



Comparative Study Of Customary International Law In International Sphere And Indian Legal System

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CHAPTER 1 INTRODUCTION

Customary International Law has a vital role to play in the domestic as well as the international legal systems across the world. It is defined as the practice and norms which are followed by the countries for a long time and hence are known to be legally binding. Customary International Law also compliments the treaties and the statutory laws, filling in the gaps where agreements are absent. The international organisations have done a great job in forming different treaties and agreements to be followed by the world and which ensures the peace and harmony in the world. But the world being such a wide spectrum of thoughts and practices, it is unlikely for everyone to be on the same page and agree to everything at once. When this does not happen, customary international law comes into picture and becomes the common agreement between the countries. This body is particularly significant in the context of state behaviour, human rights, environmental protection, and conflict resolution. The relevance of customary international law in modern legal systems underscores its adaptability and enduring influence in a increasingly interconnected world. Customary International Law involves two aspects namely, State Practice and Opinio Juris.

1. **STATE PRACTICE:** It involves the actual behaviour of states and their interactions with each other. To qualify for customary international law, the practice must be so evident, widespread, and consistent that it has now become a norm. It means that that the practice must be followed by the states over time and in various context. These norms must not be written anywhere to be valid and they must be unconsciously followed by everyone.
2. **OPINIO JURIS:** This is the belief that a particular practice is legally obligatory, the states must engage in the practice not just out of habit but because they believe that it is legally required to do so. This is a subjective element which distinguishes customary international law from other practices

which are just mere usages or routines. While there is no time frame in which the practice must be established, it just should be consistent and significant to be considered as a customary norm.

As we move forward, the relevance of customary international law continues to grow increasingly, and not only does it make the norms uniform but also connects the world together. It proves to be an important mechanism for promoting peace, cooperation, conflict resolution, and establishing trust amongst the states. It is not necessarily right to say that the concept of customary international law has been absolutely successful as there still remain certain challenges which are continued to address to decrease the tensions between the states and the international committees. It depicts the importance of collective action and belonging while addressing any challenge because collectively the consensus which would be reached would count to be the most effective and relevant to all at once. As customary international law continues to evolve as a common practice amongst the states, it will remain a fundamental pillar to the legal systems across the countries, with guiding the states towards a peaceful and cooperative future.

CHAPTER 2

CUSTOMARY INTERNATIONAL LAW IN INDIAN LEGAL SYSTEM

Customary international law has been going on and being practiced all over the world, with different states having their own norms which they feel are right to be followed and which should be a part of the rules. Certain countries adapt customary international law in their legal system. For example, in the United States, customary international law is considered part of federal law under the Supremacy Clause of the Constitution, provided it is not in conflict with existing statutes or treaties.

1. Dualist vs. Monist Systems:

- **Monist Systems:** In monist countries (like the Netherlands), international law, including customary international law, is directly applicable within the domestic legal system without the need for additional legislation.
- **Dualist Systems:** In dualist countries (like the United Kingdom), international law must be explicitly incorporated into domestic law through legislation before it can be applied by domestic courts.

Courts may refer to customary international law when interpreting domestic laws, especially in cases involving human rights, environmental standards, or issues of international relations. This can lead to a more harmonious application of both domestic and international legal standards. In some jurisdictions, customary international law may prevail, while in others, domestic law may take precedence. The recognition and enforcement of customary international law can depend on various factors, such as public policy considerations, the nature of the customary norm, and the willingness of domestic courts to apply

international standards. Common examples include principles related to diplomatic immunity, the prohibition of torture, and the protection of civilians during armed conflicts.

1. Civil Procedure Code (CPC)

The CPC provides mechanisms for the recognition and enforcement of foreign judgments, reflecting principles of comity and respect for international legal norms. Courts in India often invoke principles of international comity when dealing with cross-border disputes, ensuring that procedural fairness aligns with international standards.

