

Subjective:

Part - II:

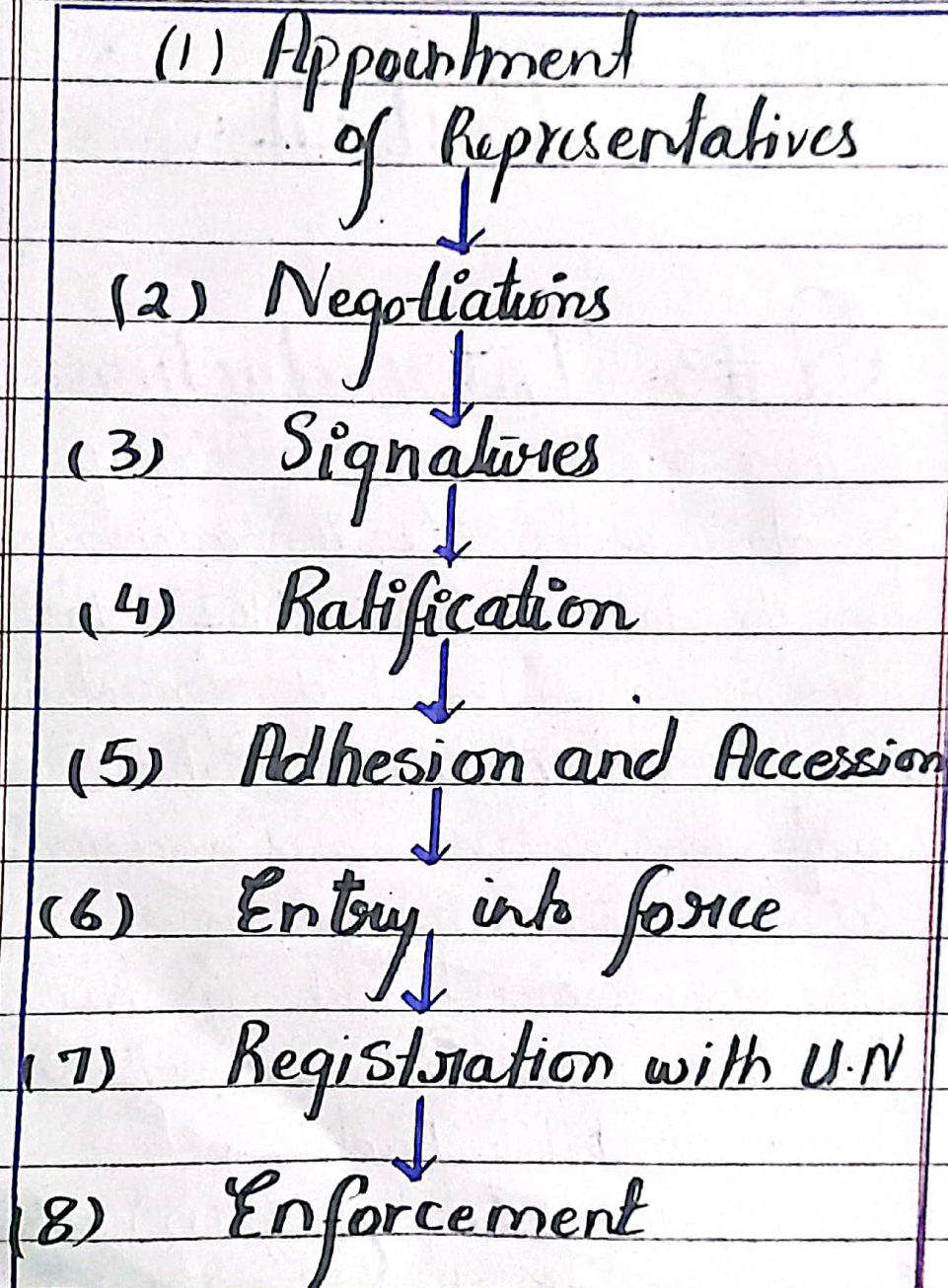
Q#3: Introduction:

There are 8 stages of treaty formation under the Vienna Convention on the Law of Treaties (1962). The steps are: appointment of representatives, drafting, negotiation, signatures, ratification, accession and accession, entry into force, registration and finally enforcement. Each step has its own significance as will be explored below. According to

VCLoT 1962 treaty is (2(1)):

"An agreement (written) whereby two or more States seek to establish diplomatic relations governed under International Law"

(A) Steps of Treaty Formation.



(1) Appointment of Representatives:

The state appoints representatives that would be sent to negotiate the matters on sending state's behalf.

