

Date

(शुक्रवार)

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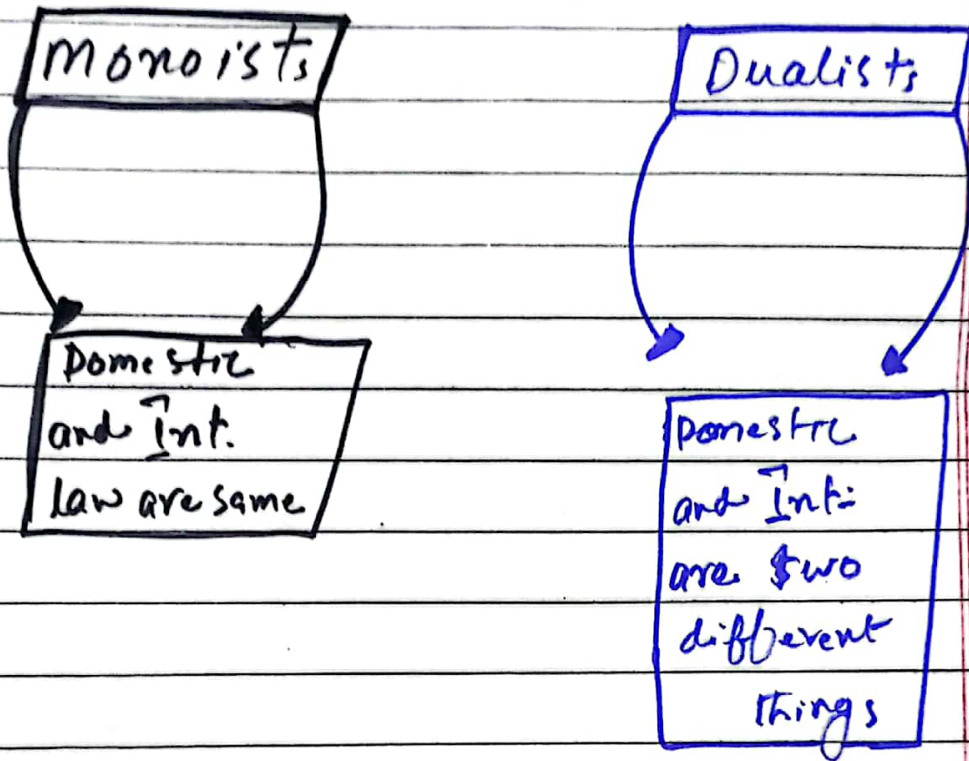
(CIS special. mock
Exam 1- law)

(Q-NO-5)

(A) Introduction: Is international
is synonymic

Malcolm Shaw writes in his book "Introduction to International law" that there are two schools of thoughts one says that domestic and international are same things. on the other hand, second school of thought infer that domestic and international law are different things. In fact, these two approaches give two theories that are dualism and monism. Dualism says domestic and international are two different things due to their sources of origin and nature of dynamism. Positivist support this school of thought. on the

other hand, monist says that these two laws are similar. It is supported by naturalists.



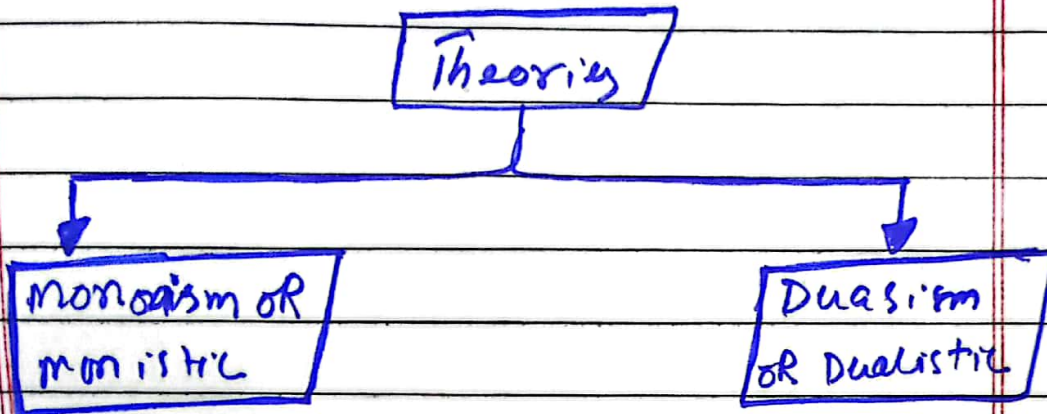
② What is synonymic terminology?

