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Sources of International Law

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***Abstract*-** Sources of law provides the evidence for existence of law from which the validity and force of law is derived. Any case is decided on the application of sources of law. In the same manner, whenever there is international dispute between States or violation of human rights of persons then such case is decided by the application of any of sources of international law. The relationship of one State with other State, International Organization and Persons are established and regulated by sources of international law. International law is not codified law at all. According to Article 38 (1) of Statute of International Court of Justice, there are four sources of international law, which are 'international convention', 'international custom', 'general principles of law recognized by civilized state' and, 'international judicial decision or Arbitral tribunal decisions. However, other fifth sources of international law 'decisions or determinations of international organization' is becoming more popular. The entire international legal system is operated by *mainly three organs* based on sources of international law. These three organs are 'International Law-making Authority' (i.e., General Assembly or any other appropriate Authority for international legislation), 'International Court of Justice' (International Judiciary) and 'Security Council' (International Executive).

***Keywords*:** International law; Sources of law; Sources of International Law; Case laws

Literature Review: Many eminent jurists have controversial understanding about international law from the inception. Some eminent jurists like Hobbes, Austin, Holland, Bentham says that international law is not law because of, there is no competent authority, executive and legislative power in international legal system. Such jurists had said so because of, international law was not substantially developed in international legal system at that time. On the other hand, some eminent jurists like Stark, Openheim, Brille says that international law is law. Even in judgement of many international cases, it is also proved that international law is law. Apart from these, other jurist like Holland says that international law is balancing interest of jurisdiction or vanishing point of jurisprudence. Because of, international law is followed by friendly relation with the states or by fear or by own relation. There are various sources of international law. There are set of laws regarding which sources are applicable and enforceable in what situations and, which sources of international law shall be given preference over other. In fact, international law is evolving rapidly in recent decades.

Research Methodology: My research work is based on **'Doctrinal Methodology'**. The research is prepared finally by the help of Statutes, Bare Acts, books, Articles including which is published in a various journal, case-law, and online sources.

Research Problem: This research work mainly focuses on meaningful understanding and deliberate investigation of what international law is and what are the sources of international law; why international law is so important and how international law is continuously developing; whether there is presence of sanction in international legal system; which international law is binding and which international law is not binding; which are direct source of international law and which are indirect source of international law.

Hypothesis: The basis of international law is common consent of the states, states as the principal subject of international law and sovereign equality of states. Many times, international law becomes more important than domestic law of the country. Where there is a matter of international dispute or international crime or international issues between states or, between states and international organisation or, between state and individual person (having international concern) then such matter is resolved by the application of enforceable international law. And, this is the enforceable law, which comes from sources of international law. Sources of international law set out validity and force of international law.

I. INTRODUCTION OF INTERNATIONAL LAW

The modern state can't live in isolation. The means of transport, communication and other scientific inventions have bought the states of world closure to each other. There is a greater need for interaction between states so as to enjoy the benefits of trade, commerce, exchange of ideas & normal routine communications, and various other matters at the international level. And, for this interaction there is need of law to regulate. This is the law, which is called international law.

International law is identical with the law of nations. International law is mostly governed through bilateral or multilateral agreements and internationally applicable regulations. The rules of international law govern the *relation and conduct* of states. It facilitates international cooperation. It brings international peace and stability. The right and duties of international organization and individual **are also imposed** by international law.

Present international law is based on the charter of the United Nations. International law is developing and began to develop after establishment of United Nations. The term 'charter' is an international treaty and it is based on true legality of international law. However, international law confronts many challenges such as terrorism emergence of large number of states, nuclear weapons, scientific and technological revolution, depletions of ozone layer, etc. **R.W.M. Dias** rightly says that **'**the State obey international law only **due to fear or self-interest'.** Fear includes war, pacific blockade, military demonstration, etc.

