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I. Law Past Paper - 2016

Q: NO. 2: Define International Law. Discuss its nature and scope. To what extent it is relevant and effective in the modern times?

I. Introduction: defining, discussing and elaborating the nature of International Law, its scope, relevancy and effectiveness in the modern times

⁶⁶ "International law is not a mere fiction; it is a reality and a necessity"

Elihu Root (Noble Peace Prize Laureate)

International law governs the behaviour of states and international entities by setting binding rules drawn from treaties, customs, and general principles. It shapes how nations interact, resolve disputes and pursue mutual goals. While its authority is often questioned due to the absence of a global enforcer, its impact remains significant in both principle and practice.

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II - Defining International Law

Many scholars have put forward several definitions of international law, emphasizing its role in governing state conduct and international obligations.

a) Definitions by scholars

i) Oppenheim's Definition.

"The body of customary and treaty rules which are considered legally binding by civilized states in their intercourse with each other."

ii) H. L. A. Hart's Definition

"A decentralized legal system followed by states out of a sense of obligation."

iii) J. G. Stance's Definition

"A law formed by rules which states feel bound to observe in international relations."

b) (rule or A holistic definition

International law is a decentralized

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legal system of customary and treaty rules which states are bound to follow in their conduct or relations.

III - Discussing the nature of international law

The nature of international law is distinct from domestic legal system in multiple ways discussed below:

a) Absence of central authority and reliance on reciprocity and consent

As noted by H.L.A. Hart in The Concept of Law, it functions without enforcement. so, there is no global police to enact laws. Despite this, states voluntarily adhere to international laws, making reciprocity and consent a cornerstone.

b) The concept of Pacta Sunt Servanda with absolute sovereignty and self-limitation.

Article 26 of the Vienna Convention on the Law of Treaties (1969) articulates that "agreements must be kept." Further, international

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law provides absolute sovereignty to the states but they accept self-imposed legal constraints for legitimacy.

c) Customary and ~~per~~ peremptory norms-

Customary law develops through consistent practices of states based by *opinio-juris*, while some norms have acquired *jus cogens* - norms from which no derogation is permitted.

iv- Discussing the scope of International Law

The scope of international law has progressively broaden in response to globalization and other factors

a) Regulation of peace and conflict-

Widespread conflicts have ushered International law to be a significant field as The UN charter, Articles 2(4) and 51, restricts states to the use of force, while Geneva Convention regulate human conduct during conflict. Moreover, international law enables mechanisms like UN peacekeeping missions.

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b) Rapid expansion of economic and trade agreements and their regulations

International law governs global trade through WTO framework, ensuring fair trade practices. Additionally, many states have joined multilateral agreements like NAFTA and CPTPP which are regulated by international law.