It refers to some and different things. It tells that things may be similar or different.

③ Debate of two different theories tells that whether domestic and international law are

Similar or different

That theories are
discussed below.



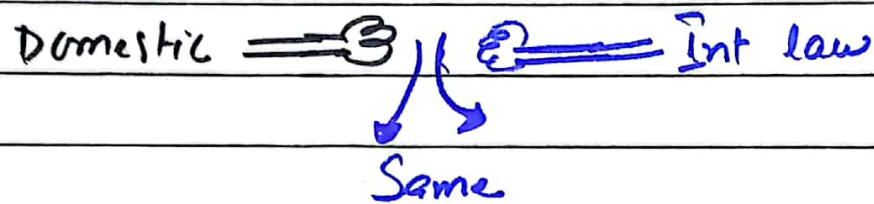
① Monism or monistic theory

According to professor Oppenheim monistic theory means that the domestic and international laws are same thing. They are sides of one coin.

① Monistic arguments: they are similar things

According to monists, the international and domestic

laws are some things. They say that they interconnected with one another. Similarly international law principle can be part of domestic law without transforming. Likewise, international law can interfere in the domestic affairs of a state directly.

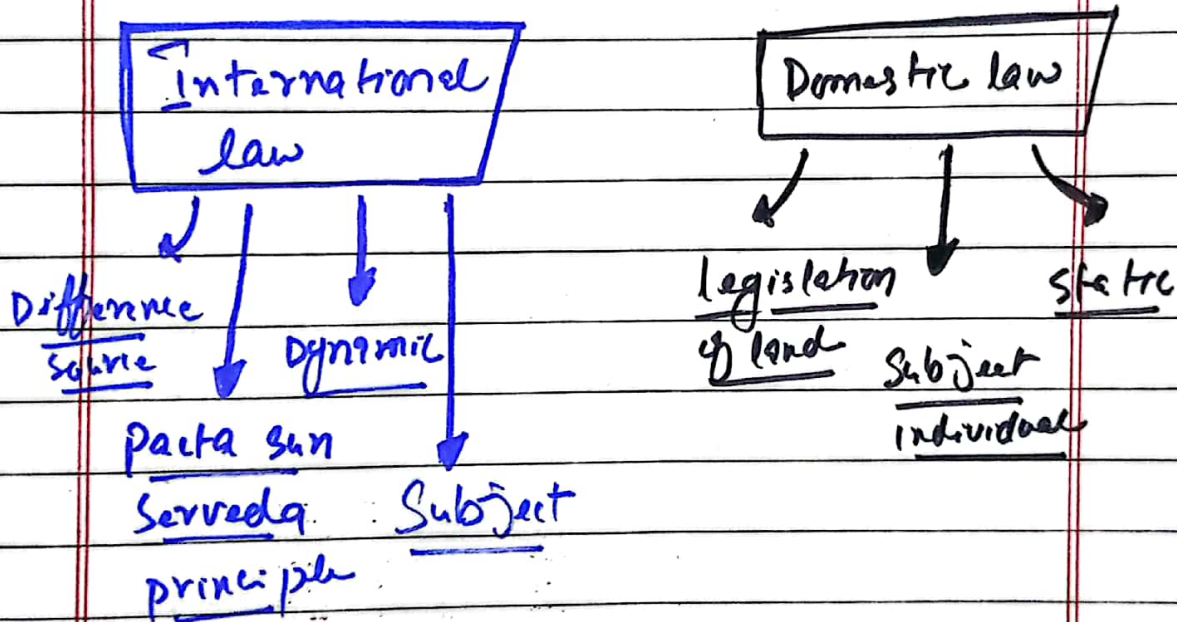


② Dualistic or dualism theory

According to D.J. Stark dualistic theory means international law and domestic law are different things. They are not same.