- **Enforcement of Foreign Judgments:** This principle encourages states to respect and enforce the judicial decisions of other jurisdictions, provided they meet certain criteria. Customary international law supports this practice by establishing norms for mutual respect among states. Section 13: This section of the CPC outlines conditions under which a foreign judgment may be deemed conclusive and enforceable in India. It reflects customary international law principles by considering factors such as jurisdiction, fairness of the trial, and adherence to natural justice.
- **International Jurisdiction:** The CPC provides guidelines on jurisdiction, including where a suit can be filed. Customary international law can influence these rules, especially in cases involving parties from different countries or transnational issues. Courts may refer to international norms when determining jurisdiction in complex cross-border disputes.
- **Judicial Interpretation:** Indian courts may reference customary international law in their judgments when interpreting provisions of the CPC. This can be particularly relevant in cases involving human rights, where international standards provide guidance on procedural fairness and justice.
- **International Treaties and Agreements:** While the CPC is primarily a domestic legal framework, India's obligations under international treaties can also influence its application. For instance, if India is a party to an international treaty that establishes specific procedural standards, those standards may be considered in the interpretation and application of the CPC.
- **Cross-Border Litigation:** In cases involving parties from different jurisdictions, the CPC may be applied in a manner that respects international norms governing cross-border litigation, such as those related to service of process, evidence collection, and enforcement of judgments.

2. Criminal Procedure Code (CrPC)

The CrPC incorporates protections that align with international human rights standards, such as the right to a fair trial, which is enshrined in various international treaties (e.g., ICCPR). Provisions related to extradition in the CrPC are influenced by customary international law, as India is bound by its obligations under international treaties concerning extradition. The CrPC contains provisions aimed at protecting vulnerable groups (e.g., women and children), reflecting international norms against discrimination and violence.

- **Incorporation into Domestic Law:** In some countries, customary international law is automatically incorporated into domestic law. This means that principles of CIL can directly influence the procedures and protections afforded to individuals under the CrPC.
- **Human Rights Protections:** Many human rights norms are considered customary international law (e.g., the right to a fair trial, protection against torture). These norms can require changes to national criminal procedures to ensure compliance with international standards, impacting aspects such as: Right to legal representation, right to remain silent, Prohibition of arbitrary detention.
- **Guidance for Judicial Interpretation:** Courts may refer to customary international law when interpreting provisions of the CrPC, especially when there are ambiguities. This can lead to a more rights-based approach in criminal proceedings.
- **International Obligations:** Countries that are parties to international treaties (like the International Covenant on Civil and Political Rights) may be bound to align their CrPC with the obligations set forth in those treaties, which often reflect customary international law principles.
- **Accountability and Fair Trials:** CIL can influence procedural safeguards in criminal justice systems, promoting accountability and ensuring that trials are conducted fairly, thereby affecting how the CrPC is applied in practice.
- **Influence on Legislative Reforms:** Advocacy for adherence to international norms can drive legislative reforms in the CrPC, leading to improvements in areas such as: Pre-trial detention conditions, Rights of victims and witnesses, Procedures for gathering evidence.
- **Judicial Activism:** In some jurisdictions, courts may engage in judicial activism by invoking customary international law to expand rights and protections under the CrPC, thereby enhancing the legal framework governing criminal procedures.

3. Indian Penal Code (IPC)

While the IPC does not explicitly define certain international crimes like genocide or war crimes, it includes provisions that can be interpreted to align with customary international law principles regarding serious offenses. Provisions addressing torture, unlawful detention, and other human rights violations in the IPC reflect India's commitment to uphold customary international norms.

- **Incorporation of Human Rights Norms:** Many principles of human rights that are considered customary international law are reflected in the IPC. For instance, the prohibition of torture and inhumane treatment aligns with international human rights standards. This can lead to legal challenges against provisions in the IPC that may violate these norms.
- **Guidance for Interpretation:** Indian courts may refer to customary international law when interpreting ambiguous provisions of the IPC. This can promote a more rights-oriented interpretation, ensuring that domestic laws align with international standards.
- **Legislative Reforms:** Advocacy for adherence to international norms can lead to legislative reforms in the IPC. For example, amendments may be made to ensure that laws regarding crimes such as human trafficking, sexual offenses, and hate crimes reflect international best practices and obligations.
- **Accountability for International Crimes:** While the IPC primarily addresses domestic offenses, its principles can influence how India prosecutes individuals for such crimes, particularly in cases where India may have obligations under international treaties or customary law.
- **Protection of Vulnerable Groups:** CIL often emphasizes the protection of vulnerable groups, including women, children, and minorities. The IPC has seen amendments and provisions introduced to address issues like domestic violence, sexual harassment, and child protection, reflecting these international commitments.
- **Influence on Judicial Activism:** Indian courts have sometimes invoked customary international law to expand the scope of rights and protections under the IPC. For instance, the Supreme Court has relied on international human rights standards to interpret laws related to criminal justice, bail, and sentencing.

