INTERNATIONAL LAW: A VANISHING POINT OF JURISPRUDENCE

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ABSTRACT

We can speak of law wherever and whenever we speak of obligations. Though it certainly has other meanings, 'law' can be used to refer to any criteria of right judgement in matters of practice (conduct, action), any standard for of Jurisprudence, a term used to describe a certain sort of legal research, an examination of an abstract, broad, and theoretical nature that aims to expose the fundamental ideas underlying law and legal systems. It is a subject that is unique from the other subjects on the legal curriculum in terms of nature. It simply refers to the clarification of the fundamental ideas that form the basis of legal regulations. The word 'jurisprudence' has been derived from a Latin word jurisprudential which means 'knowledge of law'. Thus, it signifies knowledge of law and its application. The three primary subfields of jurisprudence are analytical, social, and theoretical. The laws and concepts guiding the interactions between nations and other international players are the subject of international law, an important and complicated area of jurisprudence. It is a corpus of law that regulates contacts between sovereign nations, international organizations, and, to a certain extent, between private citizens and non-state enterprises. This article focuses on the aspect that whether international law is actually a vanishing point of jurisprudence or not.

Keywords: Jurisprudence, International, Law, Fundamental, Nations, organizations.

INTERNATIONAL LAW:

Bentham's historic interpretation of international law asserts that It is a set of rules that govern interstate interactions. The reality that this uncut interpretation disbars "people and international organizations"— two of the utmost significant and active aspects of modern international law — is proof of how distant the study of international law has come. Positive theory, which acknowledges that international law and municipal law are two separate and independent systems, holds that international law only functions at the international level and not inside national legal systems. On the other hand, proponents of natural law, whose viewpoint is frequently referred to as monism, assert that state and international law comprise one legal system. According to monists, such a structure might evolve from either a formalistic, hierarchical approach that assumes there is a single basic standard that underpins both international law and local law, or from a unified ethical approach that emphasises universal human rights.

International law regulates the legal responsibilities of nations about how to engage with one another and treat individuals inside their boundaries. The definition of international law used to be limited to the rules and regulations that controlled how nations interacted with one another, but in more recent times, it has come to include interactions among governments, individuals, and international organizations.

Issues concerning rights allied several governments or nations and their residents or subjects are the only ones that fall under the purview of public international law. Private international law, on the other hand, deals with disputes between natural or legal persons brought on by situations that have a significant relationship to more than one country. The contrast between public and private international law has lately become dubious. Many private international law issues are very significant to the worldwide community of states, and they may have an influence on public international law matters as well.

"Status, property, and responsibility are the fundamental, traditional notions of law found in national legal systems. It also encompasses procedural law, substantive law, process, and remedies". The adoption of it by the states that constitute the arrangement is the base of international law. These are the principal substantive areas of international law:

- International economic law,

- International security law,
- International criminal law
- International environmental law,
- Diplomatic law,
- International humanitarian law or law of war
- International human rights law

SOURCES OF INTERNATIONAL LAW:

Treaties, custom, and general principles are the three sources of international law listed in Article 38 (1) of the ICJ's constitution.

- **TREATIES:**

Other names for treaties include conventions, agreements, pacts, general acts, charters, and covenants. All of them make reference to formal agreements that participants—typically, but not always, states—make to be bound by the agreed terms. When a contract is subject to local law (as in commercial agreements between states and multinational corporations), international law is not applicable. Casual, revocable political pronouncements or comments are not permitted in treaties. It might be multilateral or bilateral. Treaties involving numerous alliances are more likely to be of global significance, but many of the most important treaties have been bilateral in character (such as those that came from the "Strategic Arms Limitation Talks"). "There are more than 150 parties to a number of modern treaties, including the Geneva Conventions (1949) and the Law of the Sea treaty (1982; officially the United Nations Convention on the Law of the Sea, reflecting both their significance and the treaty's development as a means of general international law."

