

Q. No. 4:

States are considered as original and principle subjects of International Law.

(a) Provide and discuss two examples illustrating the fact that states possess the most full blown form of legal personality under international law.

(b) Discuss advantages and disadvantages of the fact states are still the primary subjects of international law.

Answer:

States possess the most comprehensive legal personality under international law, as they have rights and duties, such as sovereignty, territorial integrity, and the capacity to enter into treaties.

Examples of states' full legal personality and advantages, disadvantages of their primacy in international law are discussed in ~~upcoming~~ paragraphs.

## (a) Examples Illustrating Full Legal Personality of States:

### i- Legal Personality and Criteria for Statehood:

"The ~~Montevideo~~ Montevideo Convention (1933)" establishes that states must meet criteria like a permanent population, defined territory, government and capacity to engaged into international relations. South Sudan attained in 2011 after meeting the criterion mentioned in the Montevideo Convention, 1933.

### ii- Treaty-Making Power:

States fulfilling the criterion mentioned in Montevideo Convention, 1933 are recognized by other states and become the member of international community. States than



can be part of bilateral or multilateral treaties. As Pakistan has ratified The Paris Agreement, 2016, which shows treaty making power of Pakistan. states have exclusive authority under Vienna Convention on Law of Treaties, 1969 to negotiate and sign treaties.

iii- Participation in International Court of Justice:

states having status of legal personality can bring their issues and claims before the International Court of Justice.

In the Corfu Channel Case, 1949, the UK sued Albania over mine damage, which shows ICJ's jurisdiction over sovereign states.

iv- Membership in International Organizations:

Many of matters at international level are being run by an under international organizations like WTO, WHO, FAO and etc. South Sudan joined the United Nations in 2011.

V- Right of Self-Defense:

In this anarchic world states can defend themselves against any aggression. Under Article 51 of UN Charter gives states the right to defend themselves. During Kuwait-Iraq War, 1990, Kuwait invoked this right during Iraq's invasion.

Vi- Equality in International Law:

Across the globe all states vary with respect to their size, population and power (either economic or military). But under Article 2(1) of UN Charter all states are equal



irrespective of their size, population, power and etc. Both the USA and Tuvalu have equal voting right in the UN General Assembly.

(b) Advantages and Disadvantages of States as Primary Subjects:

i- Stability in International Relations:

No state can live in an isolation, so states are to develop relations with other. The Vienna Convention on Diplomatic Relations, 1961 stabilizes state interactions, under which states are provided a structured framework for diplomatic relations.

ii- Sovereignty and Non-Interference:

External interference is now prohibited under Article 2(7) of UN Charter, so no state can

interfere in matters of other states. Criticism of Iraq's Invasion of Kuwait for violating international norms is an example of it.

### iii- Accountability through Int. Law:

States can be held responsible for violating international norms. In this regard, *Nicaragua v. United States (1986)* case was a significant legal victory for Nicaragua, a ICJ held in decided the case in favor of Nicaragua against the United States.

### iv- Promotion of Global Cooperation:

Under international law an environment of cooperation among states has evolved over the time. Pakistan's active role in the Kyoto Protocol and SDGs are examples of it.



## Disadvantages

### i- Marginalization of Non-State Actors:

Under international law states are sovereign in all of their internal matters, which has reduced role of NGOs. Role of NGOs under state-centric system is sidelined as they have limited role in climate change negotiations.

### ii- Inequality Among States:

No doubt under Article 2(1) of UN Charter all states are equal and have equal voting right in UN General Assembly. But on the other hand P5 members have disproportionate influence in the UN Security Council.

### iii- Limited Enforcement Mechanism:

International law heavily base

on consent of states, which weakens the enforcement mechanism to the great extent. The USA's withdrawal from the Paris Agreement in 2017 is an example of it.

iv- Challenges with Failed States:

In international community any objective like SDGs and Climate Change are quite better than the last one. You have incorporated what I asked you to do in the previous assessment. Somalia's piracy issue is an example of it.

Conclusion:

While states remain central to international law, their primacy has some limitations. Addressing these requires balancing state sovereignty with enhanced roles for non-state actors and robust mechanisms for global challenges.

Good  
You have got potential  
And you did well in this answer