The provisions of international law apply in wide range of areas such as 'prohibition of the use of force'**,** 'human right'**,** 'protection of persons in armed conflicts'**,** 'fight against terrorism and other serious crimes, 'environment'**,** 'trade & development'**,** 'telecommunications', 'transport'**.** These all affairs of states are maintained & created through international law. In international law, each state is equal under law. Actually, the basis of obligation in international law is changing *from sovereignty-oriented consent to community-oriented consensus*.

II. DEFINITION OF INTERNATIONAL LAW

According to **soviet definition**, international law is 'sum total of norms regulating relations between states in the process of their struggle and co-operation.

According to **Lawrence**, 'International law is rules of law relating to functioning of international institution/ organization and their relation between states and individual'.

According to **Prof. Oppenheim**, 'international law is body of customary and conventional rules, which are considered legally binding by the civilized states in their intercourse with each other'.

According to **Starke**, '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
(a) the rules of law relating to functioning of international institutions & organizations, their relation with each other and the relation with states & individuals; and
(b) certain rules of law relating to individuals so far as the rights and duties of such individuals are the concern of the international community.[i]

Some jurists who *fail to define* international law it in correct sense. Because of, international law *was not so developed at that time*.

According to **Austin**, Holland, international law is mere a positive morality. Austin defines law as a body of rules for human conduct set and enforced by a sovereign political authority. International law is not set & enforced by a political sovereign authority or common superior over sovereign states.

According to **Holland**, the rules of international law are voluntary and followed by courtesy (politeness/ goodness). He says international law is **vanishing point of jurisprudence**. Because of, there is no judge or arbiter to decide international disputes. He kept international law outside the category of law on the basis of lack of sanction. During that time, there was no establishment of the Permanent Court of International Justice under the League of Nations for resolving international dispute through judicial decisions. However, he is far from the truth in the view of developed & changed character of international law today.

However, this view could also be contended by introducing **Article 59** of the Statute of the ICJ. If there is threat to international peace and security then **the Security Council** can take necessary action to maintain or restore international peace and security under the Chapter VII of the U.N. Charter. Another is the **decisions of the ICJ**, which are considered to be final and binding upon the parties to a dispute.

Apart from these, other **sanctions by international organizations** also exists such as ILO (International Labor Organization), WHO (World Health Organization), WTO (World Trade Organization), ICAO (The International Civil Aviation Organization is a specialized agency of the United Nations to codify the principles, to plan and to develop

international air navigation), IMF (International Monetary Fund), ITU (International-Tele-Communication Union), etc. Thus, it is wrong to say that there is no sanction at all in international law.

III. SOURCES OF LAW AND OPINION

The sources of law are the material from which certain laws are obtained. The validity and force of law is derived from the sources of law. [The source of law includes the material from which the Judge obtains rules for deciding cases. The sources may be statute, judicial precedents, customs, opinion of legal experts, jurists, etc.][ii]

According to **Salmond**[iii], Legal Sources and Historical Sources are two sources of law. Legislation, Precedent, Customary Law, Conventional Law are legal sources, which has **binding** force. Writing of eminent jurists, foreign judgments, etc. are historical source of law that have only persuasive value and are **not binding** upon the courts.

According to **Keeton**[iv], the sources of law has classified into 2 categories that is binding source of law and persuasive sources. Legislation, judicial precedents and customary law are binding sources of law. Principles of equity, professional opinions, writings of jurists, etc. are persuasive sources of law. However, persuasive sources are useful only when if there is no binding source of law.

3.1. Sources of Law and Sources of Right: A source of law may or may not be source of right. The Consumer Protection Act, 1986, the Minimum Wages Act, 1948, the Protection of Human Right Act, 1993 are some of examples which are sources of law that legally constitute source of right. On the other hand, the decision of an inferior court is **not a source of law** but it **is certainly** a source of right.