Importance of step:

empowers states to send competent authorities even when state officials are not available for the task personally. For example, climate experts can be sent to negotiate a climate treaty ensuring that the representative is a competent authority for the task.

(2) Negotiations:

Draft-Making

This ensures that states can bargain on the treaty terms prior

DAY: _____

DATE: _____

-enting dissatisfaction and injustice during conclusion of treaty.

The representatives engage in lengthy negotiations to ensure their interests are protected and their concerns voiced.

DAY: _____

DATE: _____

(3) Signatures:

After lengthy negotiations in step 2, the representatives sign the negotiated draft.

Importance: The signatures by representatives only mark their attendance (virtually the attendance of their state). This does not mean that the state has consented to the draft.

(4) Ratification:

The representative from the sending state returns and presents the signed draft to his government and Head of State.

Importance: If the government signs the draft, it will be ratified and hence consent of the state will be given. The state, at this state, can ensure that the provisions in

the draft does not contradict with State interests and domestic law.

(5) Adhesion and Accession:

If a state, not present at the time of drafting or the first 4 steps, is willing to be a part of the treaty then drafts are sent to it. If the drafts are sent before ratification and are signed, it is called accession.

If the drafts are sent after ratification and signed, it is called ~~accession~~ adhesion.

(6) Entry into force:

Treaties are entered into force by when a certain number of states consent to it (ratify it). This ensures majority consent is taken in treaty formation.

DAY: _____

DATE: _____

and enforcement.

(7) Registration with U.N.:-

Under article 102 of VCLOT 1962 treaty provisions must be made public and treaties should be declared publically.

Importance: This step prevents the secret alliance and treaty system which led to world war I and world War II.

(8) Enforcement:

After all these steps, treaties are enforced.

Conclusion:

The steps of treaty formation are lengthy and time consuming but they ensure that treaties come into force by consent

DAY: _____

DATE: _____

of the parties involved, protection of interests, compliance with jus cogens and step 5 ensures that treaties are inclusive and flexible.

Q#4:

State Succession:

Introduction :-

State Succession, or the transfer of rights and duties of predecessor state to successor state, upon succession, dissolution or ceding of territory. State succession is of two types: Universal and partial. The rights and duties include debt repayments (debt given or to be given), territorial agreements, international responsibilities, recognition

DAY: _____

DATE: _____

and other rights.

(A) State Succession under International Law:

(i) Concept of State Succession:

(1) The term state succession is used when there is transmission of rights and obligations of one state to another as a consequence of the change of territorial sovereignty.

(2) Time of Occurrence

State succession occurs when a state ceases to exist or a new state is formed, within territory of an existing state or transfer of territory from one state to another.

DAY: _____

DATE: _____

(ii) Defining State Succession.

(a) According to Vienna Convention - Article 2

“Succession of state is the replacement of one state by another in the resp-
-onsibility of international relations of territory”

(b) According to Scholars :-

(1) Oppenheim:

