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# IN PURSUIT OF HARMONY: EXPLORING THE NATURE AND SOURCES OF PUBLIC INTERNATIONAL LAW FROM THEORY TO PRACTICE

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## I. ABSTRACT

*The article delves into the intricate nature and diverse sources that underpin public international law, elucidating its significance in global governance. Through a systematic analysis, it elucidates the inherent characteristics of public international law, emphasizing its voluntary nature, decentralized enforcement mechanisms, and reliance on state consent. Furthermore, it meticulously examines the primary sources of international law, including treaties, customary international law, general principles of law and judicial decisions, delineating their respective roles and influences in shaping legal norms of international stage today. By exploring historical precedents and contemporary developments, this article provides a comprehensive understanding of the evolving landscape of public international law and its implications for international relations and global order. It delves into the significance of each source in accordance to the existing society, highlighting their role in deriving and evolving the international legal norms. Additionally, it discusses the contemporary challenges to the efficacy and enforcement of public international law in an interconnected world. It also analyses the present scenarios in which public international law seems to have been violated and the various measures taken to curtail such violations. Through a comprehensive analysis, this article aims to provide insights into the foundations and dynamics of public international law, while also illuminating its significance in the present world and envisaging the developments it may bring in the legal norms followed around the world in the subsequent times.*

## II. KEYWORDS:

*International Law, enforcement mechanisms, treaties, customs, general principles, international legal norms.*

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## III. THE CONCEPT OF PUBLIC INTERNATIONAL LAW

The International Law is a relatively new concept as compared to other laws and is continuously developing. As understood generally, it is the set of rules and regulations governing the relationship between its subjects. Traditionally, Public International law and the Private International Law are viewed as two separate types of law, however, both of them are considered to be playing a pivotal role on a global level within the developing international community. Public International Law, alternatively referred to as "Law of Nations", regulates international relationships between States and other international Organizations. It is historically defined as the system of law regulating diplomatic affairs. The key emphasis is on creating a broad-scale and a basic minimum uniform legal order internationally. Private International Law, or "Conflict of Laws", on the other hand, regulates international relationships between private individuals. It is a framework that combines the various laws from different countries and addresses the issue of the applicability of international or domestic laws in the domestic courts in case of conflict.

The word "International Law" was used for the first time by the eminent British jurist Jeremy Bentham in 1780.[2] These words have been used to denote the body of rules regulating the relations among States ever since then. Given the fact that the Public International Law, its study and practices that we know today, has come to us through modern European system, it is also referred as "modern International Law".[3]

According to **Professor L. Oppenheim**,

> "Law of Nations or International Law is the body of customary and conventional Rules which are considered legally binding by civilized States in their intercourse with each other."[4]

**Professor Torsten Gihi** defined international law as "the body of rules of law which apply within the International community or Society of States."

[2] L. Oppenheim. International Law. Vol. 1. Eighth edition (1905), p. 94
[3] Dr. S.K. Kapoor. International Law and Human Rights. Twentieth Edition(2016), p. 29
[4] Oppenheim, L. (1905). International Law. New York: Longmans, Green and Co., pp. 1-2

In the case of ***Queen v. Keyn***[5], *Lord Coleridge, C.J.,* defined international law as "the collection of usage which the civilized States have agreed to observe in their dealings with one another."

In ***S.S. Lotus case***[6]*,* international law was defined in the following words—

"International law governs relations between independent States. The rules of binding upon the States therefore emanate from their own free will as expressed in conventions or by usages generally accepted as expressing principles of law and established in order to regulate the relations between these co-existing independent communities or with a view to the achievement of common aims. Restrictions upon the independence of the States cannot therefore be presumed."

