviet Union & United States of America.
 - Oslo Accord I (1993): It was signed between Israel & Palestinian Liberation Organization.
 - Paris Agreement (2014): It was signed to deal with the greenhouse gases mitigation.
 - Treaty on the Prohibition of Nuclear Weapons (2017). It was an International Agreement to prohibit the use of Nuclear Weapons.
 - Agreement on Bringing Peace to Afghanistan: On 29th Feb 2020 an agreement was signed between USA & Taliban known as the Doha Accord to end a twenty-year war in 2021.
- (11)

UNIVERSAL DECLARATION OF HUMAN RIGHTS:

The UDHR was adopted on 10th December 1948 by the UN General Assembly. Under the umbrella of UDHR, many resolutions were passed. These resolutions were declared through various articles. These articles provided different rights including civil, cultural, economic, political & social.

In the same year, the Kashmiris were granted the right to self-determination by UDHR. When the UDHR is combined with the International Covenant on Civil and Political Rights and its two Optional Protocols, and the International Covenant on Economic, Social, and Cultural Rights the International Bill of Human Rights is formed. (12)

Article 4 of UDHR prohibits slavery in all forms across the globe. It ordains that all individuals & organizations should refrain from violence, suppression & threats. Slavery has many dimensions including forced labor, forced marriage for payment, human trafficking, etc.

Article 5 captures torture-related issues that individuals face as it has far greater effects on the physical and mental health of the individuals. Torture is also used against criminals for quick confessions. This article prohibits the use of torture against all individuals. Individuals and organizations should avoid the attitude of cruelty.

CONVENTIONS ON GENOCIDE:

The convention on the punishment and prevention of genocide was passed through a resolution of the general assembly. This convention was proposed, implemented, and accepted for ratification on 9th December 1948. It was implemented on 12th January 1951. This convention contained 19 articles related to the prohibition of genocide, stopping the use of violence against any sect or community irrespective of caste, color, or creed, and granting punishment to any individual or organization involved in genocide. (13)

IMPLEMENTATION OF INTERNATIONAL LAW:

The International Labor Organization is the oldest UN agency formed in 1919. Although it has passed many resolutions, it has not successfully implemented those rules. According to the ILO report, at least 21 million laborers across the globe were forced to work.

According to a report by Amnesty International, 144 countries were involved in all sorts of torture from 2009-2013. Amnesty International documented 27 cases of torture from 2013 to 2014 out of which beating, stress positions, extended isolation, electric shocks & whipping were quite common. (14)

According to ILO, 28 million were involved in forced labor in 2021. Forced labor is a serious crime against human rights. (15)

According to a recent report by ILO, 40,000 people are involved in forced labor. At present 14.2 million individuals are entangled with forced labor. According to an estimate, the illegal amount generated through forced labor across the globe is \$51.2 billion.

Forced laborers are unskilled workers. Therefore, there is a lack of investment in the human capital of the country. (16)

WARS:

Many treaties have been passed to restrict states from using violence against states conventions on the limitation of weapons; whether biological or nuclear between & among states have been signed. Yet the World has witnessed many wars.

- Red River Indian War (1874-75)
- Sino-French War (1883-85)
- The War of Thousand Days (1899-1903)
- World War I (1914-18)
- Russian Civil War (1918-20)
- Spanish Civil War (1936-39)
- World War II (1939-45)
- Arab Israel War (1948-49, 1956, 1967, 1973, 1982)
- Korean War (1950-1953)
- The Six-Day War (1967)
- Vietnam War (1954-75)
- Afghan War (1978)
- Iran-Iraq War (1980-1988)
- Afghanistan War (2001-2014)
- Iraq War (2003-2011)

Out of many deadly conflicts, a few of them have been mentioned above. These disputes have caused many losses. (17)

CONCLUSION:

International Law is considered the most powerful tool for preserving peace in the World community. Hundreds and thousands of resolutions have been passed to restrict the use of weapons. The states have been commanded to reduce their stock of weapons, especially nuclear weapons. States should refrain from using power against the weaker states. This attitude is in the best interest of the whole of humanity.

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