3.2. Role of Source of Law: Thus, sources of law are Custom, Legislation, Judicial Precedent and Other Sources of Law. The role of custom as a source of law **is diminishing** (society is changing fast) whereas, the role of precedent as source of law **is limited** (judges have to take help of many other sources). The role of legislation is increasing day by day. And sometimes, one source of law prevails over other source of law.

IV. INTRODUCTION OF SOURCES OF INTERNATIONAL LAW

The sources of international law are the material sources, which is applicable to resolves disputes of international concern or penalize international offence or to set out certain relations between two or more nations on mutual consensus. Such material sources provide evidence of existence of rules that have the status of legally binding rules of general application. These sources may be direct or indirect, remote or ultimate. Often, International law is also found in the form of the common consent of international community.

The sources of international law are related with the basis of international legal system as a whole. According to **Article 38(I) of Statute of ICJ (International Court of Justice)**, there are **4 sources** of international law. However, one another source, that is 'decision or determination of the organs of international institutions' has become well recognized source that is **not mentioned** in such Statute. Thus, **these five sources are** as *'International Convention', 'International Custom',* **'***General Principle of Law Recognized by Civilized State', 'Judicial Decisions or Arbitral Tribunal Decision' and last, 'Decisions or Determinations of Organ of International Institution'.* Further, **Article 38 (II)** of Statute of ICJ provides that 'this provision shall not prejudice the power of the court to decide a case, **ex aequo et bono**, if the parties agree. It means that this provision enables the courts/ tribunal to go outside the realm of law for reaching its decision.

4.1. International Convention

Conventional law is formed out of agreement between the parties and may be in addition to or in derogation (disrespectfulness) of the general law of the land.

International Convention: There are three important terms under this head. These are treaty, convention and protocol. The statute of ICJ recognizes international convention as 1st source of international law.

(i) Treaty: Treaty is the result of negotiations between government representatives. According to **Article 2 of Vienna Convention** on the Law of Treaty, 1969 (114 parties till April, 2014), a Treaty is an international agreement *in written form* concluded between states to establish relationship between them and governed by international law. It may be in single instrument or more than one related instrument. Each State has a sovereign right to decide freely whether to accept the treaty that results from negotiations or not. The treaties are the Supreme law of the land; it is laid down in the Statute of ICJ.
However, an agreement between a state and a multi-national corporation **is not a treaty.** Treaty is result of negotiation to reach common ground and to avoid further conflicts or agreement. The effect of treaties depends upon the nature of international law to the concern.

Further, **Article 1 of the Vienna Convention** on the law of treaties, 1969 provides about its applicability, which says that the present convention applies to treaties between states. However, agreement between states and international organizations or between international organizations is governed by the provisions of the **Vienna Convention** on the law of treaties, 1986. The Vienna Convention on the law

of treaties *does not apply* on the agreement, which is **not in written form**.

Thus, treaties may be between states, between international organizations or between states and international organization. It may be adopted on the different areas of international law such as war, terrorism, diplomacy, etc. The state is not bound to enter into treaties and each state has own discretion/choice to become a party to it. Once state become party to it, becomes binding.

The provisions of such Vienna convention are applicable to all states whether they **are parties to the convention or not** that is 'the Vienna Convention on the Law of Treaties, 1969'. **Article 26 of the Vienna convention** on the law of treaties, 1969 that is **'Pacta Sunt Servanda'** provides that every treaty in force shall be binding upon the parties to it and the same must be performed by them in good faith. In treaties, states not only accept it to be binding **but also confirm** the fact that such treaty is law between them. Under the compliance of such treaty, the states also ask their officers, courts and nationals to act in accordance with the obligation so imposed.

Types of International Treaty with examples: '*Law making Treaty'* and '*Treaty Contract'* are two types of international treaty. Further, 'Law making Treaty' is of two types. One is *'Treaty enunciating* ***rules of Universal International Law'*** and, the example is United Nation Charter. And second is, *'International Treaty which* ***lay down general principles'*** and, the examples are Geneva Convention on Law of Sea, 1958 & Vienna Convention on Law of Treaties, 1969. 'Treaty Contract' is simply international agreement between states. 'Law making treaty' performs the same function in the international field as legislature does in the state field. It acts as a device through which international law can be adopted with the changing times & circumstances **or,** to develop universal international law.