③ Arguments of dualists how dualism theory is different from monists?

In dualistic theory mentioned that the source of monistic and dualistic is different. Their origin is different. Similarly, international law based on pacta sunt servanda. International law is dynamic while domestic law is static.



According to Dualistic

International law needs some steps to incorporate in domestic law (Transformation, specific adoption theory)

Date _____

Day MTWTFS

“USA and UK domestic law do not need to incorporate international law into domestic law. In these two states, law international treaties automatically can part their legislation”

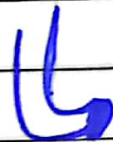
① critical analysis

It can be said that international law and domestic law are two different things. Indeed, domestic law cannot deal with all those things which international law deals. Domestic law is based on the wishes of people. It cannot go against national interests. On the other hand, international law can go against the people's will. It cannot stop global activities.

(E) Conclusion:

Thus, it is proved that there are two different schools of thoughts. One says that international and domestic law are same things. On the other hand, second says that international and domestic laws two different things. It can be inferred that domestic and international laws are two different approaches.

Corbett says that



These theories give two different prospects to see the world.

(Q-No-6)

(A) Introduction: How insurgent movements can be part of international law?

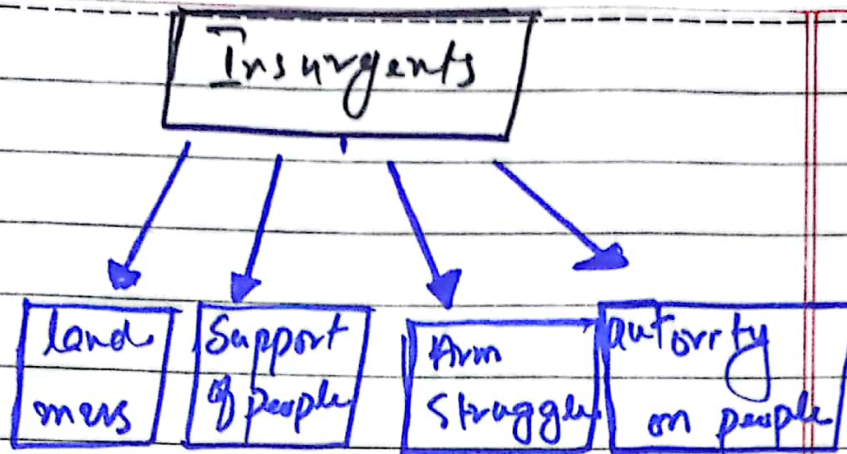
According to DD stark, he writes in his book "Introduction to International law" insurgents can be part of international law by abiding the norms of international society. It tells that insurgents movements can be part of international law by adopting certain laws. They should have certain part of land. They should have support of local people. Similarly, they should have control on that man. Likewise, Montevideo (1933) convention tells that insurgents can be part of international society by following certain rights and duties.

According to United Nation Security Council

↳ Those who are suppressed and fighting for their legitimate rights they can be part of Int-law