4. Indian Labour Laws

Indian labour laws are influenced by conventions and recommendations from the International Labour Organization (ILO), which are based on customary international law. Laws such as the Minimum Wages Act and the Industrial Disputes Act incorporate principles of social justice that resonate with international labour standards and customary norms promoting workers' rights.

- **Incorporation of International Labour Standards:** India is a member of the International Labour Organization (ILO) and has ratified several ILO conventions that establish international labour standards. These conventions often reflect CIL principles, and India is expected to align its labour laws with these standards. For instance, conventions on the right to organize, collective bargaining, and non-discrimination in employment inform domestic legislation.
- **Promotion of Fundamental Rights at Work:** CIL emphasizes fundamental rights in the workplace, such as the right to fair wages, safe working conditions, and freedom from discrimination. Indian labour laws, such as the Minimum Wages Act and the Factories Act, have been influenced by these international norms, ensuring that workers' rights are protected in accordance with global standards.
- **Judicial Interpretation:** Indian courts often refer to international labour standards and CIL when interpreting domestic labour laws. This can lead to broader interpretations of workers' rights and protections. For example, the Supreme Court of India has invoked international labour norms to expand the scope of rights related to wages, working hours, and safety.
- **Influence on Legislative Reforms:** Advocacy for compliance with international labour standards can drive legislative reforms in India. Changes in labour laws may occur in response to international obligations or pressures, leading to more comprehensive protections for workers. For example, recent reforms aimed at consolidating various labour laws have sought to align domestic regulations with international best practices.
- **Protection of Vulnerable Workers:** CIL emphasizes the protection of vulnerable groups in the workforce, such as women, children, and migrant workers. Indian labour laws have been shaped to address these concerns, reflecting international commitments to protect these groups from exploitation and ensuring their rights are safeguarded.
- **Corporate Social Responsibility (CSR):** Increasingly, CIL influences corporate practices regarding labour rights and social responsibility. Companies operating in India may adopt CSR policies that align with international labour standards, promoting fair labour practices and ethical treatment of workers.

5. Constitution of India

Customary international law (CIL) plays a significant role in shaping the Constitution of India, particularly in the interpretation of constitutional provisions and the development of legal norms. Here are some keyways in which CIL affects the Constitution of India:

- **Guiding Principles for Interpretation:** The Indian judiciary often refers to CIL when interpreting constitutional provisions, especially those related to fundamental rights and directive principles of state policy. The Supreme Court has recognized that international law, including CIL, can inform the interpretation of the Constitution, particularly in cases involving human rights.

- **Incorporation of International Norms:** Certain provisions of the Indian Constitution are influenced by international law principles. For example, Articles 14 (right to equality), 21 (right to life and personal liberty), and 39 (directive principles promoting social justice) resonate with international human rights norms. The incorporation of these principles into the Constitution reflects India's commitment to uphold global standards.
- **Judicial Activism and Human Rights:** The Indian judiciary has engaged in judicial activism by invoking CIL to expand the scope of fundamental rights. Landmark judgments have relied on international human rights instruments, such as the Universal Declaration of Human Rights and various treaties, to enhance protections for individuals under the Constitution.
- **Directive Principles of State Policy:** Many of these principles align with international commitments, including those related to labour rights, education, and health. CIL influences the implementation of these principles, guiding legislative and policy frameworks.
- **International Treaties and Obligations:** While CIL is distinct from treaties, it complements India's obligations under international treaties that have been ratified. The Constitution provides for the incorporation of international law into domestic law, particularly through Article 51(c), which directs the state to foster respect for international law and treaty obligations.
- **Influence on Legislative Frameworks:** CIL can influence legislative reforms in India by promoting alignment with international standards. Lawmakers may consider CIL when drafting or amending laws to ensure that domestic legislation adheres to global norms, especially in areas such as human rights, environmental protection, and trade.
- **Protection of Minority Rights:** CIL emphasizes the protection of minority rights and non-discrimination. This aligns with constitutional provisions that safeguard the rights of minorities and marginalized groups in India. The judiciary has used CIL to strengthen these protections and ensure compliance with international human rights standards.

