

Rizwan Qadir (PAS/PMS)

International Relations

Lecture # 16

Topic:

International Law

Sources of International Law

- **Article 38 (1) of the Statute of ICJ**
- **The court**, whose function is to decide in accordance with law where such disputes are submitted to it, **shall apply**:
- International Conventions
- International Customs

Sources of International Law

- General Principles of Law recognized by developed nations
- Judicial Decisions and Teachings of the highly qualified individuals
 - Article-59 of ICJ
- Article 38 (2)
 - **Ex aequo et bano** = what is just and fair according to law.

Treaties

- Charter of the UN
- Indus Water Treaty
- Treaty of Versailles
- Abraham Accord

Customs

- Decentralized structure of international law.
- Evolves directly from conduct of states.
- Custom must be practiced by the disputed parties.
- State Practice
- *Opinio-Juris*: Acceptance as a law.
- Example: India Vs. Portugal Case

General Principles of Law

- Fill the gap left by treaties and customs.
- Rann of Kutch Case – Equity Principle
- Kulbhushan Jadhav Case – Due Process and Fair Trial

Judicial Decisions

- Comprehensive in nature
- Declaratory of existing laws.
 - No use of Stare Decisis (Judicial Precedent) doctrine
- International Court of Justice
- London Court of Arbitration
- Madrid Court of Arbitration

Subjects of International Law

- States
 - Article 1 Montevideo Convention on Rights and Duties of States
 - Territory
 - Population
 - Government
 - Sovereignty
- Trust Territories
- Safe Haven

Subjects of International Law

- Individual
 - Kulbhushan Jadhav Case
 - International Criminal Tribunal on former Yugoslavia
 - International Criminal Tribunal on Rwanda
- Insurgency
 - Kashmiri Mujahideen
- Belligerency
 - Taliban

Readings

- International Law by Stephen Allen
- International Law by Malcolm Shaw