There is no set standard or process that must be followed while drafting or signing a treaty. These could be discussed between presidents or between departments of government. The most crucial element in the conclusion of a treaty is the signalling of the state's acceptance, which can be performed by signing, exchanging papers, ratifying, or accession. Ratification is

normally employed to convey agreement, unless it's a low-level agreement in which case a signature is usually sufficient. Depending on the country's constitutional system, the ratification procedure differs.

A treaty may be revoked or put on hold in line with one of its terms (if there are any) or with the parties' agreement. If neither applies, additional regulations can come into play. In the event of a serious breach of a bilateral agreement, the guiltless party may utilize such breach as justification to call for the termination or suspension of the agreement.

- **CUSTOMS:**

As a second basis of international law, the ICJ's statute mentions "international custom, as evidence of a common practise acknowledged as law." Custom contains two key components: the actual behaviour of nations and the adoption by states of that behaviour as law. Its significance reflects the decentralised nature of the international system. The length, constancy, recurrence, and generality of a certain conduct by states are only a few instances of the several elements that make up the genuine praxis of states, also known as the "material fact." Whether a behaviour is recognised as a binding international custom depends on all of these considerations. In order for a practise to be regarded as binding, the ICJ states that it must either be "extensive and substantially uniform" or constitute a "constant and uniform usage."

All nations in the international community are bound by a practise once it becomes custom, whether or not individual states have formally embraced it, with the exception of cases when a state actively opposed the custom from the beginning, a tough test to show. When a particular practise is restricted to a small number of states (for instance, the states in Latin America), the standard for acceptance as a custom is often relatively high. There may be both multilateral treaty provisions and binding customary law on the same subject (such as the right to self-defence) as a result of a generalizable treaty provision.

- **GENERAL PRINCIPLES OF LAW:**

The ICJ's statute lists a third source of international law as the general legal standards upheld by civilised nations. These rules effectively provide a way to address international issues that were not previously addressed by either treaty provisions or legally enforceable customary norms. Such basic concepts can be derived from both domestic and international law, and many

of them are really procedural, evidentiary, or judicial process-related principles—e.g., "the rule that was created in Chorzow Factory (1927–1928) that when an engagement is broken, restitution is required. As a result, Poland was required to compensate Germany for the illegal takeover of a factory in the Chorzow Factory case."

Possibly the most important component of international law is good faith. It governs the creation and execution of legal commitments and is the cornerstone of treaty law. Equity is a fundamental overarching concept that provides some flexibility in the application and enforcement of international law. For example, the Law of the Sea Treaty required that exclusive economic zones and continental shelves be defined equally for states with competitive or adjoining coasts.

VANISHING POINT OF JURISPRUDENCE:

The definition of "vanishing point" in the dictionary is "a point of disappearance, termination, or extinction." Holland argued that international law did not belong in the same category as municipal law, thus the former was seen as disappearing. A vanishing point is often a precise spot where two parallel lines that are on the same plain intersect. International law, according to legal theorists, cannot be classified as a kind of law since a sovereign authority does not have the power to implement it. There is no penalty for this sort of law. As a result, breaking the laws of international law is simple and rarely met with penalties or legal action. Holland, an analytical jurist, claims that international law is the end of jurisprudence based on these conflicts. He made his Premark clear and provided good justifications. The following four justifications were given as evidence for his results, among many more:

1. No sovereign authority to command;
2. There exist no sanctions if the rules are violated;
3. An absence of a judge or arbiter to decide international disputes;
4. International Law only followed as a moral courtesy by States.[1]

[1] Dr. AK Jain, Public International Law (Law of Peace) & Human Rights, Ascent Publications, 2017.

He believed that international law standards shouldn't be considered laws because they are upheld out of respect. A sovereign King does not enact international law. Additionally, it does not include fines for enforcement, a vital element of municipal law. Holland continues by asserting that international law heralds the end of jurisprudence because, in his view, there is no judge or arbitrator to resolve international disputes beyond and above the disputed parties themselves, save for public opinion, and that States abide by its rules out of politeness.

