



Chhatrapati Shahu Ji Maharaj
University, Kanpur

Answer Script Details
Barcode 7785941

Roll No. 23086004441
Total Mark 68/100.00

Exam BACHELOR-O_AUGUST-2024
Subject LLB204 - PUBLIC INTERNATIONAL LAW

Question wise Mark Summary

Q.No Mark Q.No Mark Q.No Mark Q.No Mark

1A 3/4 6 10/15

1B 3/4 7 11/15

1C 3/4 8 NA/15

1D 2.5/4 9A NA/5

1E 3/4 9B NA/5

1F 1.5/4 9C NA/5

1G 2/4 9D NA/5

1H 3/4

1I 2/4

1J 2/4

2 NA/15

3 10/15

4 NA/15

5A 4/5

5B NA/5

5C 4/5

5D 4/5

Chhatrapati Shahu Ji Maharaj University Kanpur, Uttar Pradesh

PART-I

Date of Exam: 08/08/24 Sun : I. Room No.: P3
 Paper Code: LLB204 Subject: PUBLIC INTERNATIONAL LAW II
 Name of Candidate: JAYA PARIKHAR

Roll No. 2 3 0 8 6 0 0 4 4 4 1

Jaya Parikh
 Signature of Candidate
 Signature of Invigilator
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PART-II

MARKS OBTAINED										
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LLB204
Paper Code

Signature of Examiner

PART-III

Course: BACHELORS OF LAWS
 Session: 2013-24 Year: Semester: II
 Subject Name: PUBLIC INTERNATIONAL LAW
 Medium: English Hindi
 Paper Code: LLB204
 Exam Date: 08082024
 Name of Candidate: JAYA PARIKHAR
 Father's Name: JAY SINGH

College Code Exam Centre Code

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Type of Exam

Regular Special
 Off-line On-line
 Private Back Paper Exam

ANSWER BOOKLET NO.

7785941

LLB204
Paper Code

PART-IV

Enrollment Number: CSJMA23000149970
 Candidate's Roll Number: 23086004441
 Paper Code: LLB204

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Jaya Parikh
Signature of Candidate

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नोट: 1. उम्मीदवारों को निर्दिष्टित समय (जैसे कि) पर उपस्थित करने की स्पष्ट सलाह दी जाती है।
 2. उत्तरों में सही-सही चयन को सुनिश्चित करने के लिए सही-सही उत्तरों को चयन करने से सावधानी बरतनी चाहिए।

INSTRUCTION TO THE CANDIDATE FOR FILLING PART-I

1. Read the instructions carefully given on the answer script and admit card.
2. Write Date of Exam, Shift, Paper Code & Name of Subject Correctly.
3. Write Name & Roll No. Correctly.
4. Write Semester & Branch Correctly.

INSTRUCTION TO THE CANDIDATE FOR FILLING PART-II

1. Use blue or black ball point pen for writing alphabets & numerals in boxes.
2. Carefully study the examples before you start marking.
3. As shown in the example below, darken the circles completely.



4. Make no Stray marks on this sheet.
- 5. DO NOT WRITE OR MARK ON THE BAR CODE.**

IN ORDER TO AVOID UFM (UNFAIR MEANS) :

1. The Roll No. and Answer Book no. found elsewhere or any other symbol found in the answer book will be treated as unfair means.
2. Any tampering of Bar Code and Booklet no shall be treated as Unfair Means.
3. Do Not bring the materials like slip of paper/tablet/digital camera/ study material/ revision notes in examination hall. Possession of the material/ digital camera/electronic/digital watch and any other electronic gadget except memory less scientific calculator shall be considered as UFM case.
4. Do not keep or paste currency note in answer script it shall be consider as UFM.

