

Q. No. 4:

States are considered as original and principal 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 that states are still the primary subjects of international law.

Answer:

(a)

1- Legal Personality in International Law:

Legal personality refers to the capacity of an entity to have rights and duties under international law. Entities having legal personality can enter into treaties, claim rights, and be

subject of international law obligations. States possess the most full-blown legal personality, satisfying criteria established under the Montevideo Convention of 1933: a permanent population, defined territory, government, and capacity to engage in international relations.

2 - Legal Personality of Various Entities:

States:

States possess full legal personality, which includes sovereignty, treaty-making power, and participation in international organizations.

Individuals:

Rights of individuals have been recognized under Universal Declaration of Human Rights and similarly duties have also recognized as prosecution of war crimes.

Companies:

Companies:

Companies Multinational Companies (MNCs) have also rights. But rights of MNCs are limited to trade and are of commercial nature as international trade law. Most of these are regulated under the umbrella of World Trade Organization (WTO).

Non-State Actors:

Limited legal personality is held by non-state actors under the international law, such as Non-Governmental Organizations engaging in humanitarian work.

3- Examples of States Full Legal Personality:

Participation in International Dispute Resolution:

The capacity to resolve disputes under international law exemplifies states' legal personality. For instance, there was a conflict

between Pakistan and India. So, both states signed Indus Waters Treaty as both have ability to engage in legal agreements and resolve conflicts using established international mechanisms.

Membership in International Organizations:

Membership of states in bodies like United Nations, highlights the legal personality of the states. The United States, a founding member, and other members as well, exercise rights to vote, negotiate treaties, and enforce international norms, reflecting its comprehensive legal capacity.

(b)

1- International Law:

International comprises rules governing relations between states and other legal entities. states'

unique position as sovereign entities makes them pivotal to maintaining order in the international system.

2- Major Subjects of International Law:

States:

States are primary subjects of international law with full legal personality.

Individuals:

In case of individuals, their recognition is increasing in areas like human rights and criminal accountability. Arrest warrants of Prime Minister of Israel Benjamin Netanyahu by International Criminal Court (ICC), based on war crimes and crimes against humanity. ICC has also issued arrest warrants of Russian President Vladimir Putin on war crimes.

3- Advantages of States as Primary Subjects :

Sovereignty and Stability:

States enjoy sovereign equality, as established by the Montevideo Convention, enabling them to govern without external interference. For example, sovereignty allows Pakistan or other nations to maintain their territorial integrity and make independent decisions in foreign policy.

Framework for Accountability:

State-centric legal frameworks ensure accountability for treaty violations and aggression. The UN Charter provides mechanisms for collective responses to breaches of peace, safeguarding global order.

Centralized Governance:

States serve as foundation for

diplomacy and international agreements ensuring consistency. For example, multilateral treaties like the Paris Climate Accord rely on state leadership for global implementation.

Promotion of International Peace:

State-driven international systems such as those established by the UN, reduce anarchy by fostering cooperation and peaceful dispute resolutions.

4- Disadvantages of States as Primary Subjects:

Exclusion of Non-State Actors:

State-centric systems often overlook the roles of international organizations, NGOs, and individuals. For instance NGOs like Doctors Without Borders lack the enforcement powers.

Inflexibility in Addressing Global Issues:

Issues like climate change, arms

pace and pandemics require collaboration with non-state entities, but state dominated frameworks often delay such cooperation.

Power Imbalances:

Despite theoretical equality, powerful states dominate international institutions.

For example veto power in the UN Security Council create disparities that marginalize smaller nations.

Overshadowing Individual Rights:

States' primacy sometimes undermine individual protections. Delayed action in the Syrian humanitarian crisis exemplifies how prioritizing state interests can neglect human rights.

Add proper references

Add articles

Add references from books

Good luck!

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