Every legal requirement carries a penalty. Criminals ought to be dealt with according to the law. governmental law is supported by governmental coercive authority. International law, on the other hand, does not impose any legal punishments since it lacks the authority to do so. As a result, a deciding element is how eager a state is to follow international law. State law may be interpreted and applied by courts. However, there isn't a court like that in the international sphere. There have been many assessments of international law, but it is not obvious what particular problem the law is highlighting. National sovereignty and international law are incompatible. Every state has unfettered internal sovereignty that is absolute. A sovereign state is not actually compelled to follow international law since it does not acknowledge any superiority in the international realm. Austin and his backers argue that accepting international law as authoritative would limit a state's external sovereignty and cast doubt on that state's sovereignty. This circumstance contradicts the idea of the state because state sovereignty is a precondition for any state to be considered as a state. The historical school of jurists, another current school of thinking, maintains that international law is law in the true meaning of the word. In the same way that municipal law is law, international law is also law.

Holland is certain that international law is only referred to as law by courtesy. It cannot be characterized in legal terms since rights may be readily infringed, international law issues aren't always taken into consideration, and it also cannot be applied globally. It is also claimed that although Holland's interpretation of international law may have been accurate in the past, it is now the target of harsh criticism because of the obligation that nations now have to uphold many of the social, environmental, and humanitarian aspects of international law.

HOLLAND'S VIEW IN TODAY'S SCENARIO:

In a world where a sickness has spread to every nation and area, it is reasonable to assert that contemporary times are more international than ever. International law now has a much different look and feel than it had in the past. The significance of international organizations,

treaties, conventions, and penalties in the modern world cannot be overstated. The Kulbhushan Jadhav trial at the ICJ is a relatively recent illustration of how international law has been maintained and how sovereign states now respect one another. Consequently, it is appropriate to state that equating modern international law with that of the Golden Age of Holland is absurd.

The author and others claim that because it is founded on social interdependence, the so-called "New International Law" varies from the formal guidelines of diplomatic relations during the time of Holland. Holland was right that it was fading, but he was wrong to compartmentalize a subject that had shown amazing room for development. No man is an island, and social, economic, cultural, and humanitarian values bind the contemporary world together, therefore Holland's claim that international law is a "vanishing point" of jurisprudence is wrong.

The expansion of regional and global organizations demonstrates how globalization has altered the concept of state sovereignty. International organizations have progressively inherited some of the sovereign powers once held by governments. In addition to highlighting regional and global interdependence, large trading bloc development has also spawned and institutionalized rivalry between various blocs.

CONCLUSION:

The fact that international law has existed for a very long time. It is true that there is no organisation responsible for upholding international law, and no sovereign has the authority to do so. The law is weak, that much is evident. Even while the majority of international lawyers hold the view that there are no sanctions underlying international law, this position is significantly weaker than that of their colleagues in municipal law, and it is thus impossible to successfully argue that there are no penalties underlying international law at all. There are differences between state law and international law, according to jurists who do not view international law as the vanishing point of jurisprudence. Although the state cannot enact international law, there is an organization responsible for its enforcement.

According to Dias, “International Law is obeyed and complied with by the states because it is in the interests of states themselves.” For this object they give the following arguments: -

1. The judgements of International court of Justice are binding on States.

2. If any state does not honor the order/judgement of International court of justice, the Security Council may give its recommendation against that state for action.

3. The judicial powers of International Court of justice (Voluntarily and compulsory) have been accepted by the States.

4. The judgement of International court of Justice has been followed till date.

5. The system of enforcement i.e. sanctions and fear, has been developed.

For example: According to chapter VII of the U.N. Charter, the security council may take appropriate measures to preserve or restore international peace and security if there is a threat to such conditions. In addition, the judgements of the International Court of Justice are final and enforceable against the disputing parties.