Date _____

Day **M T W T F S**



This chart shows
how insurgents
can get recognition

OR be part of int.
society

International
law and society

Recognition

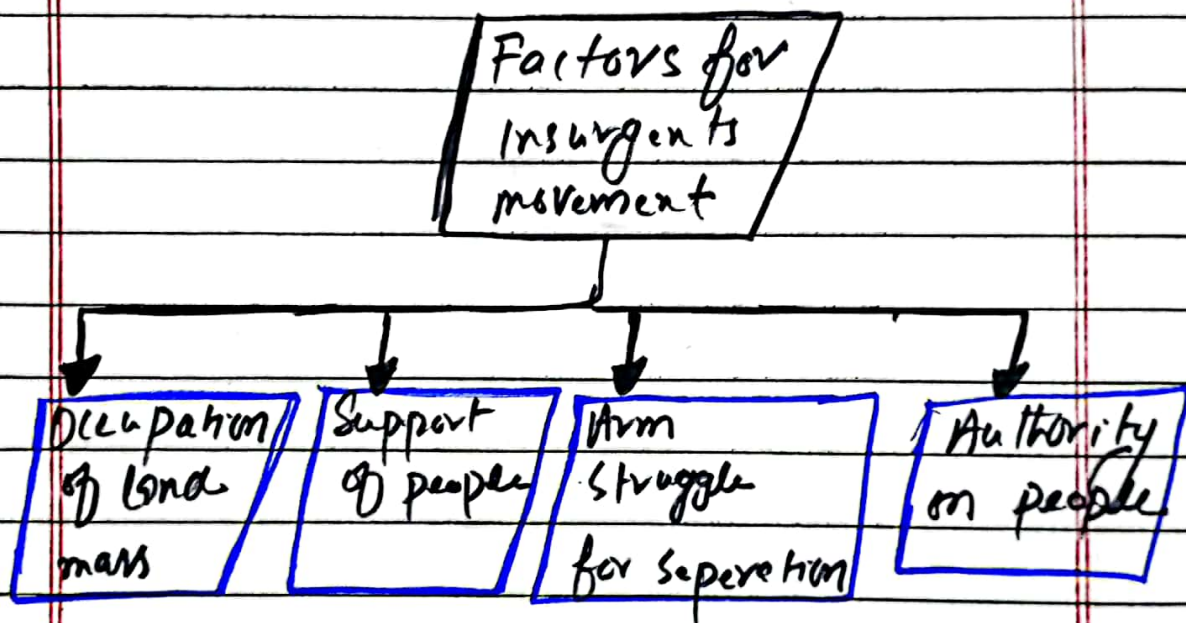
① What are insurgents

According to Black law dictionary, these are people who carrying weapons against government and having control on certain territory with the support of people for separation

that is known as insurgents.

② How insurgents can be part of international law?

Reasons are discussed below.



① Occupation of land mass

It is necessary for insurgents to possess certain part of land. It is vital for insurgents to be part of international society.

Date _____

Day **M T W T F S**

② Support of people is essential for be part of international society

Insurgents should have support of people. When they exercise their power, there should be support of people.

For instance

↳ Afghan Taliban now in government

③ Arm struggle for separate identity

Insurgents should continue arm struggle. They should give tough time to government. It can be impetus for insurgents to be part of international law.

④ Authority on people

Insurgents should have authority on people where they take control. That are people must be under insurgents.

Mode of Recognition

De-facto
recognition

De Jure
recognition

① De-facto recognition (Temporary recognition)

According to professor Hoppenheim, De-facto recognition can be given to unstable society or newly formed state.

① Insurgents can get this recognition

② De Jure recognition

According to

Den Austin De Suro recognition can be given to those states which are fully stable.

↳ Insurgents cannot get De Suro recognition immediately

For instance

↳ Palestine Liberation Organization got De Suro recognition in the result of CAP David Accord 1972

1. ↳ Abghan Taliban got De facto recognition

critical analysis:

↳ Insurgents movements have increased in the world.
like in Syria, Yemen, Iraq

They are demanding independence. International law cannot allow states to give recognition to terrorist organizations. In fact, they can destroy the peace of the world. Therefore international law asks states to recognize those groups which are stable and not lethal for peace of the world.

Conclusion:

