BLOGS

Understanding the Sources of International Law

Adtiya Aryan · 06 May 2026

Sheetal Rakesh Mishra, LLM student at NALSAR and CLAT PG rank 215, has written the preparatory article.

Public International Law often intimidates CLAT PG aspirants because it appears treaty-heavy and abstract. When I first approached the subject, I realised that the confusion mostly came from trying to memorise too many rules without understanding where international law actually comes from. Unlike domestic law, there is no global legislature.

Yet international law exists and functions. Everything begins with this question: ***what are the sources of international law?***

The most accepted answer lies in **Article 38 of the Statute of the International Court of Justice**. Although drafted as a guide for the ICJ, Article 38 is treated as an authoritative statement of the sources of international law.

While studying this topic, I did not try to memorise the provision word for word. Instead, I focused on understanding the logic behind each source and the situations in which it becomes relevant.

The first source is treaties. Treaties are agreements between states that create binding obligations based on consent. This idea of consent is crucial. A state is bound because it agrees to be bound. While preparing, I treated treaties as the most direct form of international law, but not necessarily the strongest.

For CLAT PG, what matters is recognising that treaties generally bind only parties to them, unless their rules have also become part of customary international law.

Next is customary international law, which I found more important than treaties for exam purposes. Custom develops through consistent state practice followed out of a sense of legal obligation, known as ***opinio juris***. Instead of trying to memorise definitions, I focused on understanding this two-part test.

In cases like the ***North Sea Continental Shelf***, the ICJ clarified that practice alone is not enough, states must believe they are legally bound. This made it easier to spot custom-based

questions in passages dealing with evolving norms or unwritten obligations.

The third source mentioned in Article 38 is general principles of law. These are principles common to domestic legal systems, such as good faith and fairness, which international law borrows to avoid gaps.

While studying this, I did not spend excessive time on theory. I simply remembered that whenever international courts rely on fairness or consistency without citing treaties or custom, they are usually drawing from general principles.

Finally, Article 38 refers to judicial decisions and scholarly writings as subsidiary means. ICJ judgments bind only the parties to a dispute, but they have strong persuasive value. My approach here was simple: for each important case, I noted just one legal principle. I avoided reading lengthy facts and focused on why cases like ***Corfu Channel* or *Nicaragua v. United States*** are repeatedly cited.

One thing that helped me greatly was understanding that there is **no strict hierarchy among the sources**. Treaties do not automatically override custom, and custom does not always prevail over general principles.

The applicable source depends on context. In exam questions, this usually appears as a conflict, when a treaty is silent, or when domestic law clashes with international obligations. Identifying the correct source often leads directly to the answer.

While revising, I regularly practised identifying the source at work in short factual situations. Whenever I read a passage, I asked myself whether it was based on consent, state practice, or shared legal principles.

This habit turned Public International Law from a memory-based subject into a logical one. Understanding the sources of international law also made other topics, state responsibility, jurisdiction, use of force much easier to approach. Once the foundation was clear, the rest of the subject stopped feeling abstract.

In the end, I realised that international law is not imposed from above. It is built through agreement, practice, and shared legal reasoning. Approaching it with this mindset made PIL far more manageable for CLAT PG, and that clarity is exactly what the exam tests.