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Introduction to Public International Law I

INTRODUCTION

Each country in the world **formulates laws to govern the society** in efficient manner and ensure **peace and security**. Similarly, at the **international level**, when countries come together at a **common platform** to formulate law that governs intercourse between them, it is referred as **international law**.

International law is the body of rules which are legally binding on states in their intercourse with each other. These rules are primarily those which govern the relations of states, but states are not the only subjects of international law. International organizations and, to some extent, also individuals may be subjects of rights conferred and duties imposed by international law.

That part of **international law that is binding on all states**, as is far the greater part of customary law, may be called universal international law, in contrast to particular international law which is binding on two or a few states only.

DEFINITION OF INTERNATIONAL LAW

It is the body of rules accepted by the general community of nations, as defining their rights and the means of procedure by which those rights may be protected or violation of them is redressed.

A. The traditional view

The view expressed in the most recent edition of Oppenheim represents a retreat from the traditional conception of international law as the law of nations, exclusively the province of nation states. For example, Hall in 1890 wrote:-

‘International law consists in certain rules of conduct which modern civilized states regard as being binding on them in their relations with one another with a force comparable in nature and degree to that binding the conscientious person to obey the laws of the country, and which they also regard as being enforceable by appropriate means in case of infringement’.

Oppenheim was even more explicit when he wrote, ‘states solely and exclusively are the subjects of international law’.

Westlake stated, ‘international law is the body of rules prevailing between states’.

In 1927, **the Permanent Court of International Justice** was called upon to decide a dispute between **France and Turkey**. In the course of the judgment the court found it necessary to set down the parameters of international law:-

“International law governs relations between independent states. The rules of law binding upon states therefore emanate from their own free will as expressed in conventions or by usages generally accepted as expressing principles of law and established in order to regulate the relations between these co-existing independent communities or with a view to the achievement of common aims”.

B. The modern view

Although international law may have developed as a system of rules governing the relations between sovereign states, it has developed beyond that. The establishment of the **League of Nations after the First World War** marked a shift in approach to international relations which received further impetus with **the setting up of the United Nations Organization in 1945**.

The Nuremberg War Crimes Tribunal in 1946 raised questions of the international obligations of **individuals** and the Universal Declaration of Human Rights 1948 suggested the possibility of **individual international rights**. In the wake of the United Nations, a number of other super-national organizations were established, all raising questions of their status within the community of nation states. In 1949 the International Court of Justice was asked by the General Assembly of the United Nations for its opinion on matters arising out of the assassination of a UN representative in Jerusalem. In the course of its judgment the court stated:-

[the **United Nations Organisation**] is a subject of international law and capable of possessing international rights and duties, and ... has capacity to maintain its rights by bringing international claims.

OBJECTIVES OF INTERNATIONAL LAW

1. To ensure peace and security in the world.
2. To resolve any dispute in peaceful manner.
3. To co-operate with each other, to strive for the better and brighter future of human kind.
4. Disarmament of weapons of mass destruction especially nuclear and building trust between nations through confidence building measures.
5. Taking collaborative effort to solve global problems such as terrorism, climate change, refugee crisis etc.
6. International law emphasizes on implementation of international treaties and conventions in right manner.
7. Collective action is taken by countries when any country violates the principles of international law

PUBLIC AND PRIVATE INTERNATIONAL LAW

International law is divided **into two types i.e.**, Public and Private international law.

Legal expert has varied opinion on categorization of international law. When international law ***governs relationship and intercourse between two States***, it is known as Public international law. It covers the areas like territorial boundary, diplomatic relations, armed conflict, human rights issues etc.

Public international law is implemented according to the provisions of the treaty and agreement. When a part of international law deals with the ***private citizen of different countries*** or other related issue, it is referred as **private** international law.

MAJOR DIFFERENCES BETWEEN PRIVATE AND PUBLIC INTERNATIONAL LAW

1. Public international law is more important than private international law.
2. Public international law deals with States and on the other hand, private international deals with individual.
3. Public international law was formulated by the all countries, while private international law varies from one country to another.
4. Public international law is formulated by international organizations, based on customs and treaties, while private laws are framed by legislature of respective nation.

MERITS/DEMERITS OF INTERNATIONAL LAW

MERITS

State's Interest Protection

It can be said without a doubt that International laws have protected the interests of states, especially of those, which have no power to protect their own interests.

For example, the World Food Programme, a part of the UN, which is a subject of international law, is a large humanitarian agency which fights hunger worldwide and delivers food assistance in case of emergencies.

Human Being Welfare

It has played a vital role in the welfare of human beings. For example, there are various international treaties for the promotion of fundamental human rights, justice and equality, like the Universal Declaration of Human Rights.

Unity and Strength

This law has brought unity among different nations/states as no one state can be separated from the other. Every state has become the need of the other one.

For example, the **problem of global warming**. Every country emits greenhouse gases which is further contributing to global warming and the impact of the same will be felt by all the countries. So, no country can combat global warming alone and will need international laws and cooperation to curb the problem.

DEMERITS

No Apparent Authority

- There is no authority for the enforcement of the law. Only the International Court of Justice is present but it can't settle certain matters. Moreover, once a decision is given by it, there is no such power or authority which can get it enforced.
- **No Legislative Machinery**

As the international laws are based on treaties and conventions, they are interpreted by states according to their self-interests.

- **Lack of Effective Sanctions**

There is no fear of sanctions, which has resulted in laws being violated frequently by the states.

CONCLUSION

It should also be remembered that, international law can never be totally separated from question of **political and diplomatic reality**. International law cannot exist in isolation from the political factors operating in the sphere of international relations.



THANK YOU