Previously, the State was the main subject of Public International Law. The modern Public International law has definitely evolved out of the idea of the State (nation) and its sovereignty. The law regulating relations between the States was once known as the *jus gentium* or the law of the nations. Nowadays, however, although the Public International Law is primarily concerned with the relations between States, it also has individuals and organizations as its subjects as well. Generally, the following are considered the subjects of Public international Law:

1. States
2. Individuals
3. International Organizations (like the United Nations Organization, World Trade Organization, European Union etc.)

Apart from these three, another debatable subject of international law is also emerging. It is called as the "Non-State Entity". It is said that the people who have no country or State, *e.g.* the terrorists, refugees etc. who belong to no particular nationality, are the Non-State Entities. In some books or definitions, the Non-State Entities have also been named as the subject of International Law. However, the people who criticize this view claim that even the terrorists and refugees have a

[5] Queen v. Keyn (1876) 2 Ex D 63
[6] S. S. Lotus (France v. Turkey). Judgment. 1927 P.C.I.J. (ser. A) No. 10 (Sept. 7)

particular place of origin, *i.e.* the country in which they are born. Hence, there exists no such body as the Non-State Entity and therefore, it doesn't count as a subject of International Law as well.

This claim of the critics is countered with the claim that "the moment, from which you start working for your benefit, and not for the benefit of your own country, you no longer belong to that State and become a Non-State entity". *For example*, where the Ambassadors of a country were supposed to sign a treaty on the behalf of the country, but due to their corrupted minds or bribery, they sign some other treaty on behalf of the State, without the knowledge of the State, then the moment they out their own interests (monetary interests like bribe, or otherwise) over the interest of the nation, they become a Non-State entity and the State would no longer be bound by such treaty signed by them. The debate on whether the Non-State Entities are the subject of International Law or not, however, is yet to be concluded and this concept still remains a controversial topic till date.

Public International law serves as a cornerstone for maintaining order and facilitating cooperation among sovereign States in an interconnected world. Governed by treaties, customary practices and principles, it provides a framework for resolving disputes, upholding human rights, and promoting peaceful coexistence. As conflicts persist in regions like Russia-Ukraine and Israel-Palestine, the relevance of international law in addressing such disputes becomes increasingly evident.

## IV. DEVELOPMENT OF PUBLIC INTERNATIONAL LAW

The development of international law spans centuries and has evolved in response to changing political, economic, and social landscapes. Ancient civilizations such as Mesopotamia, Egypt and Greece developed rudimentary forms of treaties and agreements to govern relations between city-states and empires. These agreements primarily focused on trade, diplomacy and the treatment of foreign merchants and emissaries. The Roman Empire's legal principles, particularly the concept of *jus gentium*, i.e., the law of nations, influenced medieval Europe's legal systems.

The medieval scholars and theologians in this period contributed to the development of principles governing war, diplomacy, and maritime affairs.

The International law saw a major milestone with the Peace of Westphalia treaty of 1648 which ended the thirty years' war in Europe, hence often cited as the foundational moment in the development of modern international law as it established the principles of state sovereignty, non-interference in internal affairs, and the legal equality of state. The proliferation of treaties and diplomatic negotiations between European powers during the Renaissance and Enlightenment periods contributed to the codification of international norms and customs. Treaties became a primary means of regulating inter-State relations and resolving disputes.

The 19th century witnessed significant developments in international law, including the codification of rules governing armed conflict (e.g. the Geneva Conventions) and the establishment of diplomatic conferences to address specific issues, such as Maritime law and the laws of war. However, World War-I broke out in 1914-1918 and the devastation wrought by it highlighted the inadequacies of existing international legal frameworks in preventing and resolving conflict between the States. The unprecedented scale of destruction, loss of life and displacement underscored the urgent need for mechanisms to maintain peace and security on a global scale.

The Treaty of Versailles, which formally ended World War-I, included provisions aimed at preventing future conflicts by addressing issues such as territorial disputes, disarmament, and the establishment of League of Nations, the first inter-governmental organization aimed at promoting international cooperation and peace. While the League ultimately failed to prevent the outbreak of World War-II, its creation marked an important milestone in the recognition of the necessity for collective security and international cooperation.

