

Q. 2 Make a précis of the following passage and suggest a suitable title.

(15+5=20)

Just as the most important norms governing the behaviour of individuals are embodied in domestic, or as the lawyers call it 'municipal' law, so some norms governing the behaviour of states are embodied in international law. Even so, the identity of name does not indicate an identity of nature. International law operates in quite a different social context, without the foundations of an overwhelming social consensus and of a central authority which endows its rules with sanction. States differ from individuals in that they are not subject to law; international law is not a law above states but one between them. This is a situation so anomalous for a legal system that some professional lawyers altogether deny the legal character of international law, claiming that it lacks the distinctive characteristic of effective sanctions. Sovereign states and an international legal system of the same type as domestic legal systems are logically incompatible. Either the states are truly sovereign and recognize no superior, in which case there can be no legal rules binding them; or, if such rules exist, then states are not truly sovereign. The contradiction is resolved by the theory of consent which claims that the binding character of international legal norms is founded upon their acceptance by states, explicit or implied. Thus being bound by international law becomes a form of exercising sovereignty. In the classical definition of sovereignty in the Wimbledon case, the World Court emphatically declined '...to see in the conclusion of any Treaty by which a State undertakes to perform or refrain from performing a particular act an abandonment of sovereignty'.

Since international law is based upon such an uneasy compromise, it is not surprising that the evaluation of its significance ranges so widely. Some regard it a sham, while others claim that, if only given a chance by politicians, lawyers would draft a comprehensive code which would ensure peace upon earth. Neither view does full justice to the true nature of international law which tries to reconcile sovereign states and international order and is the expression both of state-sovereignty and of its limitations.



S No: _____

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PRECIS #01

Date: _____

Title: Domestic and International law differs in Abiding

Domestic law and international law have different social domains. Domestic law operates within the boundary of a state. It is made by the representatives of a state, reflecting the social behavior of the people. It has a system of penalizing individuals for violating it. However, international law is totally different from ^{municipal} ~~domestic~~ law in its making and abiding. It is made by a few states suiting their national interests. It is not equally applicable on all states due its principle of sovereignty of states. States give more importance to their sovereignty than to international law. There is no proper ^{mechanism} ~~system~~ of sanctions for breaking it. It bears an immense importance in maintaining peace and order in international affairs. So, international law must be evaluated with consensus of all states to ensure peace upon earth and abide it by all like a domestic law.