अनुचित साधन से बचने हेतु :

1. उत्तर पुस्तिका में विहित कक्ष को खोलकर अनुसंधान एवं परामर्शिका का प्रयोग नहीं करना किसे कक्ष खोलने की विधि में कक्षा में उपस्थित छात्रों को बताया जायेगा।
2. उत्तर पुस्तिका में कक्षा में उपस्थित छात्रों का कोई भी चिह्न नहीं होना कि अनुचित साधन प्रयोग करना बताया जायेगा।
3. परीक्षा कक्ष में किरा खसतू, कागज या कपड़े, जैसे किसे कुछ सामान की सूखतें, मोबाइल, डिजिटल कलम, डिजिटल लॉच, लॉकी, घुसका या कपड़े खसतू की अनुचित प्रयोग को प्रयोग नहीं है। कक्षा में उपस्थित छात्रों में से किसी भी परामर्शिका संगठन/गैर की कार्य को अनुमति नहीं है।
4. उत्तर पुस्तिकाओं में कक्षा में नहीं है कि उत्तर पुस्तिका में किसे कक्षा में अनुचित साधन प्रयोग की विधि में कक्षा में बताया जायेगा।

Instructions to the Candidate

1. Read the instructions carefully given on the Question Paper, Admit Card & Answer Script.
2. Do not write anything on back side of the cover page.
3. Write on both sides of pages of answer book.
4. Do not write anything on question paper except Roll Number.
5. Write Paper Code & Question Paper Id carefully.
6. CHECK the number of pages (1-24) or any other kind of damage in your answer script, if found than change the answer script immediately before the commencement of examination.
7. CHECK the Question Paper for any kind of discrepancy e.g. Subject Code, Seat Name, and Question of the Question Paper during first THIRTY MINUTES of the commencement of the exam, so that it can be corrected in TIME. After that no corrections shall be entertained by the university.
8. Do not use pencil for answering the question.
9. Write status correctly e.g. those appearing in carry over papers should fill in status as Carry Over. Those appearing as Ex- Students should fill in status as ex.
10. No supplementary answer book & graph paper will be provided.

INSTRUCTION TO THE CANDIDATE

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INSTRUCTION TO THE CANDIDATE FOR FILLING PART-IV

1. Use blue or black ball point pen for writing alphabets & numerals in boxes.
2. Use blue or black ball point pen for filling the circles.

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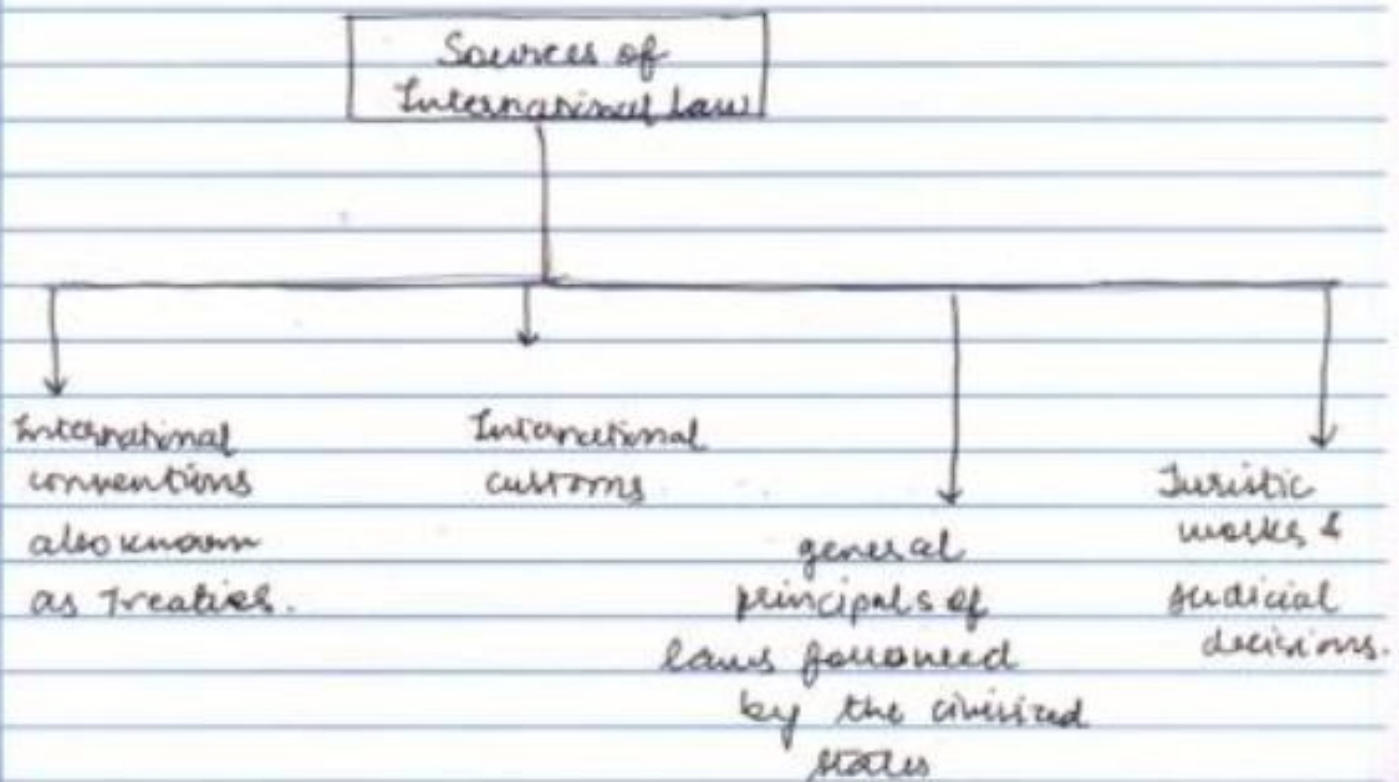
SECTION B