World War- II, with its atrocities, genocide, and widespread devastation, further underscored the imperative of establishing a robust system of international law to prevent future conflicts and safeguard human rights. The Holocaust, in particular, highlighted the need for legal mechanisms to hold individuals and States accountable for acts of aggression, war crimes, and crimes against humanity.

**The Nuremberg Trials,** held after World War-II, to prosecute Nazi leaders for their role in Holocaust and other atrocities, established the principle that the individuals could be held accountable under international law for crimes committed during times of wars, this contributed to the development of international criminal law and paved the way for the establishment of the International Criminal Court in the modern era.

The aftermath of World War-II led to the creation of the United Nations, a successor to the League of Nations, with the aim of promoting international peace, security and cooperation and to overcome all the shortcomings and failures of the League of Nations. The UN Charter adopted in 1945 enshrined principles such as collective security, peaceful settlement of disputes, and respect for human rights, laying the foundation for as well as representing the cornerstone of modern public international law.

## V. NATURE OF INTERNATIONAL LAW

The nature of international law is determined by discussing the question 'whether International law is true law or not'. This is because the nature of International law is not the same as national or municipal law, and there are various conceptions and even assumptions as to who is subject to the rules and regulations of International law that are needed to be analyzed to determine the substance of International law.[7]

According to Austin, International Law is not a true law, but a positive morality. He states that—

a) In International Law, a determinate superior political authority (i.e. Sovereign) does not exist.

b) International Law lacks legislative machinery.

c) International Law lacks sanctions.

d) There is no enforcement machinery in International Law.

e) There is no potent judiciary in International Law.

[7] Martin Dixon and Robert McCorqudole. International Law [Lawman (India) Pvt. Ltd., New Delhi, 1995] p.7

However, this view of Austin was criticized a lot by various thinkers of international law.

## A. AUSTIN'S VIEW AND ITS CRITICISMS

a) **There is no determinate superior political authority in International Law:** Austin states that "Law is the command of the sovereign"[8]. He states that such command is enforced by a superior political authority, which is not present in International Law, and hence International law cannot be included in the category of law. However, the times of Monarchy have passed now. In recent times, it is the will of people on which the laws are based. Therefore, people are the actual sovereign and law has become the reflection of the will of the people. The International Law is also based upon such will of the people and hence no other sovereign is required in International Law. Even most of the jurists now subscribe to the view that International Law is really law. The critics state that law, in true sense, cannot be defined. What Austin said about law is his view about law but there are various other opinions of law such as "Law is made by nature"[9] (Natural Law theory), "Law comes from the society"[10] (Sociological Law School), "Law is made by reason" (Philosophical Law School), etc. Austin's definition of law itself is open to criticisms, so even it cannot be termed as the accurate definition of law. Hence, what Austin puts forward isn't completely right either.

b) **International Law lacks Legislative Machinery:** Austin states that law is a command of sovereign and is to be enforced by such superior political authority, hence no law can exist where there is no supreme lawgiver and no coercive enforcement agency. However, the critics oppose such contentions of Austin and state that in many communities, a system of law which existed, and was being observed through such communities, lacked a formal legislative authority. However, in no way did such law differ in its binding operation from

[8] John Austin (1832). The Province of Jurisprudence Determined. London: John Murray, p. 202
[9] Hugo Grotius (1625) De jure naturae et gentium (On the Law of Nature and Nations).
[10] Roscoe Pound. The Ideal Element in Law (W.W. Norton & Company, 1958)

the law of any State with a true legislative authority.[11] Moreover, Austin's views might be at par with his time, but in view of present day International law, they cannot be said to be true. Law-making treaties are counterparts of the legislative machinery of the municipal system in the International system.[12] These treaties and conventions signed by the parties (i.e. the States) bind them to act in a particular way which is considered legal. Hence, they serve as legislative forces in international law.

