Definitions of International Law

For your benefit, some of the most important definitions of International Law have been provided here, and have been highlighted in different shades. Green stands for the sources of international law, yellow stands for the nature of international law and Purple/Pink stands for subjects of international law.

1) Oppenheim's Old Definition: Law of Nations or International Law is a body of ==customary and treaty rules== which are ==considered legally binding== by ==States== in their intercourse with each other.

   Criticisms:
   - With regards to the subjects, only states have been regarded as subjects of international law. But as we know that today, States are not the only subjects of international law. International Organisations, MNCs and to a limited extent, individuals are also subjects of international law today.
   - As regards to sources, the definition says that only customs and treaties are considered to be sources of international law. But if we refer to Article 38 of the Statute of ICJ, we will find general principles recognised by civilised nations is also an important source. Besides there are subsidiary sources, which have been ignored in this definition.
   - The expression 'body of rules' denotes that international law is static. However, it is extremely dynamic in nature.

2) Hall: International Law consists of ==certain rules of conduct== which modern civilised ==States== ==regard as being binding== on them in their relations with one another.

   Criticisms:

- As regards to subjects, again, like Oppenheim, States have been considered to be the only subjects of International Law.
- Usage of the adjective "civilised" before "State" creates unnecessary confusion. What is meant by civilised? What are the requirements of being a civilised State? No criteria specified.
- Certain rules of conduct again gives an impression that international law is static.

3) Lord Coleridge in Franconia Case[1]: The Law of Nations is that collection of usages which civilised States have agreed to observe in their dealings with one another.

Criticisms:
- Same as those of Hall's definition.

4) Oppenheim's Revised Definition: International Law is the body of rules which are legally binding on States in their intercourse with each other. These rules are primarily those which govern the relations of States, but States are not the only subjects of International Law. International Organisations and to so some extent, individuals maybe the subjects of rights conferred and duties imposed upon International Law.

Criticisms:

---

[1] R v. Keyn (1876) 2 Ex. D. 63

- Though this definition rectified certain criticisms levelled against his older definition, his definition is still lacking. What happens if any entity not recognised today as an international law subject is provided with international personality tomorrow? Then the definition will not be adequate.

5) Starke: that body of law which is composed for its greater part of the principles and rules of conduct which States feel themselves bound to observe, and therefore, do commonly observe in their relations with each other, and which includes:

a) The rules of law relating to the functioning of international institutions or organisations, their relations with each other, and their relations with States and other individuals.

b) Certain rules of law relating to individuals and non-state entities so far as the rights and duties of such individuals and non State entities are the concern of the international community.

Criticisms:
- Same as those of Oppenheim's revised definition.

6) Schwarzenberger: International Law as the body of legal rules which apply between sovereign states and such other entities as have been granted international personality.

Criticisms

- Can you figure out?

7) Brierly: International Law may be defined as the body of rules and principles of action which are binding upon civilised States in their relations with one another.

Criticisms:

Task for you. Find out! Apply your mind!

-----------------------------------Goodbye!