Ques 3:-

International law is body of laws, conventions & customary laws which states are subject to and are required to follow by the civilized states in interaction between them.

International law was term coined by Jeremy Bentham.

International law according to Jennings is law, convention and customary law which the civilized states are required to follow while interacting. Unlike Oppenheim's theory it also includes individuals & international institutions which are subjects of international law.





(i) International conventions - International conventions are 'Treaties'. States are subject to these treaties. The treaties are legally binding upon the states. Treaties are formal agreements between states on any specific subject. States have consented to follow these treaties so they have to adhere to the subject matter of treaties.

* Types of treaties

- (i) Bilateral treaties - Signed between two states
- (ii) Multilateral treaties - Signed between multiple states
- (iii) Global treaties - Signed between majority of states.

Examples: United Nations charter 1945 -
The Geneva convention 1949

(ii) International customs - International customs are practices followed by the states over the period of time, so it forms laws. States feel legally obliged towards customs. These are unwritten and evolved usages which states feel obliged to.

* elements - (i) Opinio Juris: states feel legally obliged
(ii) Followed by state: for long period of time

* types - (i) usage: International habits not taken form of law
(ii) customs: International usages taken form of law.

examples: - Freedom of high seas, Prevention of genocide



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3

iii) general principle of laws followed by civilized states.

These are fundamental principles which states follow in their legal systems. These are principles which state follow while dealing with their subjects. These are invoked while making rules for the states.

examples:- Pacta Sunt Servanda

Res ^o scata

✓ ^o sic of good faith.

general principles are followed by states in their legal system they provide uniformity & stability while dealing with their subjects and fill the gap of law.

iv) Judicial decisions & Juristic works

Judicial decisions are judicial opinions and decisions which are interpreted by the various legal institutions like - International court of justice and International criminal court.

These provide roadmaps to be followed by the states to achieve their goals

ex: (i) Advisory opinion of ICJ, (ii) Decision of Ad-hoc Tribunal -at.

Juristic works are critical works which are derived out of interpretation of international laws.

ex: Books and articles by Jurists.

Hence these are the primary sources of international law which states follow in dealing with other states, individuals and other non-state actors.



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Ques 5 :-

(i) Monistic theory of relationship

Monistic theory of relationship deals with interaction between Municipal laws and international laws.

