

(Q5)
(IR-2016)

Define International Law and explain its nature. Is it of significance to the development of laws and their application?

INTRODUCTION:

In 1648, when treaty of Westphalia was signed, a system of modern nation states came into being. It has also been a pivotal point from where the roots of international law can be traced. International law is a set of rules for states to obtain peace and harmony in the international society. **Christine C. Joyner** has rightly said:

"States draw the normative force from international law not because of a bigger power's pressure, but they consider international law to be a generally accepted norm which every state follows".

↳ **Christopher C. Joyner.**

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Therefore, international law has set a few rules for states which they willingly follow to avoid any catastrophe in future.

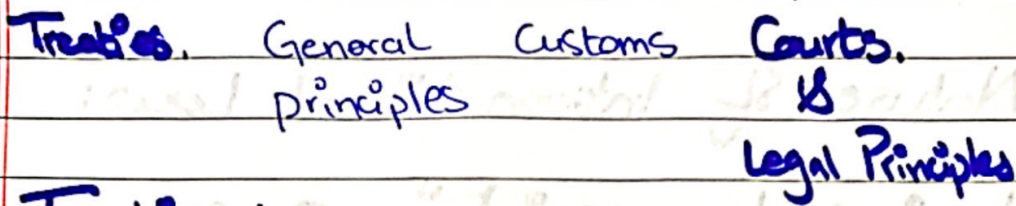
~~NATURE~~ OF INTERNATIONAL LAW AND ITS DEFINITIONS:

- Various scholars have defined international law in different ways. **Joshua S. Goldstein** stated in his book that international law is a set of rules and principles which states have **accepted as general behaviours** which need to be followed in order to live peacefully. Furthermore, he has also said that international law tries to maintain **peaceful environment** throughout the international society.

Sources of International Law:

There are a few sources of international law which changes a state follows to avoid aggression and crime in the international society. These sources are in the form of legal documents which consist of comprehensive instructions of rules.

Sources of IL



Treaties:

Treaties are signed by states to refrain from proscribed behaviours. UN charter is signed and ratified by states which ~~is~~ talks about peace, aggression, human rights etc.

General Principles:

Anything that is considered illegal at national level is also translated at the international level. Thus, general principles are established.

Customs:

Practices of states which are not written anywhere but are generally accepted are called customs.

Courts and Legal Principles:

Courts like International Court of Justice maintain the power to take decisions against illegal actions. Furthermore,

legal principles are explained by highly trained judges who are experienced.

Nature of International Law:

- It aims to maintain peace:

International law aims to maintain peace and also proscribes actions of invading a state's territory. According to Al-Jazeera, ICJ did not give any decision favouring Israel's genocide in Gaza showing its peaceful nature.

- It lays out war principles to protect the civilians:

The international law tends to protect the citizens of a country which is under the umbrella of war. It has laid down the principle of R2P known as "Responsibility to Protect". Furthermore, it teaches about the laws of war to minimise casualties.

- It does not have the power to enforce a decision:

Despite its peaceful nature, it

cannot prevent a state from waging a war or causing great damage.

Amnesty International has disapproved Israel's genocide in Gaza but the ICJ has failed to prevent Israel and its war cabinet from conducting mass atrocities.

DEVELOPMENT OF LAWS AND

APPLICATION OF WAR:

UN Charter and its significance in laws of war:

UN Charter is an embodiment of preventing wars. It has laid down **Article 2(4)** which states that:

"States are prohibited from the use of force or threat of use of force without the approval from United Nations Security Council!"

This article has proscribed states from even using threat of use of force against a country, making international law significant for a

war scenario.

Article 51 of UN Charter:

Article 51 of UN Charter has laid down the following principle:

“UN Charter does not prevent a State from its inherent right of self-defense in case of aggression under the principles laid down by UNSC”.

UN Charter has also given states the right to defend themselves in case of aggression but unfortunately, states have been using it for their interest and have exploited it, for example US's invasion of Iraq in 2003 was illegal.

International Humanitarian Law and Significance of the laws of war:

International law has also led to the development of international humanitarian law which has given the following

Principles to be followed during war:

Distinction

Proportionality

Necessity

According to IHL, States must follow the principles of proportionality that is, equal amount of damage to an aggression and following the principles of distinction and necessity to avoid casualties and only targetting the combatants.

Just War Doctrine:

Just war doctrine also tells how a war should be made just. Following principles must be followed:

• Jus Ad bello

• Just Ad bellum.

• Jus Ad bello lays down the way to wage war.

• Jus ad bellum tells when to

wage a war so it is just.

Conclusion:

Therefore, international law is a comprehensive institution comprising of treaties, general and legal principles, customs etc. It is also of great significance when it lays down important rules of waging a war. If it is followed in its true essence, it can establish peace and harmony in the international community.
