

# B.A. LL.B X SEMETER

## PUBLIC INTERNATIONAL LAW AND HUMAN RIGHTS

### TOPIC:- WHAT ARE THE SOURCE OF INTERNATIONAL LAW

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**Q. 4: - What are the sources of international law?**

Ans: - Sources of International law means those origins from where it attains its authority and coercive agency. According to the provisions of the Statute of International Court of Justice there are following sources, on the basis of which Court can decide a case:

1. **Treaties:** - The term treaty may be defined as " the agreement entered into by Nation states for their relations with each other and to undertake certain duties, obligations and rights is said to be a treaty."

The statute declares that the Court shall have to decide any dispute between Nation States in accordance with the provisions of the treaty between them if existed.

2. **Customs:** - Customs are those habits and practices which the nations states commonly observe and the violation of which is considered as against the courtesy of International behavior. There are certain practices which the world community observes without any express provisions but because of practice they honour the same. So if there is no treaty between the parties to a dispute then the statute binds the Court to decide the case in the light of such international customs.

3. **General Principles of Law Recognized by Civilized Nations:** - There are certain principles of law, which have been incorporated, in the domestic laws of many countries because of their universal application. So, in default of any treaty or international custom the statute reveals that the court then shall have to decide the case in the light of such general principles of law as recognized by civilized nations of the world.

4. **Judicial Decisions:** - Usually the Judicial decisions of the International Court of Justice are not binding and they have no value in the sense that they are related and binding only to that certain case for which they have given. And they cannot be cited as strict reference in any other case. But despite the fact the Statute reveals that in case of default of all the above sources the court shall resort to the prior judicial decisions.

4. **Juristic Works:** - The jurists or publicists also declares rules by legal philosophy and analogy and also by comparing different legal systems of the world and they also analyze the historical perspectives of the different legal systems of the world. So, as they have devoted their lives for the legal study, they must be deserve to consult in deciding a dispute. In other words, their opinion on a specific question of law weights because of the their valuable experiments and sound study on the topic. So, the statute further reveals that if there is no treaty, legal custom and general principles of law then the Court shall resort to writings of these jurists.

6. **Other Sources:** - Beside the above sources there are also some other sources which court can resort for the decision of a case. As for example "Equity" and the resolution by the UN organization. No where in the statute these sources have been declared for the Court to derive law but by practice the common and universal principles of equity have been observed by the courts while deciding cases. And also the UN organization when passes a resolution on specific subject the Court feels its moral duty to decide the case in the light of such resolution if there is no express provisions for deciding a case.