c) **International Law Lacks Sanctions:** According to Austin, sanctions occupies a very important place in the enforcement of law. He is of the view that people follow law because they fear that if they do not do so, they might be compelled and even punished.[13] Once this fear is gone, law would only exist in books and couldn't be enforced in reality, which would term it as useless. However, this view of Austin was itself criticized hugely as there are a lot of laws present, which are not backed by any sanction, and yet are followed consistently by people. An evident example would be the Directive Principles of State Policy (DPSP) and the Fundamental Duties provisions in our Indian Constitution. Hence, laws can exist and tenaciously followed by the people even without the presence of sanctions. Secondly, if sanctions are needed for the existence of law, even then, international law fulfills this criterion.
Article 2 of the UN Charter permits the Security Council to use force to maintain peace and order in the whole world. Similarly, in case some State attacks your State, your State is permitted to counter-attack and use force in your defense as well. All these are kinds of sanctions in International law. Moreover, financial sanctions, which are a kind of valid sanctions, are also present in International law. These are imposed by various countries and the International Monetary Fund (IMF) on the countries violating the provisions of International law. For example, a lot of countries have imposed financial sanctions on North Korea and North Korea itself recognizes these sanctions by

[11] J.G. Starke. An Introduction to International Law. Eighth Edition (1977), p. 20
[12] Dr. S.K. Kapoor. International Law and Human Rights. Twentieth Edition (2016), p. 41
[13] Dr. S.K. Kapoor. International Law and Human Rights. Twentieth Edition (2016), p. 40

demanding the countries to remove them in exchange of peace, hence acknowledging their presence in a way. Another recent example would be how various countries around the world isolated Russia and stopped trading with it, causing heavy financial losses to Russia, in retaliation of its breaking the International law by waging war on Ukraine. Hence, it can be said that the international law, more specifically the international community, punishes the violators in its own way and makes it binding for the State to follow the rules of International law, therefore fulfilling the very purpose of the presence of sanctions as stated by Austin.

d) **There is no Enforcement Machinery in International Law:** Austin is of the view that no law can exist where there is no coercive enforcement agency. He says that law is given by determinate superior political authority to political inferiors and is backed by a coercive enforcement agency, which the International law lacks; hence it can't be termed as real law.[14] However, this view of Austin is not correct as there are trials held and punishments given in International law. Even though it is not as prominent as Municipal law, but it is indeed enforced. People are kept in jail and sanctions are applied. A very evident example of this would be the **Nuremberg Trial**, which was held by the Allies against the representatives of the defeated Nazi Germany for plotting and carrying out invasions of other countries across Europe and atrocities against their citizens in World War II. If the countries don't recognize these sanctions, then why do they try to defend themselves in front of the Nations? They can stay indifferent, but doing so is neither practical, nor it is possible. Even when they violate rules of International law, they do not deny its existence, rather try to justify their conduct, and hence affirm the binding nature of the rules of International law. This is because no State can survive alone. States need to live interconnected and in unison with each other to survive. Moreover, there are various issues which can only be dealt by the International law. For example, Cyber Law cannot be enforced without the

[14] Dr. S.K. Kapoor. International Law and Human Rights. Twentieth Edition (2016)

International law as one cannot determine that in which country the offender is sitting committing Cyber Crimes. It is true that International law is frequently violated, but these frequent violations indicate the "weakness" of enforcement machinery, not its "non-existence". It does mean that we need stronger enforcement machinery in international law, but it cannot be said that we don't have any such machinery whatsoever.

e) **No Potent Judiciary Exists in International Law:** Austin states that there is no potent judiciary in international law. Countries on which the law is supposed to be binding are free to neglect the decisions of the judiciary and many do not follow them. However, this is not true as the decisions of the International Court of Justice (ICJ) are binding upon the parties to a dispute in respect of such dispute. Though the powers and jurisdiction of the ICJ are not equivalent to the Municipal Courts, but under certain conditions, its decision can be enforced. Article 94 of the UN Charter states that each member of the UN undertakes to comply with the decisions of the ICJ. It further provides that if any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.[15] Hence, as far as a potent judiciary is concerned, International law doesn't completely lack it.