Monistic theory states that the international laws are to be enforced in any state without any formal enforcement by the state legislature.

The monistic theory states that the Monism i.e., Municipal laws & public international laws are one single entity working towards a goal to be achieved.

In monistic relationship the international laws are directly enforced by the courts of any state without any legal enforcement by legislature. The people of that state can invoke the international law like the municipal laws.

Characteristics

(i) Single legal system - International & municipal laws are treated as single legal system without need for any formal enforcement

(ii) Automatically enforced - The international laws are enforced automatically without passing any legislation in the state



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iii) Precedent over municipal laws - In the case of conflict between municipal laws and international laws, the international laws will prevail

* States following this relationship are - France & Netherlands

iii) Positivist School of Law

Positivist school of law is propounded by thinkers like John Austin, Wagner, Hall & Fisher. This school of law states that international relations are not followed by the state because they are not by right but because they are 'Consent' by the states.

This school deals with the consent given by the states to adhere to the negotiated laws formed for reaching specific goals.

Unlike naturalists, they focus on the laws which are being abided by the state because they are consented by the states in form of treaties and international customs.

This school of thought states that not all states have common moral principles due to 'cultural relativism' but they still adhere to binding treaties because they have consented for it.

Positivists argue that a law may not be morally right but it is an international law because states have given their



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adherence & consent to follow it.

examples: NPT 1969, which deals with nuclear weapons, not morally right but states adhere to it; treaties signed for extraditions.

iv) Constructive theory of recognition

Recognition of a state is formal acknowledgement - ment of a new state by existing states

Through formal recognition, they bind the state to obligations of international law & duties & responsibilities coming out of it.

Constructive theory is propounded by Oppenheim, Holland & Hegel in recognition of states.

Constructive theory states that formal acknowledgement by existing state is important for any entity to attain statehood & sovereignty.

It states that even if any state possess the attributes of statehood As to Article 1 of Montevideo convention 1933, A

- i) State
- ii) Territory
- iii) Permanent population
- iv) Sovereignty

It won't get formal recognition of being sovereign state & international state.

but only by formal recognition by existing states that any state has attained sovereignty



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7

The constructive theory revolves around states being formally recognised by existing states to be an international sovereign state.

- criticism :- (i) Too much importance given to recognition by existing states until then no rules, obligations and rights will be followed by the state
(ii) creates confusion: if recognised by few states & not recognised by others.

Section C

Ques 6:-

Pacific settlement of international disputes was coined by Emile Armand. Pacific settlement means solving the war or conflict between the states peacefully without engaging in any armed conflict or war.

Pacific settlement deals with solving the conflicts amicably without escalating them through use of weapons.

In Ancient times pacific settlement was preached by religions like Buddhism & Jainism.

After World War II it became subject of importance and several conventions & treaties were passed for disarmament and solving conflict on table instead of ground.

Several international conventions on this subjects are:

- (i) Hague Convention 1899 by Nicholas czar
- (ii) The UN Charter 1945 - to solve conflict peacefully.



Methods of Pacific Settlement are:-

(i) Negotiation :- In this method parties sit together and solve the issue on their own.

* Advantages are :- Voluntary coming of parties, confidentiality is maintained and resolution is sought.

(ii) Mediation :- In this method a 'neutral 3rd party' comes in to solve the issue and achieve resolution. The parties are helped to reach the consensus on any disputing issue.

* Advantages :- Mediator works as facilitator, and the solution is cost effective but it is not binding on the parties.

(iii) Conciliation :- In this method a 3rd party enters the disputes but talks to the concerned parties separately to reduce the tension between them and reach a solution.

Advantages :- (i) Meet parties separately = reduce hostility
(ii) Understand points of both contending parties

Disadvantages :- The conciliation is 'not binding' & depends on willingness of conflicting parties

(iv) Arbitration :- The parties in conflict take the issue to an arbitrator which ~~then~~ gives legally binding solutions and enforceable.

