

The logo of Galgotias University is a stylized circular emblem. It features a large, light-colored outer ring. Inside this ring, there are three curved, overlapping shapes that resemble a stylized 'G' or a series of waves. The top curve is yellow, the middle curve is light blue, and the bottom curve is light red. The entire logo is centered on the page.

# **Origins of International Law**

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- The term coined by 'Jeremy Bentham' in 1780.
- '*droit internationale*'; 'law of nations'
- Definition:
  - **Oppenheim**: Int. law is the name for the body of customary and treaty rules which are considered legally binding by civilised States in the intercourse with each other.
  - **S.S. Lotus case 1927 PCIJ (ser. A) No. 10**: PCIJ defined Int. Law as " the principles which are in force between all independent nations." The court further emphasised on two aspects of any law to be called as Int. Law i.e. Universality and exclusivity.

## Definition of International Law

- Starke (modern definition): Int. law may be defined as that body of law which is composed for its greater part of the principles and rules of conduct which States feel themselves bound to observe and therefore do commonly observe in their relations with each other and which includes also:

## Definition of International Law

- a) The rules relating to the functioning of international institutions or organisations, their relations to each other and their relation with States and its individuals: and
- b) Certain rules of law relating to individuals and non-State entities are the concern of international community.

## Distinction between Public & Private

### Int. Law

- Public International law is the body of legal rules, which applied between Sovereign States and other International Personalities.
- Public International law rules are outcome of International custom and treaties.
- Public International law is enforced by international pressure or for maintenance of diplomatic relations
- Public International Law is same for all the States.
- Conflict of laws, often called Private International Law. Private International Law regulating relationship between Private persons (Natural or Legal) of two different States.
- Private International law rules are framed by the State legislature.
- Private International Law is enforced by the concerned State executive.
- Private International Law differ from state to state.

## Is Int. Law a True Law?

- Is not a true Law but code of rules of conduct having moral force and implication only.
  - **John Austin, Hobbes, Holland & Puffendorf**
- Int. Law is a true law as it has enforceability in the form of positive morality is backed up by sanctions. And must be followed by the States to maintain peaceful correlation among themselves.
  - **Hall, Lawrence, Henry Maine & JG Starke**

## Arguments in favour of Int. law not being a true law

- Non binding in nature.
- Can't be strictly enforced
- Less imperative and explicit than State Law.
- No specific jurisdiction.
- Voluntary acceptance of the parties.
- Based on admonitions

## Arguments in favour of Int. Law being a true law

- State adopts and follows Int. Law in case of its existing gaps.
- Proper redressal forums are there.
- Has analogous sanctions.
- ICJ decisions are binding on the parties to the dispute.
- International organisations are ultimate forum to take pertinent decisions and make regulations on plenty of matters having global importance.

## Basis of Int. Law

- Traditional theories:
  - Theory of fundamental rights
  - Theory of consent
- Modern theories:
  - Positivist theory
  - Auto –Limitation theory
  - Doctrine of '*Pacta Sunt Servanda*'



## References

- Dr. H.O. Aggarwal, International Law & Human Rights, 18<sup>th</sup> Edition, Central Law Publications.
- Malcolm N. Shaw, International Law, 6<sup>th</sup> Edition, Cambridge University Press

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