## VI. SOURCES OF INTERNATIONAL LAW

As written down in the **Article 38(1)** of ICJ Statute, the sources of international law are:

a) International Treaties and Conventions

b) International Customs

c) General Principles of Laws Recognized by civilized Nations

d) Judicial Decision.

[15] Dr. S.K. Kapoor. International Law and Human Rights. Twentieth Edition (2016), p. 43

## A. INTERNATIONAL TREATIES AND CONVENTIONS [Article 38(1)(a)]

Treaty can be commonly defined as "an agreement whereby two or more States establish or seek to establish relationship between them, governed by International law." However, this definition is said to be very narrow in nature as it mentions only "States" as capable of forming international relationships by treaty, however, there are various other subject-matters of International law which are not mentioned in the definition, like International organizations, individuals and non-State entities.

As per **Schwartzenberger**, 'treaties are agreements between subjects of International law creating a binding obligation in International law."[16]

- **VIENNA CONVENTION OF 1969**

The Vienna Convention of the Law of Treaties of 1969 sets out the fundamental legal rules related to treaties. Under this instrument, while becoming a party to the Convention or not is a privilege of the State, the process and methods of making an entering into international treaty is a full guided phenomenon. While dealing with this Convention one has to pay attention to two major aspects; one concerning the "formal aspect of the law enacted through the Convention", and the other concerning the "political and ideological concepts underlying it". The Convention, in most of its provisions, either codifies customary laws or has given rise to 'rules belonging to the corpus of general law'.[17] Moreover, it has not completely superseded the International law developed prior to the making of this treaty. It thus comprises the body of both the customary as well as new provisions.[18]

An important fact is that not all members of the International Community have become parties to the Convention. From this point of view, the Vienna Convention of 1969 provides only a weaker and limited international law.

[16] Schwartzenberger, Egon (1957). International Law as Applied by International Courts and Tribunals (Stevens and Sons Limited).
[17] Dr. Yubraj Sangroula, International Treaties: Features and Importance from International Law Perspective (2010)
[18] Antonio Cassese. International Law (Oxford University Press, Oxford, 2001) p. 127

However, by the emergence of the United Nations, which itself finds its roots in a universal agreement and emerged from an International Charter, International Treaties gained increasing importance and thus, more opportunities were provided to human rights to be signed national authorities as international collective agreements.

**B. INTERNATIONAL CUSTOMS [Article 38(1)(b)]**

International customs can be formed through treaties or usages. Usages are, in fact, the early stage of custom. It is the real source through which custom comes into operation. Usages represent the twilight stage of customs. As pointed out by Starke, customs begin where the usage ends. A custom, in the intendment of law, is such usage as that obtained the force of law. Only such usages which have the force of law become customs, whereas others don't. When an action is repeated for a prolonged time, it becomes usage, and when such usage carries on for a long duration and obtains the force of law, it becomes custom. On the other hand, for a practice/treaty to become a custom, it must follow "*Opino juris et necessitates*", meaning "it is your legal obligation, and you are bound by it". If the parties feel that acting in accordance with a practice established by the treaty is their legal obligation, and if not done so, it will be violative of international law, only then such treaty or practice will become custom.[19]

Application of International customs, however, can become very difficult at times. International customary law, which formed through consistent State practice and accompanied by a belief in its legal obligation (opino juris et necessitates), remains a vital source of international law in the present scenario as well. Its application continues to shape various aspects of international relations and governance. It plays a significant role in upholding the human rights standards globally. Principles such as prohibition of slavery, torture and genocide are deeply entrenched in customary law ad form basis for International Human Rights laws.