* Advantages :- legally enforceable & binding decision and fast reaching to solutions



* disadvantage: - costly and limited grounds available.

v) Judicial intervention - The conflicting parties take the dispute to the international courts like; ICJ (international court of justice), tribunals.

* advantages - legally enforceable and efficient & fast.

* disadvantages - takes time and willingness of the parties.

vi) Diplomatic intervention - Diplomatic & political intervention through various channels like sanctions & boycotts to influence decisions of states.

* advantages - Informal and politically influenced.

* disadvantages - Political bias & non-enforceable.

vii) Good offices: - In this a 'neutral name' is provided to the conflicting parties to reach any solution.

* advantages: - facilitate dialogue between parties.

* disadvantages: - do not provide mediation.

viii) Regional arrangements & agencies: - The regional arrangements and agencies provide deeper knowledge and help to solve the dispute due to their proximity to dispute.

ix) Fact finding / Inquiry: - Through this the states clear their facts and try to resolve disputes which were based on misrepresentation of facts.

Hence, these methods help the state to reach peace and resolve conflict without taking up war.



Ques 7:-

Asylum comes from a Latin word 'Asylos' which means inviolable place. It also traces its origin from Latin word 'Asylon' which means providing refuge to any person.

The asylum has its legal mandate in Universal Declaration of Human Rights (UDHR) 1948, Article 14(1), which states that any person can seek asylum in case of fear of prosecution.

'Asylum' ✓ giving shelter and security to any individual who has fled their country in fear of prosecution

Geneva Convention 1951, Article 1 provides that asylum is fear of being persecuted due to any member of any race, religion, holding any political opinion, membership to any social group and nationality.

The person who seeks asylum is called asylee and it is given protection against prosecution.

+ Essentials of Asylum:-

- (i) fear of being persecuted
- (ii) outside one's own country.
- (iii) Incapacity to gain protection from one's own country.

ex: 'A' lives in Syria and runs to Turkey for protection



* Reasons of Asylum.

- i) Humanitarian grounds:- The subjects of any states are being persecuted for any reason.
- ii) Membership to any race:- If due to 'ethnic cleansing' the people of any state are being killed. ex: Rwanda
- iii) Belonging to any religion:- Fear of persecution due to following any faith. ex: Syrians seeking asylum in Europe.
- iv) Nationality:- when due to any nationality people are being targeted. ex: German Nazi killing people in Poland

* Forms of Asylum

- i) Territorial Asylum:- when Asylum is given on its own territory by any state it is called territorial asylum
ex: 'A' from Lybia goes to 'Turkey' for asylum in apprehension of life danger.
Turkey grants asylum in its own territory to 'A'.

In this case the state gives asylum to any individual on its own territory or soil.

It is done because state has sovereignty over its territory and thus can perform such acts of given asylum to any individual.

- ii) Extraterritorial Asylum:- This type of asyle is given out of territory of state and on jurisdiction of its territory.



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ex: 'A' in fear of prosecution seeks to the embassy of USA situated in Bangladesh will get asylum of USA.

This is because embassies have extra-territorial jurisdiction and are out of the sovereignty of the state in which they are located.

Any local executive or administrative power cannot go to embassy without any order ~~by~~ obtained asylum in warship. Embassy, consular premises etc.

* Type extra-territorial asylum

(a) In consular premises, embassy or legation -

This is not a right present with states but can be done in emergency situations

b) In international institutions - like United Nations or WTO, this is not recognised as right but done on eminent danger.

c) Warships :- Asylum can be given in warships because they are not under the control of the state. There are no rules regarding it can be done on humanitarian grounds

ex: Argentina gave refuge to citizens of Paraguay

d) Merchant ships - They cannot give asylum as they are bound by territorial laws in which the ship is.



Asylum can be granted on various basis like -

- i) Military prosecution = Rohingya's given refuge in India
- ii) Economic crisis = Palestine given asylum by Islamic countries
- iii) Humanitarian grounds = fear of ethnic cleansing or fear of any prosecution due to any reason.
- iv) Political grounds ✓ if anyone has done any political misdeed to gain freedom.
- v) Economic offenders ✓ :- Naregav modi in UK.