International Treaty can have applicability in form of general or universal principle only when it receives **the support of** essential states that are Russia, China, France, America and Britten. 'Treaty Contract' is entered into by two or more States, where the provision of such treaty is binding only on the parties to it. However, when similar rules other than existing treaty contract are incorporated by other States then, it will most helpful in formulation of international law. Whenever an international tribunal decides an international dispute then the decision of the court/ tribunal is made **on the** basis of existing provisions of the treaty. And, if there is no any treaty on such matter then decision is made on the basis of other sources of international law.

Stages of Treaty: Negotiations, Signing and Ratification are 3 steps that are taken before the treaty became enforced. The 1st conduct taken by the state is negotiations. Negotiations are conducted by delegated representative of each state that involves in meeting at a conference or in another sitting. If such representative **agrees on the terms,** then it will bind the signatory states. After this stage, the stage of signing comes where such agreement is signed by the relevant ministers of that country. Once such treaty is signed, the state **expresses the intention** to comply with such treaty. Expression of intention itself is not binding. After the stage of signing, the stage of ratification comes where each state **will deal** such treaty according to its own national procedures. And, after the approval (may be parliamentary) has been granted under a state's own internal procedures, such state will notify the other parties that they consent to be bound by such treaty.

(ii) Convention: Convention is often considered as synonymous with treaty and it is also an agreement. It is prior stage of treaty being formed. The objective of convention is to make come together multiple countries, to meet and to discuss an issue at hand before signing a treaty or legally binding contract. In other words, convention begins with an international meeting of representatives of many nations that leads to result into general agreement about the procedures or actions shall be taken on specific topics.

Types of Convention with examples: Convention may **general or particular**, depending upon the parties to it and the character of its contents. Any convention may apply to any treaty, convention, protocol or agreement regardless of its title or form. **Examples** of convention are 'the convention for the protection of **Ozone layer',** 1985, 'Hague convention of 1970 on crimes relating to **Hi Jacking'**, the Geneva Convention on the **law of Sea**, 1958, the U.N. Convention on law of Sea, 1982, etc.

(iii) Protocol: Similar to the law enforced within a country that may be amended, altered or repealed. International treaty can also be amended, altered or repealed. Protocol is legally binding agreements that allow amendment, alteration or repeal to the existing main international treaty.

4.2. International Custom

Introduction of Custom: Custom is one of the oldest sources of law. Custom is tradition that passes on from one generation to another. Custom is followed due to **fear and social pressure** of public opinion. Customs may or may not be binding and enforceable by court of law. For example, performance of ***Saptapadi*** in Hindu marriage is binding & enforceable by court of law. ***Condolence*** is also custom but not enforceable by court of law.

The **custom becomes customary law** when it fulfils the requirements laid down by law. Custom has important role in the development of law**.** Because of, most of the material

contents of the developed system of law have been drawn from ancient customs. Sometimes, the doctrine of precedent has gained primacy over customary law in the modern time. Ancient Custom is resorted in order to remove inconsistency or ambiguity in the existing law.

Introduction of International Custom: It is main source of international law which evolved from customary practices of states. International custom is the earliest source of international law and binding on all states. Customary rules of international law are the rues which have been developed from long process of historical development.

Article 38 (b) of the Statute of international court of justice recognises international custom as evidence of general practice accepted as evidence of general practice as law. There are two terms custom and usage, which are related but not the same thing. Where usage ends, there custom starts. Usages mean the habits which are repeated by states. International usage is an international habit of action that has not received yet the force of law. **Usage becomes custom only if** usage receives the general acceptance of recognition by the states in relation with each other and the habit or behaviour becomes right as well as obligation of the states. In other words, a custom is the usage that has obtained the force of law. But it is also not necessary that a usage must become a custom. Custom may arise even without any usage.