c) Environmental and climate laws

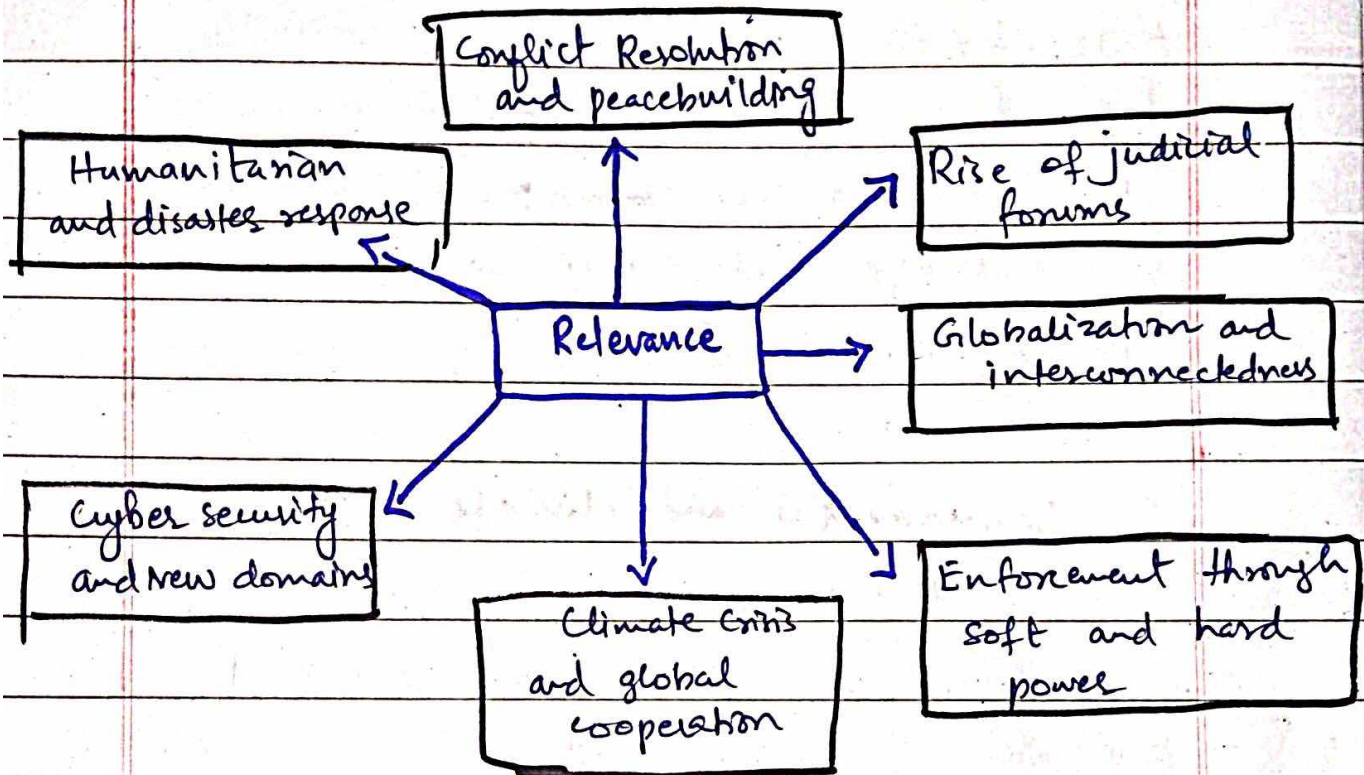
Many legal instruments like Paris Agreement of 2015 and Kyoto Protocol illustrates how International law coordinate efforts against climate and environment-degradation

d) Human Rights and individual accountability

The UDHR of 1948 and treaties like ICCPR, and CEDAW have transformed human rights into a critical component of international law. In addition, the Rome Statute of the ICC empowers it to prosecute war crimes and genocide against humans.

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V- Relevance and effectiveness of international law in the modern times



a) International law is relevant- and effective as it provides platforms for conflict resolution and peacebuilding.

Institutions like ICJ, Permanent Court of Arbitration and UN diplomatic channels facilitate peaceful resolution. For instance, The Nicaragua vs. United States (1986) judgement- reaffirmed the prohibition on the use of force, enhancing legal accountability.

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- b) The rise in humanitarian and disasters has given international law an opportunity to be relevant

Legal frameworks under International Humanitarian Law enable humanitarian corridors, refugee protection and disaster response, particularly in war-torn areas like Gaza, Ukraine, Sudan and states like Syria and Iraq.

- c) The rise of cybersecurity domain and international law

Many new domains have gained currency, nevertheless, international law is addressing them. For example, the Tallinn Manual attempts to apply legal principles to cyberspace.

- d) Exacerbating climate crisis and global cooperation

Agreements like the Paris Agreement have shown the normative influence to draw domestic policies and

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encourage cross-border ~~communa~~ cooperation.

e) Compliance of international law through soft and hard mechanisms

The prime example to substantiate this is of Russia when it annexed Crimea and now ^{attempting to} Ukraine. The international sanctions on Russia reflect law backed by collective disapproval.

f) The advent of globalization and I. Law

Many state are connected after the advent of globalization and international law provides common plat forms to govern their conduct and resolve conflicts.

g) The increased use of arbitration makes I. Law a relevant subject

Cases like South China Sea Arbitration in 2016 between the Philippines and China show the rising trust in legal remedies, despite enforcement limitations.

VI- Conclusion: To encapsulate, it has been verified that scope of I. Law has broaden which makes it still relevant and effective at the international stage.