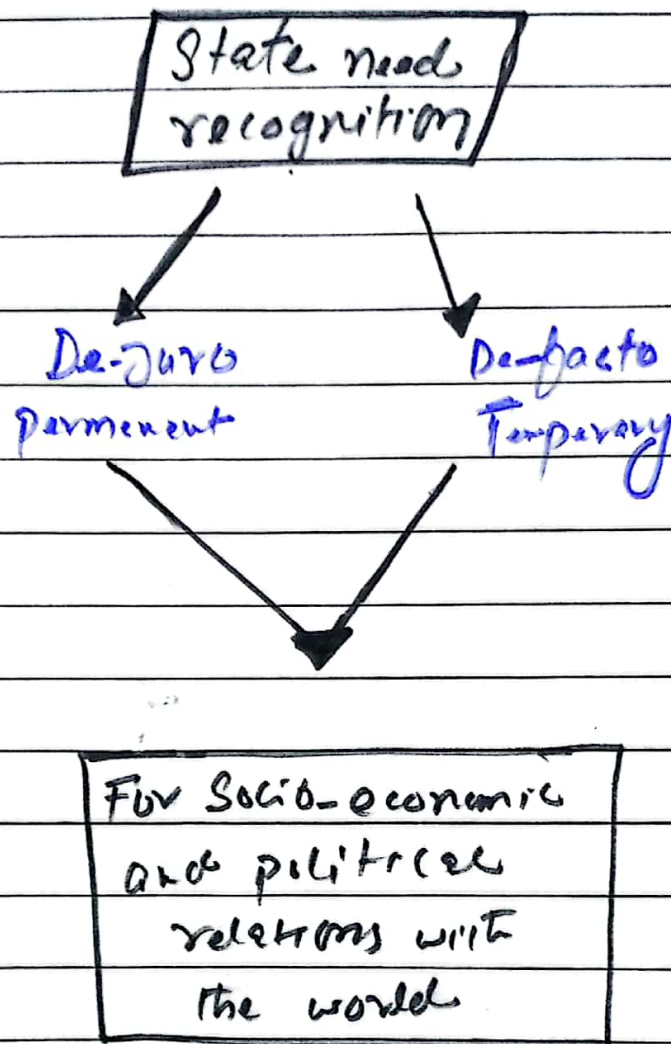
Thus, it is proved that insurgents can be part of international law by doing certain things. They must have certain part of land. Similarly they should have support of people. They should have strong stance for separate land.

Professor Lawrence says that insurgent movements can be part of international society by pursuing certain rules.

(Q-NO-7)

Q) Introduction:

According to professor Hall and Anzoldi, recognition is necessary for international entity to establish socio-economic and political relations with recognized states. Indeed, it is foremost element for new international actor. Without it international actors cannot establish ties with new emerged actor. There are two types of recognition. one is called de facto and second one is de jure. There are different between the recognition of state and government. State need de facto and all de jure recognition while government does not need



① What is recognition?

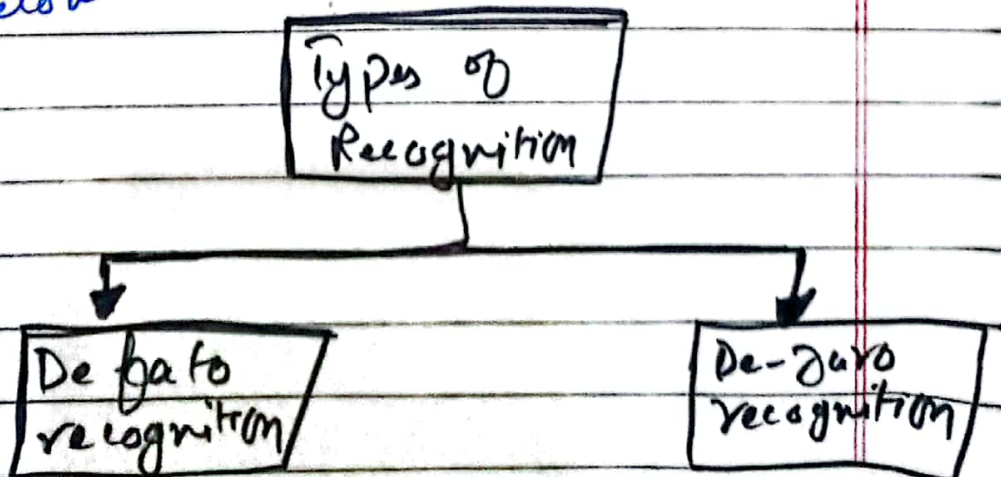
Malcolm Shaw describes in his book "Introduction to International Law" recognition means to accept other state as an international actor.