Essential Requirements of International Custom: All essential requirements of international custom are same as required in case of custom to become customary rules. There are *five* essential requirements for becoming customary law are continuity & immemorial antiquity, certainty, consistency, compulsory observance and reasonableness.[v]

1. Long duration (continuity & immemorial): It mean continuously in existence from the time immemorial. International custom is evidence of general practice accepted as law. The repetition of practice for a long lime is **not necessary** for custom in international law. Some examples of international custom that evolved from short period of time are custom relating to sovereignty over air space and continental shelf.

2. Uniformity and consistency: International custom should be uniform and consistent. Consistency means not being contrary to an international law. Article 38 of the Statute of ICJ refers to international custom as evidence of a general practice accepted as a law.

3. Generality of practices: The practice should have been generally observed or repeated by numerous states as matter of right or obligation.

4. Opinion juris et necessitates: International law must be accepted practices of international custom **as law.** For a valid international custom, it is necessary to be proved by satisfactory evidence that the custom is of such a nature that it has received general consent of the states and no civilized state shall oppose it.[vi]

Development of International Custom: The process of development of new custom is very slow. International custom is considered to be inadequate means to bring changes and development of international law. However, international treaties and international conventions make a rapid changes or development of international law**.** In the modern era, the importance of international custom as a source of international law is diminishing.

There may be circumstances that rules of customary international law **are identical** to those of treaty law then treaty law will **supervene over** customary international law. Thus, development of international law is possible with adequate means that is the agreement between states.

4.3. General Principle of Law Recognised by Civilised State

Introduction: There are two views under this head. One is where; the general principles which are found in domestic jurisprudence can be applied to international legal questions. And second is where; general principle of law recognised by civilised state has emerged as a result of transformation of broad universal principles of law applicable to all mankind into specific rules of international law.

The **1st view** about the general principles of law is generally popular today. The **2nd view** means those principles which have been recognized by almost all the states.

The permanent court of international justice in the **Lotus Case**[vii]**,** has observed that since 'principles of international law' is ordinary used by almost all States so it can be said that international law is applied between nations belonging to the community of states.

There are still gaps in the international custom and international conventions in making judgment by the court of justice. The competence of court in making judgements could **neither be** confined to international convention and international custom **nor be** designed to set free to exercise law making activity. This is the basis of decisions of the court.

The principle of law becomes general principal of law only if it is recognised by the World court and **not if** it is recognised by the domestic law of large number of states. Such general principle of law is applied by the world court **only where** there is no international custom or convention on the matter in dispute.

There are two reasons for existence and continuance of general principles of law. One is because of, the form of developed systems of law has common origin and second because of, such general principle of law is being expressed as a necessary response to certain basic needs of human association.

According to **Judge chagla**, principles of international law can be taken from municipal law if they have taken universal acceptance and are not inconsistent with any rule of international law. General principle of law **may be** procedural principles or substantive principles but must have received general recognition of civilised states.

Examples of General Principles of Law[viii]: Pacta Sunt Servanda (the provision of treaty must be respected, complied with and executed in good faith by the party of such treaty); **Audi alteram partem** (judge must hear both the sides); **'nemo iudex in sua causa'** (no man may be a judge in his own cause); **Res Judicata** (the litigant parties are barred from raising the same issue again in the court if a matter previously adjudicated/ decided by a competent court); **Estoppel** (a person is precluded from asserting something contrary to what is implied by his previous statement/ action); **reparation** (compensation must be made for damaged caused by fault); **the right of self-defence** for the individual against attack on him/ his person/ family/ community against clear & present danger, etc.

4.4. Judicial Decisions or Arbitral Tribunal Decision

This head is divided into two parts. One is Judicial Decisions and second is Arbitral Tribunal Decision. Judicial decisions are of two types, persuasive and authoritative. The 1st case taken by the ICJ was **Corfu Channel**.

