

Q2. Give such a definition of International law which could cover all the modern trends in it

International law has been defined by many scholars, jurists and law observers since many years. According to international law commission archives there are more than 40 definitions available. As International law has been evolving with the passage of time, not all definitions cover modern trends. Following are the few definitions of international law.

Definition by Proponents of International Law:-

Oppenheim:-

Law of nations or international law is the name of body of customary or conventional rules which are considered binding by civilized nations in their intercourse with each other.

J.L Briley:-

Body of rules and principles of actions which are binding upon states in their relations with one another.

Emer di Vattel:-

Law of rules and principles that states are bound to follow in their relational interaction with each other.

Soviet's Definition of International

Law:-

Sum total of rules norms regulating relations of states in the process of struggle and cooperation, expressing the will of the ruling class of these states and secured by coercive exercise by state individually or collectively.

Definitions by World Courts:-

PCIJ on King case vs Mining cooperation:-

Forms of rules accepted by states as determining their conduct upon each and each other's subject.

ICJ North Sea Continent Shelf:-

Practices of states and accepted by them as law.

Criteria of a good definition:-

A definition for any field, study or subject and phenomenon must encompass all the essential elements of that particular field. All the above mentioned definitions lacks relevancy with modern international law. As it is an evolving subject which has widened its scope and elements so it is important to critically examine these definitions and find their lackings.

Elements of International Law:-

Following are the elements of international law as per modern trends:-

Scope and dynamic nature:-

This law is a constantly evolving body whose scope is encompassing each with each turn of event.

Subjects and Objects:-

The subjects and objects of international law are those political bodies upon whom rights and duties are conferred and imposed respectively. States, International organizations, and individuals.

Sources of International Law:-

Sources are all those means from where laws are adapted. Customs, treaties, general principles of civilized nations, judicial works, orders, juristic works, comity, and state papers.

Evaluation of Above Mentioned Definitions:

	Dynamic nature	Subjects	Sources
Oppenheim	X	X	X
J.L Briley	X	X	X
Emer de Vattel	X	X	X
Soviet's	X	X	X
PCIJ	X	X	✓
ICJ	X	X	X

Oppenheim:- Oppenheim's ^{proposed} definition fails to cover all modern trends. As Article 38 of Statute of International Court of Justice describes general principles along with customs and conventions as ~~the~~ sources of law. His proposed definition also ignores evolving scope and all subjects of international law other than state.

J.L Briley:-

Like Oppenheim he also has not included other sources of international law. He fails to address other subjects of the international law.

Emer di Vattel:- All these three law proponents proposed definitions have major lacking if compared with modern international law.

Not all rules are binding upon states except those to which state is a party or a signatory.

Soviet's Definition:- This definition is the most lacking the most.

As it is not mandatory that these rules are the will of ruling class. Instead it also states about coercive exercises.

If by consent states bind by law only then these states adopt the law there isn't any coercion exercised in order to make subjects of international law to abide by it.

Definitions by world courts:- Even these definitions given on cases of International interests lack the detail of subject, sources and scope of international law. States are not the only source of international law as certain non states also enjoy legally binding status of international law.

Modern Trends of International Law:-

Scope and Dynamic Nature:-

It has encompassed its scope a lot. Not only matters related to international relations but also humanitarian issues within a boundary are now involved in International law. Conventions on Human Rights, Conventions on Economical, social and political rights. ~~and~~ are among those conventions which proves its dynamic nature and expanding scope.

Subjects and Objects.

Settlement of investment Dispute Between State and Nationals of Other State, Convention on suppression and punishment on apartheid 1973 shows that not only states but also individuals are the political entities of law. Though states are major but

international organizations and individuals at lesser extent also a subjects of International law.

Subject Scope:-

Sources of International law:-

It is not only sources from body of rules, regulations but as Article 38 of Statute of International Court of Justice ^{and practices of jurists} ~~states~~ shows.

Treaties, customs, general principles, Juristic works, Judicial decisions, decisions of other organizations, comity, Equity and others are all sources of international law.

Proposed Definition:-

International law is a constantly evolving body of norms which are considered binding by members of international society.

These norms infer rights and impose obligations upon its subjects to state and to lesser extent on international organizations and individuals.