Hence asylum is a way to give protection & security to people who are in fear of being prosecuted and have right to seek refuge like Dalai Lama in India in 1955 and Salman Rushdie in UK.

Section A

Ques 1 (a)

✓ Territorial jurisdiction is sovereign power of any state to make rules and laws for people & institute in that physical area.

It is physical area in which any state can make or rule and exercise its sovereignty.

Territory can be small or large but has to be fixed with respect to boundaries defined.

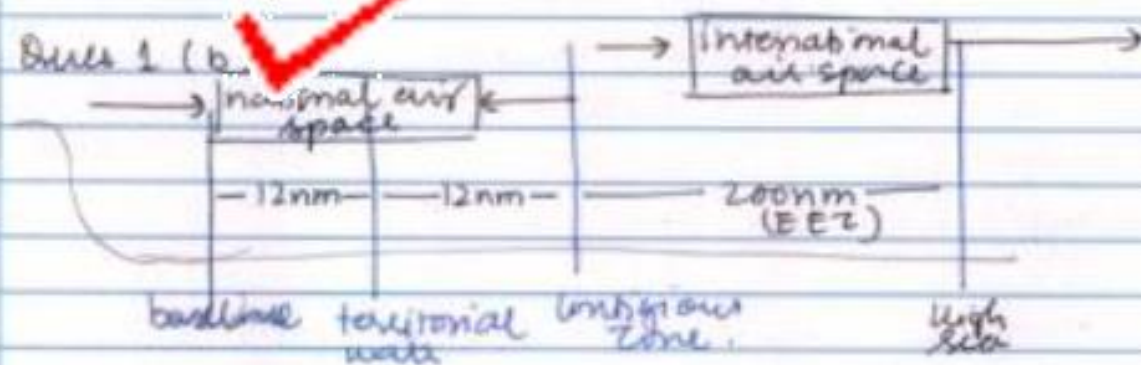
Territorial jurisdiction is not limited to the land but also the other physical features present in that states like, rivers, mountains, hills etc.



* Various forms of territorial jurisdiction are :-

- On seas & inland waters - state has sovereign jurisdiction on its territorial sea and any water body present in that state.
- On sub-soil - state has jurisdiction on the sub-soil present in its territory which it can use to exploit minerals for its benefits.
- Airspace - state has jurisdiction on the airspace present within its territorial boundary, it can control & make rules in this regard.

Hence a territory has to be present in any state for exercising its sovereign powers, and any state cannot exist in land or sea, it must have a definite territory.



National & international air space are defined at boundary in which any sovereign power exercises its control.

* National airspace :- it is present between any state

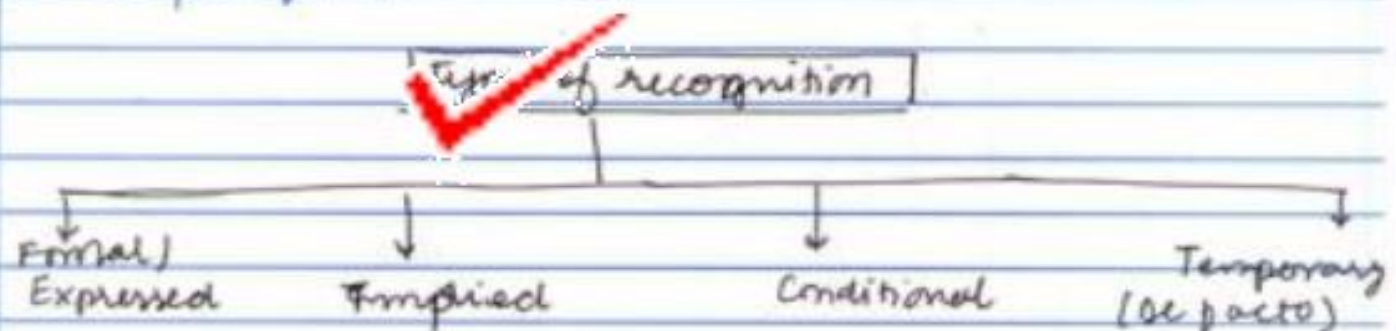


and lasts upto contiguous zone. Any state can make rules and regulations for aviation in their state. National airspace lasts upto 24 nautical miles.