[19] North Sea Continental Shelf (Federal Republic of Germany v. Denmark; Federal Republic of Germany v. Netherlands). Judgment 1969 I.C.J. 3

Recent advancements in LGBTQ+ rights, such as same-sex marriage legalization and several anti-discriminatory laws formulated in several countries reflect evolving customary norms regarding equity and non-discrimination. These developments demonstrate a growing recognition of LGBTQ+ rights as fundamental human rights, rooted in customary international law principles. The global response to climatic change is informed by customary international law principles, including the duty to prevent transboundary harm and the obligation to preserve the environment for future generations. International agreements like the Paris Agreement build upon these customary norms to address the urgent need for climatic action.

However, there are also instances like the ongoing conflict in Syria, which has raised significant concerns about violation of customary international humanitarian law. Principles such as protection of civilians and the prohibition of indiscriminate attacks have been invoked by international actors to condemn actions by all parties involved in the conflict. Instances of State-sponsored cyber-attacks and interference in electoral processes have raised questions about State responsibility under customary international law. States are increasingly held accountable for such actions, reflecting the evolving customary norms governing State behavior in the digital age.

The prosecution of individuals for war crimes, crimes against humanity, and genocide before International Tribunals underscores the application of customary international law principles related to individual criminal responsibility. These cases contribute to the development and enforcement of customary norms regarding accountability for serious international crimes. These examples demonstrate how customary international law continues to influence and shape various aspects of global affairs, from armed conflicts and human right to environmental protection and state responsibility. As new challenges emerge, customary norms emerge through State practice and international cooperation to address contemporary issues and uphold shared values of justice, peace, and human dignity.

## C. GENERAL PRINCIPLES OF LAW RECOGNIZED BY CIVILIZED NATIONS [Article 38(1)(c)]

Those principles which are general in nature and are followed generally by the countries around the world are also deemed as rules of international law. These general principles of law recognized by civilized nations serve as a fundamental pillar of international law, providing a framework for legal reasoning and interpretation in the present global scenario. They contribute to legal certainty and stability in international relations by providing a common foundation for legal reasoning and decision-making. The International Court of Justice regularly applies these principles in its judgments and advisory opinions.

For example, in the case concerning **Maritime Delimitation in the Black Sea (Romania v. Ukraine)**[20], the Court relied on general principles such as equity and good faith in determining the maritime boundary between the two States. The World Trade Organization (WTO) dispute settlement mechanism often involves the application of general principles of law related to international trade. In disputes such as Airbus-Boeing dispute or the ongoing trade tensions between China and United States, principles such as non-discrimination, reciprocity and good faith play a crucial role in determining the legality of trade measures.

The Human Rights Council regularly adopts resolutions based on general principles of human rights laws. For instance, resolutions condemning human rights violations in countries like Myanmar, Syria, and North Korea are grounded in principles such as right to life, freedom from torture, and the right to due process. In hearing the recent cases of conflict before the International Criminal Court such as the prosecution of individuals involved in the conflict of Dafur or the situation in Lybia, the ICC has also relied on these general principles.

[20] Maritime Delimitation in the Black Sea (Romania v. Ukraine). Judgment, 2009 I.C.J. 61

As new legal challenges emerge in areas such as cyberspace, outer space activities, and global health, general principles of law provide a flexible framework for addressing these issues. Recent concept of Space Sovereignty introduced by India to claim sovereignty over the part of the Moon where Chandrayaan-2 has landed is also having a lot of potential to become a general principle followed by the World in future. General principles of law encourage legal innovation and adaptation to meet contemporary challenges. As States and International organizations confront issues such as climate change, terrorism and transnational crime; the application of established legal principles alongside innovative approaches helps address the complex and interconnected global problems effectively.