① Importance of Recognition

Recognition is necessary for the formation of relation with other states of the world. Indeed, without recognition, state cannot be part of international society. State can be part of international affairs by getting recognition. Thus, the recognition can be get in two methods.

② Types of Recognition: how states can be part of international society

That are discussed below.



Date _____

Day **M T W T F S**

① De-facto recognition

De-facto recognition means to give temporary recognition to new actor of international law. It is necessary to for the peace of the world.

For instance

↳ Afghan Taliban government

UK gave De-facto recognition to China 1949 After China's revolution

② De-jure Recognition

It is given to those states which are completely stabilize socially, politically and economically. De-jure recognition means complete recognition.

Supporter professor Oppenheim

↳ USA gave De-jure recognition to Soviet Union in 1921

Date _____

Day **M T W T F S**

② Difference between state and government recognition

State Recognition

Government Recognition

① New state need recognition

Government does not need or recognition

② Stability is essential element

Already stable

③ Every state need recognition

Every government does not need recognition

④ De-facto recognition is necessary in initial stage

De-facto recognition does not require

⑤ De-jure recognition is essential for a state

De-jure recognition does not require

Date State

Government Recognition Day M T W T F S

Recognition

② Alter Army
role government
need recognition

Conclusion:

Thus it is proved that recognition is essential for state international affairs. Without recognition state cannot be part of international society. It cannot establish its socio-economic and political ties with other countries of the world.

professor Krowicz



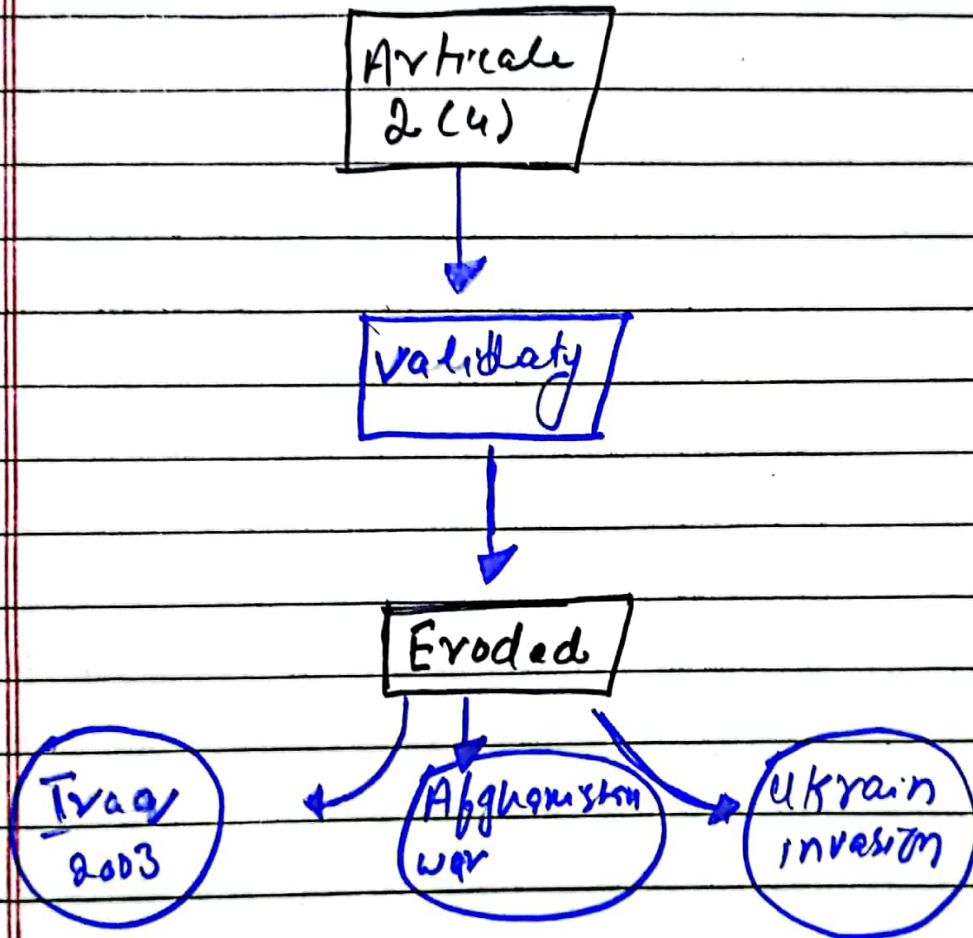
Recognition is very essential for state international affairs