CIL serves as an essential source of law that complements the Indian Constitution, particularly in areas concerning human rights, environmental protection, and social justice. The Indian judiciary has actively embraced CIL, utilizing it to interpret constitutional provisions and enhance the protection of fundamental rights. This incorporation reflects India's commitment to aligning its domestic legal framework with international standards and norms.

Moreover, CIL plays a crucial role in shaping India's foreign policy and its interactions with other nations. By recognizing and applying customary international law, India positions itself as a responsible member of the global community, advocating for principles that promote peace, justice, and cooperation among states.

In conclusion, the integration of customary international law within the Indian legal system not only strengthens the rule of law but also fosters a culture of accountability and respect for human rights. As India

continues to navigate complex global challenges, the influence of CIL will remain vital in ensuring that its legal framework is both progressive and reflective of its obligations on the international stage.

CHAPTER 3

CUSTOMARY INTERNATIONAL LAW IN INTERNATIONAL LEGAL SYSTEM

Customary international law binds all states, regardless of whether they have explicitly consented to specific treaties. This universality is crucial for maintaining order and predictability in international relations. Customary law plays a vital role in areas not covered by treaties, providing legal guidance on various issues such as human rights, environmental protection, and the conduct of hostilities. As state practices evolve, customary international law can adapt more readily than treaty law, allowing it to respond to changing political, social, and technological contexts.

While customary international law lacks a centralized enforcement mechanism, compliance is often encouraged through diplomatic pressure, international scrutiny, and the potential for legal consequences in international courts. States may also incorporate customary norms into their domestic legal systems, enhancing their enforceability. Determining whether a particular practice has achieved customary status can be complex and contentious. Disputes may arise over what constitutes sufficient state practice or the existence of *opinio juris*. Some states may resist certain customary norms, particularly those related to human rights or environmental standards, leading to debates about sovereignty and compliance. Customary international law serves as a vital foundation for the regulation of state behaviour in the international arena. Its evolution reflects the dynamic nature of international relations and underscores the importance of shared norms in promoting peace, security, and cooperation among nations. As global challenges continue to emerge, customary international law will likely play an increasingly important role in shaping responses to these issues.

In this dissertation, we will study the role of customary international law in different international laws such as:

- International Humanitarian Law
- International Maritime Law
- International Environmental Law
- International Criminal Law
- International Private and Public Law

CHAPTER 3.1: ROLE OF CUSTOMARY INTERNATIONAL LAW IN INTERNATIONAL HUMANITARIAN LAW

Customary international law plays a critical role in the development and application of International Humanitarian Law (IHL).

- **Source of IHL Rules:** Customary international law consists of practices that are widely accepted by states as legally binding, even if they have not been written down in treaties. In IHL, many rules, particularly those that predate formal treaties or address gaps in treaty law, are rooted in customary law.
- **Filling Gaps in Treaty Law:** While treaties like the Geneva Conventions provide a comprehensive framework for IHL, there may be situations not explicitly addressed in these texts. Customary law fills these gaps, ensuring that even if a specific treaty rule doesn't apply, the fundamental principles of IHL still govern the conduct of warfare.
- **Enforcement and Accountability:** Customary international law, as part of IHL, helps to hold states and individuals accountable for violations of humanitarian law, especially in areas where treaties might not be sufficient or specific. International courts, such as the International Criminal Court (ICC), rely on both treaty law and customary international law to prosecute war crimes and other violations of IHL.
- **Dynamic Nature:** Customary international law evolves over time as state practices change. IHL, through its reliance on customary law, adapts to new realities, such as emerging technologies in warfare.
- **Binding Nature:** Even if a state has not ratified specific international treaties related to IHL, it may still be bound by customary IHL rules. This universal applicability strengthens IHL's overall impact on the conduct of armed conflict worldwide.

CHAPTER 3.2: ROLE OF CUSTOMARY INTERNATIONAL LAW IN INTERNATIONAL MARITIME LAW

Customary international law plays a significant role in shaping international maritime law. It consists of practices and norms that have evolved over time and are accepted as legally binding by states, even if they are not codified in written treaties.

- **Foundation of Maritime Principles:** Customary international law provides foundational principles that govern maritime activities. These include the freedom of navigation, the right of innocent passage, and the principle of flag state jurisdiction. These principles have become widely accepted norms that guide state behaviour on the seas.
- **Supplementing Treaties:** While treaties such as the United Nations Convention on the Law of the Sea (UNCLOS) provide a comprehensive legal framework for maritime issues, customary

international law fills gaps and addresses areas not explicitly covered by treaties. States may rely on customary practices to resolve disputes or interpret treaty provisions.

