

"I. Law"

① Discuss the evolution of sovereignty in the 21st century.

Introduction:

Sovereignty is the fundamental concept in a state's formation. It allows a state to have control over its territory, population and borders, to formulate, enforce and implement laws for maintainance of peace and order in society.

The core principles of sovereignty are to secure territorial integrity, equality among states, provide political independence, and domestic supremacy to work independently and choose governments of its own choice.

There are some limitations to this basic principle of sovereignty.

It includes violation of human rights. International Humanitarian

Law can never be avoided. prohibition to use of force and following UN charter to avoid misunderstandings in rule. Infact,

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sovereignty is the cornerstone of
state to govern its rule and
people with freedom from
external interference.

Definition of Sovereignty:

"Sovereignty is the formation
of governments, formulate laws
and enforce policies over its
people, territory and border
without external interference."

(Jean Bodin)

Therefore, it is said that it is
basic principle of any state
to run its policies without
intervention of external actors.

Core Principles of Sovereignty:

i) Territorial Integrity:

The control of state over
its borders and population
called territorial limits, and
to provide them a safe
and secure boundary is
called territorial integrity. This

is essential for the existence of a state to keep its identity clear.

ii) Political Independence:

Political independence means a state has right to choose its governments, formulate policies and implement laws to maintain order.

For instance, Pakistanis can independently choose the democratic party to rule over the state. There would be no external or third party interference.

iii) Equality among States:

Smaller states like Singapore or UAE can negotiate with powerful states like USA, UK on equal grounds, this explicitly shows the equality among states.

iv) Domestic Supremacy:

Domestic supremacy means

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rulers can take decision for both internal and external affairs without any interference. **For Example,** Afghanistan (2001 to present) is been intervened by USA and USSR, that's why they compromised their domestic legal rights by their intervention.

Prohibitions or Limitations of Sovereignty:

i) International Humanitarian Law:

IHL during conflicts can never be violated. Combatants and civilians must be distinguished. The casualties of civilians must be lessen.

ii) Prohibition of force:

Article 2(4) of UN charter avoids the use of force, except self-defence that must be proportionate. It does not

allow any state to use extra force
to subordinate the competitor.

For instance Russian invasion on
Ukraine is illegal as it is
not proportional and expanding
every day.

Informed to UNSC:

Before using force against self-
defence, it must be informed to
UNSC so that it could take
collective measures to stop the
aggression, otherwise violation can
lead to ICJ cases and
sanctions.

For instance, Russia faces
sanction both economic and
political due to illegal attacks on
Ukraine violating right of
sovereignty and integrity.

Conclusion:

In the 21st century,
the sovereignty has been
promoting since the treaty of

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Westphalia. Even today those rules are being followed but with minor amendments according to time and need. In addition, these rules, and core principle of sovereignty have ~~not~~ been changed. As these are grassroots for the existence of state.

Q.2 Assess the legality of humanitarian intervention under the UN Charter with special reference to Libya intervention

Introduction:

The use of force is central issue for the states under international law. The UN charter Article (51) prohibits use of force against aggression of another state without legal consequences. It also ensures the peace and order among the states. ~~UNSC~~ allows proportionate attack to

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achieve legitimate objectives. For the political interest and power can limit the implementation of UNSC measures. The UN Charter prioritise the sovereignty of state but does not allow a rule to violate international norms or mandate to disturb the peace and achieve illegal goals. It allows require to inform the UN Security Council about self-defense, so that it could take collective security measures. But, asymmetric warfare, hybrid conflicts and non-state actors disrupt the enforcement of UN Security Council measures to gain or restore peace.

1. Prohibitions Under UN Charter:

i) UN Charter Article (51):

UN Charter Article (51) allows an informed self-defence to UN Security Council but with proportionate attack. If it exceeds it violates the international law.

ii) Relation to State Sovereignty:

UN under International Law prioritize to sovereignty and political independence of a state but does not allow to take indecent measures against aggression.

2. UN Security Council Authorization

i) Requirement to inform:

UNSC emphasizes to inform about following measures against aggression, to keep an oversight.

ii) Collective Security Measures:

Security Council can intervene itself by taking collective security measures to restore peace.

iii) Significance to Peace:

The prohibition of force reflects the avoidance to intervention and restore peace.

Limitations of UNSC:

Non-state actors, asymmetric warfare, and hybrid conflicts limits the Security Council action.

In addition to that, Political interest and veto power also block the collective security measures to be obeyed.

Libya Intervention:

It was "partially legal". Because, UN Security Council intervened with mandate (R2P) which was initially legal. But its exceeding period criticized the mandate and Security Council.

Relation to Sovereignty and Collective Security:

The Security Council authorize the sovereignty and integrity of state, but can also take collective measures to maintain peace in the region.

US-led Iraq invasion was

legal under International law. As it was commenced against Al-Qaeda and non-state actors.

* Security Council condemns the excessive and disproportionate attacks. As its violation will result in ICC or ICJ rulings and prosecution.

Customary International Law and Additional Constraints:

i) Principle of Proportionality:

The attack must be proportional, with minimum civilian casualties.

ii) Distinguish between Civilians and Combatants:

Combatants must be differentiated from civilians. Atrocities must be limited keeping children, humanitarian law under consideration.

iii. International Accountability:

The transboundary accountability rights have been given to UN Security Council to strengthen justice system through ICC or ICJ.

iv. For Smaller States:

Smaller states take shelter or support against force or aggression under international law.

Contemporary Example:

Russia - Ukraine:

Russia due to excessive and unmeasurable force use is under sanctions through oil, gas embargo. In addition, it does not allowed by UNSC to pursue relations with other states.

Conclusion:

The UN Security Council limits the use of force to pursue legal or illegal goals.

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Therefore, at some points it exhibits the use of force for self-defence and collective actions. On contrary, Veto power and political interests make it inactive due to the political pressure. Libya intervention was partially legal. As in the initiative process IZP was followed but due to its intensity in the following period of time, was criticized.

Give your asked parts more weightage,
You have got potential
Good luck!

Don't
You can't