(Q-NO-4)

(A) Introduction:

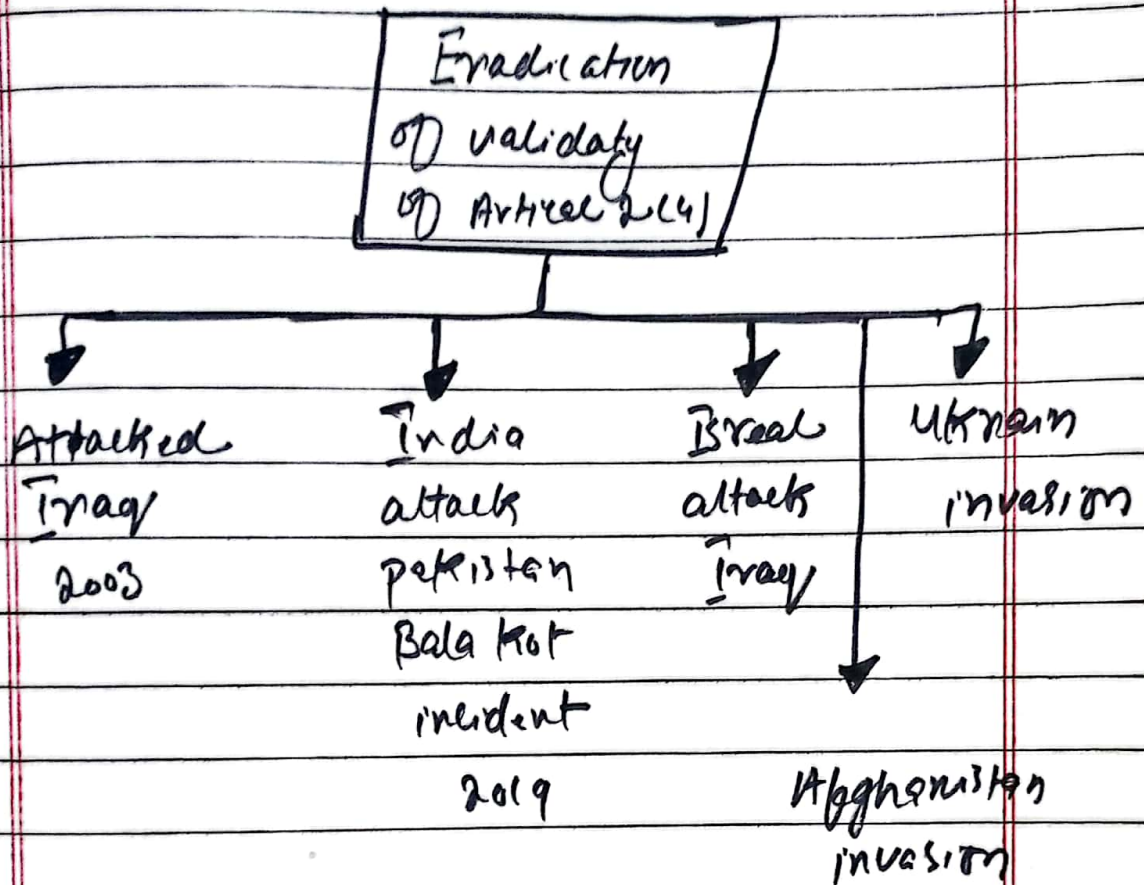
According to Pakistani jurist Bilal Sufi Article 2 and paragraph 4 prohibits the state to not use force and even threat of force against another state. It can be said that international law does not allow states to use force against the state. Unfortunately, it has been violated since very long time. State has been using its for its own purpose for long periods of time. Iraqi invasion was violation of this article. Similarly, Israel attack on Iraq was also violation of this article. Similarly, invasion of Ukraine is also violation of this article. Likewise, invasion of Afghanistan was also

violation of this article. It can be said that validity of this article has eroded from international society.