- **Dispute Resolution:** Customary international law can play a role in resolving disputes related to maritime boundaries, resource exploitation, and environmental protection. Courts and tribunals often refer to customary norms when making decisions on maritime disputes.
- **Environmental Protection:** Customary international law increasingly addresses environmental issues related to the seas, such as pollution prevention and marine biodiversity conservation. States may be bound by customary norms that require them to protect the marine environment, even if specific treaties are not in place.
- **Human Rights at Sea:** Customary international law also intersects with human rights law in maritime contexts, particularly concerning the treatment of individuals at sea, such as refugees or those rescued from distress. States may be obligated under customary law to respect human rights standards in their maritime operations.
- **Influence of Judicial Decisions:** International judicial bodies, such as the International Court of Justice (ICJ) and the International Tribunal for the Law of the Sea (ITLOS), contribute to the development of customary international law through their rulings. Their interpretations of maritime law principles can solidify certain practices as customary norms.

CHAPTER 3.3: ROLE OF CUSTOMARY INTERNATIONAL LAW IN INTERNATIONAL ENVIRONMENTAL LAW

- **Sources of Environmental Norms:** Many principles of international environmental law have emerged from customary law. For instance, the principle of "sovereignty over natural resources" and the duty to prevent transboundary harm are widely recognized as customary norms. These principles help establish a legal framework for states to manage their resources responsibly and to mitigate environmental harm.
- **Complementing Treaties:** Customary international law often complements treaty obligations. For example, while specific treaties like the Paris Agreement set binding commitments on climate action, customary law can provide broader principles that guide state behaviour, such as the obligation to protect the environment for future generations.
- **State Responsibility:** Customary international law establishes the principles of state responsibility for environmental harm. States can be held accountable for actions that cause significant damage to the environment, particularly when such harm crosses borders, reinforcing the need for cooperative approaches to environmental protection.
- **Judicial and Arbitral Decisions:** International courts and tribunals often refer to customary international law when adjudicating environmental disputes. Cases such as the Pulp Mills case (Argentina v. Uruguay) before the International Court of Justice (ICJ) illustrate how customary norms are invoked to resolve conflicts related to environmental issues.

- **Evolution and Adaptability:** Customary international law is dynamic and can evolve in response to emerging environmental challenges, such as climate change or biodiversity loss. As states adopt new practices and norms, these can gradually become recognized as customary law, thereby influencing global environmental governance. It also law facilitates cooperation among states by establishing common standards and expectations regarding environmental protection. This is particularly important in addressing global issues like climate change, where collective action is essential.
- **Influence of Non-State Actors:** The role of non-state actors, including NGOs, indigenous communities, and private sector entities, can also influence the development of customary international law by advocating for certain practices or principles that gain widespread acceptance among states.

CHAPTER 3.4: ROLE OF CUSTOMARY INTERNATIONAL LAW IN INTERNATIONAL CRIMINAL LAW

- **Foundation for Crimes:** Customary international law helps define core international crimes, such as genocide, war crimes, and crimes against humanity. These crimes can be prosecuted even in the absence of specific treaty provisions, as they are recognized as customary norms.
- **Complementing Treaties:** While many international crimes are codified in treaties (like the Rome Statute of the International Criminal Court), customary international law fills gaps and provides a basis for prosecution when treaties do not explicitly cover certain situations or when states are not parties to those treaties.
- **Universal Jurisdiction:** Customary international law supports the principle of universal jurisdiction, allowing states to prosecute individuals for serious international crimes regardless of where the crime was committed or the nationality of the perpetrators or victims. This principle is crucial for holding accountable those responsible for grave violations.
- **Development of Norms:** The practice of prosecuting international crimes contributes to the evolution of customary international law. As more states recognize and act upon these norms, they become further entrenched in the legal framework governing international criminal accountability.
- **Human Rights Protections:** Customary international law is intertwined with human rights law, reinforcing protections against violations. Many principles that govern ICL, such as fair trial rights and non-retroactivity, are rooted in customary human rights norms.
- **State Responsibility:** Customary international law also informs the responsibilities of states regarding the prevention and punishment of international crimes. States have an obligation to prosecute or extradite individuals accused of serious offenses, thereby reinforcing the enforcement mechanisms within ICL.