(i) International Judicial Decisions: It is **not direct** source of international law and it is **subsidiary means** for the determination of rules of law.[ix] **Article 59** of the Statute of International Court of Justice declares that the international court's decisions will be binding only between parties of the particular case **except** the court itself. And, prior decisions of such court will be **guidance** in form of the law. However, ordinary court does not deviate from its earlier decisions and can change its earlier decisions only in very special circumstances often as a matter of law. Often, the ICJ refers its own past decisions and most international tribunal uses past cases as a guide in the context of international law. So, such decisions can also be source of international law. The advisory opinion of ICJ is not binding at all. Because of, it only clarifies the rule of international law on a particular point/ matter.

State judicial decisions **may even become** rules of international law. There are two ways for state judicial decisions to become rules of international law. **One is** where the decisions of the state court may become the customary rule of international law in the same way as custom are developed. **Second is** where the judicial precedent (decisions) of the court of **every country** which shows its common applicability in a given case.

(ii) International Arbitral Tribunal's Decisions: In most of arbitral cases, arbitrators act as mediators and diplomats and not as judges. The International arbitral tribunal aims at pleasing both parties that tends to confuse the law in most of the cases. That is why, some jurists criticises that its decision cannot be source of international law. But it is not true always. **Some** of the decisions of the Permanent Court of Arbitration are **treated as weighty precedent,** which has wide applicability in the court in form of guidance across the world. So, its decisions can be source of international law also.

Juristic writing or works/ writings of international lawyer render easy formulation of international law. It is not creative of law but it may be a **persuasive guide** to the content of international law. Such writing or works help in the development of law. **Article 38** of Statute of ICJ tells that the teaching of the most highly qualified publication of various nations **or**, judicial decisions for the determination of rules of law is **subsidiary means** of international law. Juristic opinion may be evidence not to establish customary rules. That is why; juristic works is not much and more important source of law. But it will be considered.

Its importance can be understood in a case where there is **no** treaty or convention or legislative Act or judicial decisions on a particular subject matter. In such place, the juristic writing/ works is resorted, which evolved by years of labour, research & experience on that subject.

Introduction of ICJ: The permanent Court of International Justice has its headquarters in **Hague**. According to **Article 92 of UN Charter**, the international court of justice (ICJ) shall be principle judicial organ of the U.N. and shall function in accordance with the PCIJ. ICJ was established on 1945. It deals with both civil & criminal matter for which International Civil Court and International Criminal Court has been established. A judge of ICJ is elected by both the U.N General Assembly and U.N Security Council. An Ad-hoc Judge is appointed by the State. The ICJ may resolve international legal disputes between the UN Member States.

Jurisdiction of ICJ: Often, a state is exempted from jurisdiction of the local courts in another state **by virtue of its sovereign status**. There are certain offenses which are subject matter of the jurisdiction of all the states such as 'piracy'. There are also certain offenses which are subject matter of the jurisdiction of only concerned states such as matter of Foreign Sovereign Ships Sailing. And, sometimes ICJ exercises jurisdiction on the matters came before it. It

exercises jurisdiction on any of three bases as mentioned below[x]:

(i) **Compulsory Jurisdiction** (73 UN member states accepted for it) Article 36 (2) of Statute of the International Court of Justice provides that the state may confer compulsory jurisdiction upon the court in all legal disputes concerning:

(a) The interpretation of a treaty

(b) Any question of international law

(c) Existence of any fact constituting a breach of international obligation and

(d) The reparation to be made for breach of international obligation

(ii) **Jurisdiction under Special Agreement** (States may also submit a dispute to the ICJ by special agreement, accepting the ICJ's jurisdiction only with regard to the specific dispute at issue) and,

(iii) **Treaty based Jurisdiction** (States may accept the ICJ's jurisdiction with regard to particular areas of international law when they join a treaty that specifically provides that disputes will be submitted to the ICJ for resolution)

Matters having Jurisdiction under ICJ: Disputes relating to territory, national boundaries, rights to natural resources, issues relating to human rights, racial discrimination, proclaimed offender, etc. ICJ has also jurisdiction to give advisory opinions on questions of international law. But such advisory opinion is not binding.