③ How validation of article 2 and paragraph has been eroded?

Reasons are discussed below.



① Attacked Iraq by USA in 2003 decreased the validity of Article 2(4)

According to some jurists, USA violated the Article 2 and paragraph 4. UNO criticized USA for this attacked. It was finalized by UNO that USA attacked Iraq illegally.

According to Bilal Sufi, it was totally wrong and illegitimate assault on Iraq by USA

② India attacked Pakistan
(Balakot incident in
2019)

It was illegitimate attack on Pakistan from India. Internationally it was very criticized and considered that it was war crime. Wing Commander Abhinandan was arrested.

Philosopher Anderson said that crossing territory of other state it would be considered the breach of article 2(c)

13) Israel attacked Iraq
(in late 1960)

Israel shown that Iraq was ready to attack Israel. Therefore, Israel should do for its self defence. However, it was wrong attacked by Israel and UNO considered it wrong.

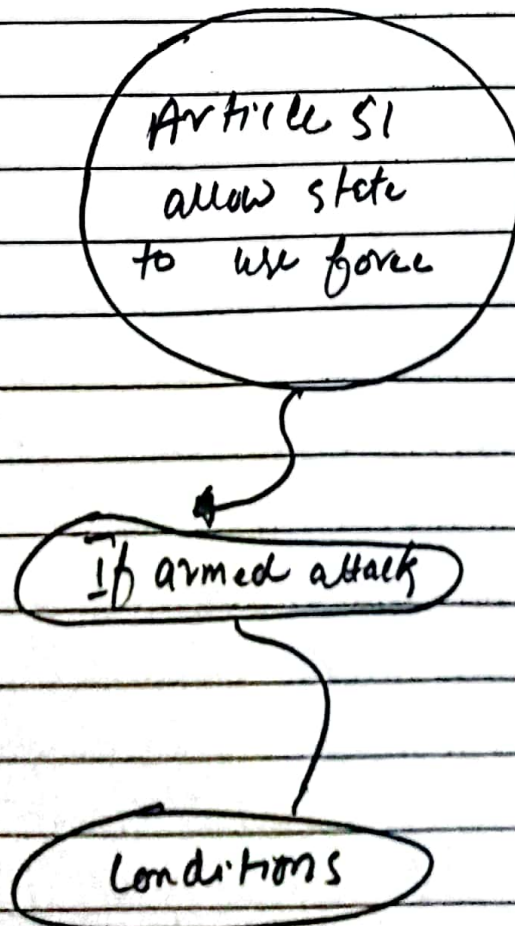
Political Jurist Meir Shaim said that it was against the article 2 and paragraph 4

14) Afghanistan invasion

According to some jurists, it was also against the article 2 and paragraph 4

④ Ukraine Invasion of Russia

Russia invaded in Ukraine 2022. It was totally opposite the principle of article 2 and paragraph. Indeed, Article 2 ~~pro~~ prohibits states to pose any sort of threat to another state. Full invasion constitutes a complete breach of Article 2 and paragraph.



① First united
nation council
take step

If a state take
step for response
first inform UNSC

According to us it
is necessary for
maintaining peace
of the world

According to some jurists
in 21 century (Nuclear world)
how state wait for attack and
what are yardsticks for pre-emptive
strike

Critical analysis

Indeed, article 2 and paragraph prohibits the states to not use force against another states. Unfortunately states are violating this article. The power. full states are using this for their own purposes. they do not care of this article and they emphasize on other states to follow it. It is ~~so~~ only just because of their national interests.

Conclusion

It is proved that article 2(4) does not allow states to use force against one another. Unfortunately, it has been violated for long time of period. Iraq invasion and Ukraine invasion feels that this article does not values for powerful states.