INTERNATIONAL LAW SUMMARY

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1. Nature of International Law

1.1 WHAT IS INTERNATIONAL LAW ?

International Law (IL) can be defined as a body of rules and principles that regulates relations:

- between States and public international organisations *inter se*;
- among States and individuals in the field of international human rights law; and
- between the international society and individuals who have committed international crimes.

Prior to the First World War, the concept of IL was regarded as a system of legally binding rules and principles that regulated relations solely among sovereign States. These States were considered to be the only subjects of IL and the only entities possessing legal personality at an international level.

1.2 EVOLUTION AND EXTENT OF INTERNATIONAL LAW

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IL goes as far back as the period of antiquity. A summary of the development of IL is considered below:

- Archaeologists have discovered treaties between kings of city–states in ancient Mesopotamia, dating from around 3000 BC. These treaties indicated the existence of relations among rulers.
- The use of treaties among rulers remained a key attribute of political life throughout antiquity in areas of the Middle East and the Mediterranean. During this period, most civilisations acknowledged the binding force of treaties, and respected the role of diplomatic ambassadors.
- Medieval Europe enjoyed a more intricate form of IL, although the structure of feudal realms was not well suited to the emergence of a distinctly separate legal system for the regulation of relations among monarchs. Power was shared internally between an aristocratic class and federal princes who upheld their own vassals, a mutual obligations to a lord or monarch, and which regularly owed political allegiance to external authorities such as the Holy Roman Emperor or the Church.

- During the course of the 15th and 16th centuries, several authoritative States surfaced (England, France, Sweden, Netherlands, Spain and Portugal). Such States declined to follow political authority beyond their own jurisdictional rule. This prepared the way for the modern system of IL.
- At the start, the contemporary system of IL was concerned almost wholly with regulating relations among States as armed actors on the European stage.
- Rising from the chaos of Europe's religious wars in the 16th and 17th centuries, modern IL was long subjugated by norms regulating the behavior of war and illuminating matters about which disagreements might lead to conflict.
- The treaties concluding the Peace of Westphalia at the end of the Thirty Years War (1618 – 1648) confirmed the contemporary State system and feudal ideas of international order were cemented as potent forces influencing intra–European relations.
- The peace treaties confirmed the authority of States based on differing versions of Christianity, and recognised that no political authority or influence existed over States. The 1648 Treaty of Osnabruck protected the principle of religious tolerance for minorities in several parts of Europe.
- In 1815, the Final Act of the Congress of Vienna (FACV), and related international agreements sought to adopt the Westphalian State system, and apply it to settle the multiplicity of issues arising from the French Revolutionary Wars, the Napoleonic Wars, and the dissolution of the Holy Roman Empire.
- The main European powers established a formal arrangement of collective security against revolutionary and radical disorder within Europe, which was effectively invoked on several occasions.
- The FACV's official condemnation of the slave trade was also an important development in IL, and made for another vital theoretical link between human rights concerns and the continuation of international peace and stability.
- In 1864, the first treaty of the Geneva Convention granted legal protection to the injured in global military conflicts, as well as to those seeking to help the wounded.
- Subsequently, the Brussels Conference of 1874, and the Hague Peace Conferences (HPC) of 1899 and 1907, prepared and settled upon rules protecting non – combatant civilians, and the treatment of prisoners of war, in the area of international armed conflicts.

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- The HPC of 1899 also established the Permanent Court of Arbitration in an effort to give a standing mechanism for the diplomatic and peaceful resolution of international disputes.
- The 19th and very early 20th centuries witnessed the advent of globalisation in its modern form. This era of IL began to evolve further beyond matters of war and peace, focusing on the facilitation of international co-operation in a range of areas. Noteworthy accomplishments during this period include:
    1. the Paris Convention establishing the International Telegraph Union (1865);
    2. the Treaty of Bern establishing the General Postal Union (1874);
    3. the Paris Convention for the Protection of Industrial Property (1883); and
    4. the Berne Convention for the Protection of Literary and Artistic Works (1886).
- In 1919, and at the conclusion of World War I, the Paris Peace Conference established the League of Nations (LON). Article 14 of the Covenant of the League of Nations, created after the Treaty of Versailles, allowed the League to investigate setting up an international court. This led to the establishment of the Permanent Court of International Justice (PCIJ) by the LON which first sat on 30 January 1922 at the Peace Palace, The Hague. Although the PCIJ only lasted until 1945, it made lasting contributions to the expansion of IL in a variety of fields. By the time the PCIJ had finished, it had handed down 32 judgments in contentious cases between States, and 27 advisory opinions at the request institutions related to the LON.
- Significantly, the International Court of Justice (ICJ) replaced the PCIJ in 1945 upon the establishment of the United Nations (UN).
- On 26 June 1945, the UN Charter was opened for signature while the war against Japan was still continuing. By 24 October 1945, the UN Charter had entered into force and the International Military Tribunal for the Punishment of War Criminals had held its first session in Germany.

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