4.5. Decisions or Determinations of Organ of International Institution

International organisation: International organisation is established on the basis of multilateral agreement/ charter/ statute, which defines its organ, objective and duties. Its international legal capacity is derived from states. International Organisation is a permanent association of at least two states that is concerned with execution of specific tasks. United Nations is one of examples of international organisation, which is universal in nature.

Before establishment of league of nation, international custom & convention were recognised as source of international law. **After establishment** of U.N., the development of international law and its codification accelerated.

Decisions or a determination of organ of international organisation/ institution as the source of international law is **not mentioned in Article 38 of Statute of ICJ** as a source of law. Because of, international organisation/ institution had not assumed an important role. It is regarded as **subsidiary means** for the determination of rules of law. However, international organization/ institution plays an important role by responding the specific needs of individual states, where such needs is beyond the power of the state. Almost all international organization or institution is part of United Nation or affiliated with it.

Examples: If there is health problem (spread of diseases) then W.H.O. comes to rescue, if there is worker's/ labourer's problem then I.L.O (international labour organisation) comes to rescue, if there is scarcity of food grains then F.A.O (the food & agricultural organisation) comes to rescue of nation and their people. The convention made by I.L.O is treated as International Labour Code, which is often binding on all states. ICAO (international civil aviation organisation) regulates relation of states in respect of international civil aviation and; the council of ICAO decides disputes relating to obstruction to international civil aviation.

Thus, we could understand that today, international organisation has become part of international life, national life and every aspect of our life.

Development of International Organisations: International organisation has developed on 3 stages. In 1st stage **Security Council** evolved. In 2nd stage **General Assembly** evolved. In 3rd stage **international secretariat & specialised agency of U.N.** evolved.

In the view of **Starke**[xi], organs of international organisation may lead to the development of international law in the following manner:

(i) It is ruled by Security Council of U.N. that in a case where the member of U.N. is absent in the Security Council meeting then it **shall not deem to be veto**. The term 'veto' means a constitutional right to reject a decision or proposal made by a law-making body.

(ii) The resolution of organs of international institution may be binding on the members concerning internal matters of the institution.

(iii) The organs of international institution may make interpretation of provisions of their constitutional instrument. This decision becomes the law of international institution.

(iv) An organ of international institution may refer a matter to the international committees of jurists for getting opinion on legal problems came before it. Such opinion may help in the development of customary rule of international law.

[Some of important Articles of UN Charter are mentioned below.

Article 1(1) of UN Charter provides that the first purpose of UN Organization shall be to maintain international peace and security and to that end: ….to bring about the peaceful means and in conformity with the principles of justice and international law, adjustment or settlement of international disputes and situations, which might lead to breach of the peace.

Article 2(3) of UN Charter provides that all members shall settle their international dispute by peaceful means in such a

manner that international peace, security and justice are not endangered.

Article 32 of UN Charter provides that the parties to any dispute, continuance of which is to endanger the maintenance of international peace and security, shall first of all seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, or of other peaceful means of their own choice. The Security Council shall call upon the parties to settle their disputes by such means.] [xii]