* International airspace - Beyond 200nm of any state, the international airspace exists, it is ruled / governed by 'Chicago air convention' signed & ratified by various states.

The international airspace is an open territory but states have to adhere to certain principles for smooth functioning of it.

Ques 1 (c) Recognition is formal acknowledgment of sovereignty power of any new state by existing states. It binds the new state in the obligations, rules and regulations to be followed on international platform.



Recognition of any state by existing states binds the state to follow rules of international law, it can be (i) constitutive
(ii) Evidentiary / categorical.

* Effects of recognition:-



- (i) Right to enter into treaties - Recognised state can enter into national, multilateral, bilateral treaties.
- (ii) Right to diplomatic immunity → formal recognition gives full immunity to diplomats
- (iii) Right to become member of UN → It gives right to become member of UN and its organs.
- (iv) Right to sue & to be sued → Recognised state can take help of international courts to sue against any law breach.
- (v) Right to state succession → Recognised state has right to state succession.
- (vi) International rights & rights of statehood.
Hence these are rights of being recognised internationally.

Ques 1 (d) Dualistic theory of relationship is relationship of laws between Municipal law & public international law.

In dualism it is stated that both municipal laws and international laws are of different legal system but they work towards achieving common goals.

In dualism the laws of international law are not directly enforceable, rather require a separate legislation to be incorporated in the state laws.

The dualistic schools treat both municipal laws and international laws separate legal entities



Characteristics:-

- (i) No automatic enforcement - International laws are not directly enforceable. It requires legislature to pass laws to enforce in state.
- (ii) Separate legal systems - Both deal with separate legal systems one with state laws & other with international laws.
- (iii) States that follow dualism are:- UK and Australia.

Ques 1 (e) Grotian school of international law deals with 'Naturalistic school of law'. They give importance to 'Human Moral values' which are inherent in human nature and can be discovered by reason.

The school says that 'moral values' are to be applied in the international arena while making laws.

Moral values are present in every law even if states do not consent to it.

ex: Humanitarian laws, principle of good faith, etc.

N Grotian school gives importance to the moral value while making laws as every state has some moral laws which they cannot give up. They are of inherent importance.

Grotian school also gives various principles while making international laws.

- (i) Jus gentium theory
- (ii) Theory of sovereignty & naturalistic principles



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iii) Just war

iv) Rules for no: to obscene vehicle in war or in peace

Ques 1 (f) Juristic works are major sources of international laws. They draw their recognition from Art 58 of ICJ statute. Juristic works help to interpret the international laws to which humans & states are subject to.

Juristic works help to fill the gaps where treaties and conventions don't have any rules.

Sources of Juristic works are:-

- (i) Advisory opinions of ICJ
- (ii) Ad hoc Tribunal judgements
- (iii) Critical Analysis of books by jurists.

Juristic works are important source of international law



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Ques 1 (g) Pacta Sunt servanda means 'agreements are to be observed' or 'agreements to be followed'

Pacta Sunt servanda underscores the obligation of the ^{states} to fulfil their duties and obligations which they have consented and adhered to through treaties or customary laws.

* Characteristics

- (i) Good faith → the agreements are to be fulfilled in good faith with letter & spirit
- (ii) Legal obligations → it gives legal obligation to the state to fulfil their duties they have consented to.
- (iii) Stability and Enforceability → marks stability enforceability and uniformity which states will follow which disposing agreement rules

* Limitations

- (i) force majeure → when situations are out of control of the parties
- (ii) change in circumstances → The circumstances have leading to ~~some~~ inability to fulfil obligation.
- (iii) Any misrepresentation, force & coercion in fact

Hence pacta sunt servanda is one of the important theories of Public international law; to be followed.



