



# **PUBLIC INTERNATIONAL LAW**

BY –

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# Can International Law be termed as a true law?


- There has been a lot of controversy regarding this question. Some answered the question in negative while others in the affirmative. Some feel that International Law lacks the element of certainty, stability and predictability.


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- John Austin, a leading English writer on Jurisprudence supports the view that International Law is not a law.
  - As per him, International Law is a code of moral force and rules of conduct only.
  - In his opinion, International Law does not have any sanction behind it and it doesn't emanate from a law giving authority.

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- He described International Law as the one consisting of positive International morality and opinions or sentiments which are followed by the nations as per their own wish.
  - Hobbes and Pufendorff are also of the view that International Law is not a true law as the law is not truly invested with true legal force and it is not backed by the command of a superior.


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- Holland is of the view that International Law is extremely different from ordinary laws as it is not supported by the State's authority.
  - As per him, the private law is writ large.
  - He describes International Law as the vanishing point of Jurisprudence.


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- He is of the view that as International Law lacks sanction (which is the most important element of Municipal Law) it can not be kept in the category of true law.
  - Hall And Lawrence consider International Law as true law.

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- According to them, International Law is derived from custom and precedents which are a source of law and it is habitually treated like a certain kind of positive law.
  - Sir Frederick Pollock observed that for International Law to be binding upon the members, the only essential conditions are the existence of political community and the recognition by its members of settled rules binding upon them in that capacity. International Law wholly satisfies these conditions.

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- Jeremy Bentham And Jethro Brown are the other prominent jurists who also deny the legal character International Law.
  - Hall And Lawrence on the other hand answered the question in affirmative. According to them, International Law is habitually treated and enforced as law, like certain kind of positive law, it is derived from custom and precedent which form a source of International Law.



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- Pitt Cobbett observed that International Law must rank with law and not with morality.
  - Sir Frederick Pollock writes the only essential conditions for the existence of law are the existence of political community and the recognition by its members of settled rules binding upon them in that capacity. International Law seems on the whole to satisfy these conditions.

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- Thus it is clear from the above discussion that the solution for the above question depends upon the definition of law, which one may choose to adopt.

Thank You!