CHAPTER 3.5: ROLE ON CUSTOMARY INTERNATIONAL LAW IN INTERNATIONAL PUBLIC AND PRIVATE LAW

PUBLIC INTERNATIONAL LAW

According to Article 38(1) of the Statute of the International Court of Justice (ICJ), customary international law is one of the primary sources of international law, alongside treaties and general principles of law. Customary international law establishes norms regarding state responsibility for wrongful acts, including principles such as non-intervention, the prohibition of genocide, and the protection of human rights.

- **Conflict Resolution:** Customary norms can be invoked in international disputes, providing a basis for adjudication in international courts and tribunals. For instance, customary laws regarding diplomatic immunity or the laws of war can influence the decisions made by the ICJ or other tribunals. Customary international law can evolve more flexibly than treaty law, allowing it to adapt to changing international norms and practices. This is particularly relevant in areas like environmental law and human rights.

PRIVATE INTERNATIONAL LAW

Private international law, also known as conflict of laws, deals with legal disputes involving private individuals or entities across different jurisdictions. It focuses on determining which jurisdiction's laws apply to a given case and how to enforce those laws. While customary international law primarily governs relationships between states, it can influence private international law by informing national legal systems about accepted practices in cross-border transactions, such as trade or family law.

- **Recognition and Enforcement:** Courts may look to customary international law when deciding cases that involve international elements. For example, principles regarding recognition of foreign judgments or arbitration may draw upon customary practices that have gained acceptance among states.
- **Harmonization of Laws:** Customary norms can contribute to the harmonization of private international law by establishing common standards that countries adopt into their domestic legal frameworks, facilitating smoother cross-border interactions.
- **Human Rights Considerations:** In cases involving family law or human rights (e.g., child abduction), customary international norms may guide courts in determining the best interests of children or protecting individuals from violations of their rights.

CHAPTER 4

CONCLUSION

Customary international law (CIL), born from state practice and *opinio juris*, stands as a foundational pillar of the international legal system. Its enduring relevance stems from its inherent characteristics: its capacity to address gaps in treaty law, its contribution to the formation and interpretation of treaties, its universality in binding all states (with limited exceptions), and its adaptability to the ever-changing realities of the international community. The most significant contribution of CIL lies in its ability to fill the lacunae in treaty law. Treaties, by their nature, are binding only on states that have ratified them. This leaves a significant portion of the international community potentially unbound by specific legal obligations. CIL, however, often covers areas where no treaty exists or where treaty coverage is limited, providing a baseline of universal legal norms. For example, core principles of international humanitarian law (IHL), such as the prohibition of targeting civilians in armed conflict, are considered CIL and binding on all states, regardless of treaty ratification. This ensures a minimum standard of protection even for those not party to specific IHL treaties. Furthermore, even when treaties exist, they may not address every conceivable situation. CIL can step in to provide guidance and regulation in those unforeseen circumstances, ensuring a more comprehensive legal framework. The relationship between treaty law and CIL is often complementary and mutually reinforcing, working in tandem to provide a more complete and robust legal structure. CIL also plays a crucial role in the development and interpretation of treaty law. Existing CIL rules can serve as the foundation for the negotiation and drafting of new treaties, reflecting widely held beliefs and practices of the international community. Furthermore, CIL is increasingly used as an interpretative tool for treaties. This provision effectively integrates CIL into the process of treaty interpretation, ensuring that treaties are understood and applied in a manner consistent with broader customary norms. This dynamic interplay between treaty law and CIL fosters a more cohesive and coherent international legal system.

Unlike treaties, which bind only ratifying states, CIL, except for persistent objectors, is generally considered binding on all states. This universality is essential for maintaining order and stability in the international system. It provides a common set of rules and expectations for state behaviour, regardless of individual treaty obligations. Moreover, certain fundamental principles of CIL have achieved the status of *jus cogens*, or peremptory norms. These norms, such as the prohibition of genocide, torture, slavery, and aggression, are considered so fundamental to the international legal order that no derogation is permitted. They bind all states, and no treaty can validly contravene them. CIL, therefore, plays a vital role in establishing and maintaining these fundamental norms, ensuring a basic level of protection for human rights and international peace and security.