Ques 1 (h) Declaratory theory of recognition is way of recognising, i.e. formal acknowledgement of any state who has attained sovereignty by the existing states.

In declaratory theory the works / rules are delegated to international institutions to see if they being followed in letter & spirit or not.

Examples: UN given the duty to maintain peace & avoid conflict between the states

The UN has been delegated the work of the state which were to be done by them.

In declaratory theory of recognition international laws are aligned with the constitution of the state and if the constitution meets the obligations of the international law, if not it is incorporated automatically.

Declaratory

Declaratory theory comes from Monistic school 'formal acknowledgement is not mandatory by the existing states' but attributes of the states, i.e. Permanent population, Territory, Sovereignty, government and state are present the state is provided recognition on this basis.

Declaratory theory states are recognised by :-

(i) De facto recognition.



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(ii) De-jure recognition.

De facto	De jure
(i) Based on facts	• Based on the rights
(ii) Provisional temporary	• Permanent recognition
(iii) No diplomatic immunity	• Full Diplomatic Immunity
- by	
(iv) State cannot come from revolt/revolution	• State formed by constitutional means.
(v) can be revoked at any time	• it is permanent cannot be revoked.
(vi) Temporary arrangement	Permanent recognition.

Ques 1(ii) Asylum comes from Latin word 'Asylum' which means an inviolable place.

'Asylum is providing refuge and protection to any individual who have flee their country in apprehension & danger of being persecuted'.

Ex: Dalai lama in India in 1955

Asylum rights comes from UDHR, 1948 Article, 14(1) which gives rights to the individuals to seek refuge in any country in case of any danger to life.

A person who is given asylum is called 'Asylee'



Asylum essentials:-

- (i) Fear of being persecuted
- (ii) Outside one's own nation
- (iii) Incapacity to get protection from one's own state.

Asyl. ✓ can be given on the basis of any fear of being persecuted due to:-

- (i) Membership in any religion
- (ii) Any political opinion
- (iii) Race
- (iv) Religion
- (v) Nationality.

Two types of asylum can be given:-

(i) Territorial:- In state's own soil or jurisdiction.
ex: 'A' given protection in USA after fled from Mexico.

(ii) Extra-Territorial - In ~~state's~~ Not in state's own territory but outside it, in its jurisdiction.

ex: 'A' given protection in Mexico in USA embassy by USA.

Hence asylum is given refuge to people who fear death & serious hurt.



Ques 1 (j) Extradition comes from '2' latin word 'EX & tradate' - which means to surrender any fugitive, deliver any fugitive or criminal.

'Extradition means' returning any individual to the request[✓] state where he has committed any crime or is convicted to any crime by the territorial state.

ex: Vijay Malaya - economic fugitive.

Extradition helps the requesting state to punish any person who has committed committed any crime and escaped / fled to other country.

Extradition [✓] use

i) To punish person who has committed / convicted for crime.

ii) To create deterrence

iii) To maintain international cooperation.

iv) To maintain security in the territorial state.

v) For reciprocity between requesting state and territorial state

vi) To curb crime in the international level.



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ii) Because evidence are present in requesting state

Principles of Principle of extradition

i) Principle of double criminality → The extradition can be done if crime is recognised in both states

ii) Principle of double jeopardy → No person to be punished twice for same facts.

iii) Principle of speciality → Extradited person should only be punished for the crime / charges he is extradited for.

iv) Time barred crime → No one can be extradited for the crime which was committed long ago and has been closed.

Who can be extradited:-

i) Territorial state own nationals 'cannot' be extradited

ii) Political criminals are 'not' extradited

iii) Religious grounds & military grounds cannot be extradited.

iv) Person who has been punished already cannot be extradited.

cases:- Vijay Malaya, Nethar Modi and nee sava case.