International climate change negotiations under the United Nations Framework Convention on Climate Change (UNFCCC) often involves the application of general principles of international law related to environmental protection and sustainable development. Principles such as precautionary principle, common but differentiated responsibilities, and intergenerational equity guide discussions on climate action and mitigation efforts. In peacekeeping operations led by the UN or regional organizations, general principles of humanitarian law and human right laws are applied to protect civilians, uphold human rights, and promote peace and stability. As States and International Organizations confront complex global challenges, the application of these principles helps ensure coherence, legitimacy and effectiveness in international law and governance.

## D. JUDICIAL DECISIONS [Article 38(1)(d)]

Where customs, treaties and General principles of law are called "primary sources" of international law, Judicial Decisions are treated as the "secondary source" of international law. Judicial Decisions only serve as evidence of International law and aren't considered as precedents very often. The International Court of Justice (ICJ) itself is not bound to follow its own decisions, and those decisions are only binding on the parties themselves

making them persuasive authority, but those decisions are still followed sometimes by the parties nonetheless. Judicial decisions play a significant role as a source of international law, particularly through the decisions of the International Courts and Tribunals. These decisions contribute to the development and interpretation of the customary international law and the application of the treaty law. In the current global scenario, various extracts can be said to have engraved the significance of judicial decisions.

The International Court of Justice (ICJ), as the principal judicial organ of the UN, issues binding decisions on disputes between States. Recent rulings, such as the 2019 ICJ decision on the M**aritime Delimitation in the Indian Ocean (Somalia v. Kenya)**[21] case, clarify principles of maritime law and State sovereignty, influencing future negotiations and practices in maritime boundary disputes. The ICC also prosecutes individuals for genocide, war crimes, crime against humanity and aggression. Its decisions set precedents for accountability and justice on international stage.

For instance, the ICC's arrest warrants for Sudanese President Omal al-Bashir in 2009 and 2010 for alleged crimes in Darfur demonstrated the Court's commitment to holding even high-raking officials accountable for human rights violations. The European Court of Human Rights interprets the European Convention on Human Rights and issues judgments on human rights violations within the jurisdiction of its member States. Recent cases, such as **Navalny v. Russia**[22], which rules Russia's arrest and detention of opposition leader Alexei Navalny as politically motivated and in violation of his rights, set standards for protecting human rights in Europe and beyond.

## VII. PUBLIC INTERNATIONAL LAW IN PRESENT SCENARIO

As per the UN Charter, "the purposes of the United Nations are to maintain international peace and security, to develop friendly relations among nations, to achieve international cooperation in solving international problems…". UN Charter

[21] Maritime Delimitation in the Indian Ocean (Somalia v. Kenya), Judgment, 2017 I.C.J. 2
[22] Navalny v. Russia, ECtHR 2021.

also quotes that "All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered." However, the ongoing conflict between Russia and Ukraine underscores the complexities of applying international law in situations of territorial disputes and armed conflicts. Russia's annexation of Crimea in 2014 and its subsequent involvement in eastern Ukraine have raised questions regarding the violations of Ukraine's territorial integrity and sovereignty under international law. Despite the condemnation from the international community and sanctions imposed on Russia, resolving the conflict remains elusive. The principles of non-intervention, territorial integrity, and the prohibition of the use of force, enshrined in international law, serve as guiding principles for seeking a peaceful resolution for the crisis.

The Israel-Palestine conflict is another poignant example of the challenges in applying international law to longstanding disputes. The conflict, rooted in competing claims to land, self-determination, and security concerns, has endured for decades, defying attempts at resolution through diplomatic means. The principle of inadmissibility of the acquisition of territory by force has been reaffirmed by the General Assembly in the UN Resolutions and the International law, including numerous United Nations Resolutions and the Fourth Geneva Convention, condemns the expansion of settlements in occupied territories and calls for the establishment of a Palestinian State alongside Israel. However, the lack of consensus among the key stakeholders and the continued acts of violence impede progress towards a comprehensive and lasting solution. Such actions undermine the foundation of Public International law, which is built upon respect for State sovereignty, territorial integrity and protection of human rights. If unchecked, they set dangerous precedents for further territorial aggression, curtailment of basic Human Rights and destabilization of the international order.

