

International law

Date: 31/12/25

Day: Wednesday

Q. What are the material sources of International law? Discuss any two of them in detail with necessary examples.

Definition:

According to Professor Oppenheim, "law of nations or international law is the name for the body of customary and treaty rules which are considered legally binding by civilized states in their intercourse with each other."

Sources of International Law

1. Treaties and Conventions:

Def- A treaty is agreement whereby two or more states establish or seek to establish relationships between them governed by International law.

Reference: Article 2 of Vienna conventions.

Types of Treaties

1. Law making Treaties

2. Treaty Contracts

2. Law Making Treaty:

Law making treaty performed by some function in an international law field as legislation does in state field.

• Law making treaty adapt international law enacted with changing time and circumstances.

a) Treaties which give universal law.

Ex. UN Charter

2. Treaty which give general principles

Example:- laws of treaty.

Treaty Contracts

Treaty contracts are entered into by two or more states and the provisions of such binding only of the parties to the treaty.

2. Customs

Difference between usages and customs

Date: _____

Day: _____

Usages

- Usages are not binding nature.
- No sanctions ~~on~~ violation of usages.
- Usages are initial stage of customs twilight.
- Usages may be inconsistent and opposed to each other. As pointed out by Starks, "Where a custom begins, usage ends."

Customs:

- Customs are binding nature.
- There are sanctions on violation of customs and customs are final stage of usages.

Essential Elements

Of Customs:

- Long duration is not necessary
- Generally should be practice
- Complete uniformity is not required but substantial uniformity
- *opinio juris* (Customs must be recognised as required as by law)

Date: _____

Day: _____

- Majority of State should be practiced.
- Consent of the majority of state.
- The custom should also be uniform.

Case:

West Rand Central Gold Mining Company Ltd. v. R

In this case a test regarding the general recognition of custom was laid down. The court rules that for a valid international custom, it is necessary that it should be proved by satisfactory evidence that the custom is of such nature that it has received general consent of the States and no civilized State shall oppose it.