V. IMPORTANT POINTS IN INTERNATIONAL LAW

* Permanent court of international justice is often called as world court. International law is not codified at all and sometimes suffers from uncertainty. ICJ does not have any universal compulsory jurisdiction for settling legal dispute between states.
* In actual application, all five sources are closely interrelated. Any of sources of law doesn't exist on isolation. Some areas of international law are regulated by treaties; some are by customary international law, and so on. Generally, source of international law interacts by supplementing and replacing each other. Often a rule created in one type of source later emerges in the form of another source. For example, prior treaty or decisions of the international organisations may lead to new customary law through state practices in its compliance for long time.[xiii]
* The jurisdiction of ICJ/ specialised international courts/ tribunals is critically **dependent upon** the consent of States and they lack a compulsory jurisdiction of the kind possessed by national courts.[xiv]

* The Charter of the U.N. **prohibits States from resorting to armed force**. War is prohibited as a matter of principle. The UN Charter permits the use of force only in two specific instances.
(i) A State has the right to self-defence and to the use of military means in order to repel an armed attack on its territory until such time as the Security Council has taken appropriate measures.
(ii) States may take steps to maintain or restore international peace by force with the express **authorisation of the Security Council** on the basis of a Resolution under the terms of Chapter VII of the UN Charter. [xv]
* The UN Security Council, on behalf of the international community, is responsible for declaring what sanctions are to be taken against a State (who endangers international peace). The World Trade Organisation decides on sanctions in cases of violations of international trade rules.[xvi]
* The Permanent Court of Arbitration (PCA) is not a court but it is a forum providing services in the context of the Peaceful settlement of disputes. The PCA was founded by international treaty in 1899, making it the oldest universal mechanism for the settlement of disputes between States.[xvii]

* General Assembly (one of organs of U.N.) has established **international law commission** that surveys the whole field of international law, prepares drafts, make recommendations to it. Such recommendations are adopted by the general assembly and according to which international conference for adopting international conventions are held. In fact, large number of conventions is adopted in this manner.

VI. OTHER INTERNATIONAL CASES LAWS

In **Nicaragua vs. U.S.A** [xviii]**,** the World Court by majority has taken the view that the sources of international law are not hierarchical but are necessarily complementary & inter related.

General Principle of Law recognized by Civilized States: Case$_1$: R. vs. Keyn, (1876) Ex. D. 63: The court ruled that international law is based on justice, equality and conscience which have been accepted by long practice of state. **Case$_2$: Diversion of water from Muese, (1937) P.C.I.J, Series A.B. Case No. 70:** The ICJ applied res judicata and estoppel.

Decision or Determination of International Organisation/ Institution: The ICJ itself recognized international organisation as an important source of international law in many cases. **Case$_1$:** In the case, **Military and Para-Military activities in and against Nicaragua**[xix]**,** the ICJ relied on resolutions passed by international organizations and cited them as evidence of existence of customary rules.
In Gulf War (1991) case the court held that under Chapter VII of U.N. Charter, the Security Council possesses wide powers to declare sanctions against the States who are guilty of violation of the provisions of the U.N. Charter relating to international peace and security. International law not only possesses sanction but also it can be bought effective.

VII. CONCLUSION

State interacts with other states due to large number of reasons that establishes certain relationship. There is requirement of (international) law to regulate conduct of state with other state, international organizations and individual. International law maintains international order, peace & security among states. There are many international principles, basic pillars of international law, and norms of international law, which are considered to be most helpful in the international legal system.

States, international organization, etc. is obligated to comply with only such international law, which comes under sources of international law. All sources of international law are categorized **into 5 heads,** which is complementary and interrelated with each other. 'International convention' means agreements between two or more states/ international organization that are consented to be law between them and

to be complied with it in good faith. 'International custom' is rule of customary law that has been evolved from customary practices of numbers of states and followed considering it as of right or obligation. 'General principle of law' is those of principles of law, which are adopted or found in almost all domestic jurisprudence of the State **or** which are recognized by civilized state to be applicable as a broad universal principle of law.

'Judicial decisions of ICJ' are subsidiary and indirect source of law. International court's decisions will be binding only between parties of the particular case **except** the court itself. International arbitral tribunal's decisions may not be source of law. 'Decision or determination of international organization/ institution' respond the specific needs of individual states.

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