There are various other numerous examples where the Public International law is seen to be actively violated by the States:

1. The Syrian Government's use of chemical weapons against the civilians during the ongoing civilian war constitutes a blatant violation of the Chemical Weapons Convention and international humanitarian law and such continued

use of chemical weapons despite international prohibitions erode trust in the effectiveness of arms control treaties and undermine efforts to uphold humanitarian norms in armed conflicts.

2. China's treatment of Uyghur Muslims in Xinjiang, including mass arbitrary detention, forced labor and cultural suppression constitutes grave violation of international Human Rights standards and poses a threat to the credibility of International Human Rights mechanisms and erodes the universality of human rights principles, leading to a normalization of authoritarian practices and weakening the global human rights regime.
3. The United States' withdrawal from the Paris Agreement on climate change hints at the increased usage of the practice of non-compliance of international agreements which weakens the trust and cooperation among the States, hindering global efforts to tackle transnational challenges such as climate change, biodiversity loss, and environmental degradation.

These violations of Public International law are often perceived as a failure of the United Nations to effectively address and prevent such breaches. The UN Security Council is responsible for maintaining peace and security, yet it often faces deadlock and inaction due to veto power of its permanent members (China, France, Russia, the United Kingdom and the United States). In cases like the Syrian civil war, and annexation of Crimea and further involvement in Ukraine by Russia, divisions among Security Council members have hindered the adoption of meaningful resolutions and enforcement measures, allowing violation of international law to persist.

While the UN serves as a forum for negotiating and adopting multilateral agreements, it lacks authority and mechanisms to compel member States to comply with their treaty obligations. The UN Human Rights Council mechanisms' effectiveness is hindered by the selective focus and politicization of human rights issues and the UN's ability to protect civilians and respond to humanitarian crisis is often constrained by political considerations and resource limitations. Thus, these violations underscore the need for reform and strengthening of the UN's institutions and mechanisms to effectively uphold public international law and promote peace, security, and human

rights worldwide. Without meaningful actions to address these failures, the UN's relevance and credibility may be further undermined in the face of growing global challenges.

## VIII. CONCLUSION

In conclusion, it can be said that Public International Law draws from a multitude of sources, each playing a significant role in shaping the framework of global governance. From treaties and customary practices to judicial decisions and general principles of law, these sources reflect the evolving dynamics of International relations. Understanding and embracing the diverse array of sources underpinning International law is essential for navigating the complexities of our interconnected world and ensuring a more equitable and harmonious global committee. Even though the International law is not as definite and well-settled as the municipal laws yet, but it is developing at a fast pace and with the changing world, it would be safe to say that International law would be definitely playing a vital role in shaping the future of the world we see now. In the 21st century, international law continues to evolve in response to new challenges, such as terrorism, cyber security threats, and global pandemics. International courts and tribunals, such as the International Court of Justice and the International Criminal Court, play an increasingly important role in adjudicating disputes and holding individuals and States accountable for the violations of international law. Overall, this development of international law reflects humanity's ongoing quest for norms, rules, and institutions to govern relations between States and promote peace, justice and cooperation on a global scale.

The future of Public International Law holds promise amidst the evolving global landscape. With advancements in technology, environmental challenges and shifts in geopolitics, International Law must adapt to remain relevant. Emerging areas such as cyber law, space law and climate law will likely garner increased attention as they become more pressing issues on the international stage. Moreover, reforms aimed at strengthening the effectiveness of international legal mechanisms, such as enhancing compliance mechanisms and accountability measures, will be essential. Collaboration among States, international organizations and non-State actors will play a crucial role

in shaping the future of International Law. As the word continues to change, Public international Law must remain adaptable and responsive to new challenges, ensuring that it continues to serve as a vital framework for promoting peace, justice and cooperation among nations.

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