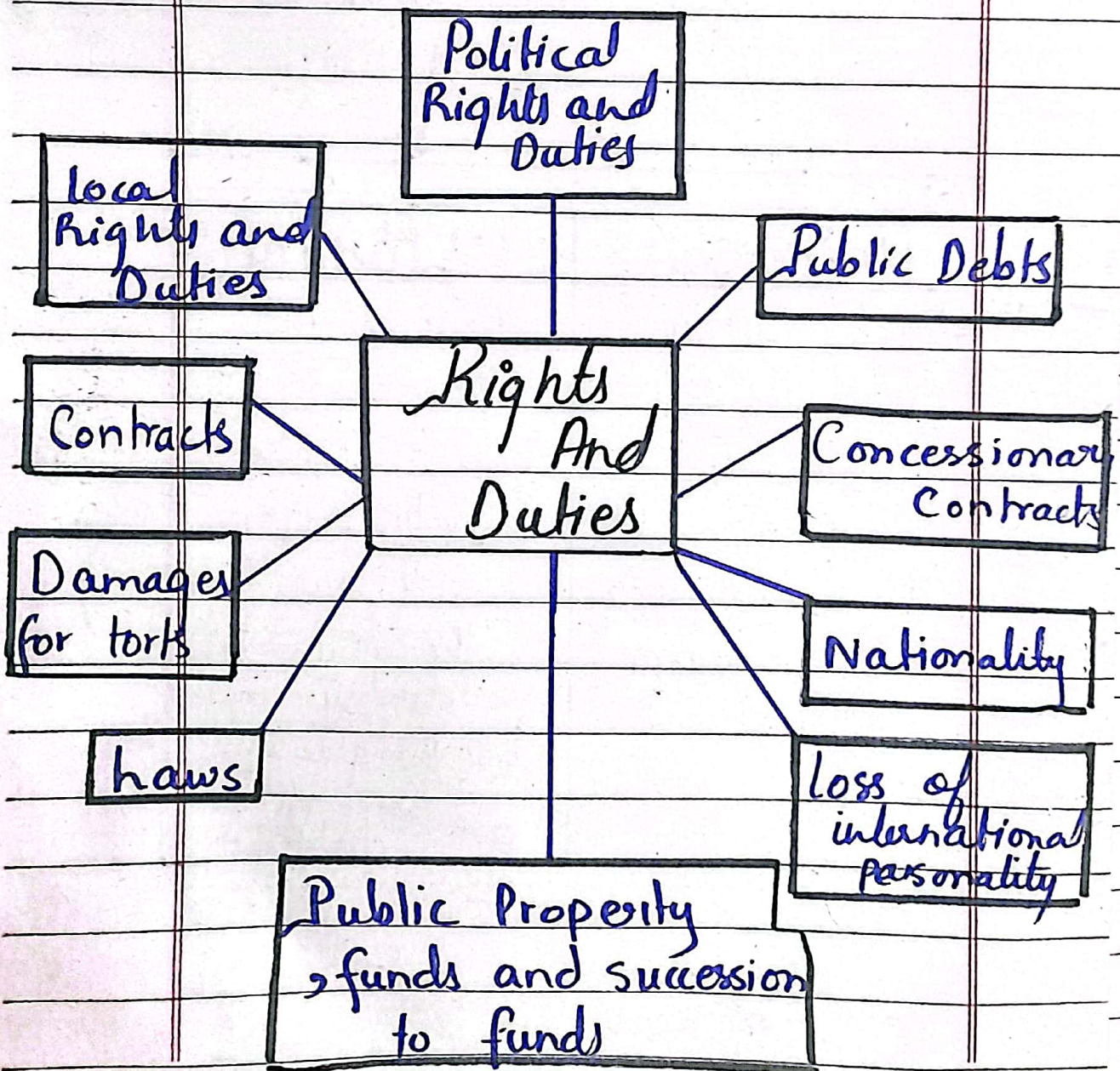
“A succession of interna-
-tional person occurs when
one or more international
person takes the place of
other international persons
, in consequences of rights,
duties and obligations are

transferred in the latter condition".

(iii) Types of State Succession:

(i) Universal	(ii) Partial
Legal identity of the original state is completely destroyed: (USSR dissolution) (Ottoman Empire disintegration)	Part of the territory is lost in the wake of revolutions or civil war but the original identity remains (Bangladesh's freedom from Pakistan)

(B) Rights And Duties Arising out of State Succession:



DAY: _____

DATE: _____

(1) Political Rights and Duties:-

No succession takes place in respect of political rights and duties of the pre-decessor state

(2) Local Rights and Duties:

A succession takes place in respect of local rights and duties; in respect of land, river, roads

Case study:

“German Settlement in Poland (PCIJ 1923)”

“It was held that private rights do not come to an end by the change of sovereignty”

(3) Public Debts:

It depends upon the discretion of the succeeding state whether to pay the public debts of the former state.

(4) Contracts:

Depends on the discretion of the succeeding state.

(5) Concessionary Contracts:

There are contracts through which certain concessions are granted through contracts. The succeeding state may or may not be bound by such contracts.

(6) Damages to the torts

No succession takes place in respect of liquidated torts.

(7) Nationality:

The nationals of the former state lose their nationality and become nationals of new states.

(8) Laws:

The laws continue of the former state, until repealed or amended.

(9) loss of international personality:

If a state emerges or is subjugated by another state, it loses its international personality.

(10) Succession to property in foreign states:

The successor state inherits the foreign property of the predecessor state.

Conclusion:-

State Succession is a complex and controversial phenomena.

The succeeding state is granted various rights but is also endowed with duties and obligations as encapsulated under legal maxim:

Qui Sentit Commodum, Sentire debet et onus: "He who takes the benefit, must take the burden"

DAY: _____

DATE: _____

Q #5:

Geneva Conventions and Human Rights:

Introduction:-

"The Geneva Conventions were born out of the simple principle that no one is beyond humanity protection, not even in war"

[Peter Maurer: former President
of the ICRC]

The Geneva Conventions of 1949 and their Additional Protocols ensure protection of civilians, combatants and prisoners of war by principles of proportionality, human dignity, and respect.

DAY: _____

DATE: _____

(A) Geneva Conventions on :-

(*) 4 Geneva Conventions

Convention I: 1864 (*) On Wounded and Sick Combatants	Convention II: 1906 (*) Shipwrecked Personnel
Convention III: 1929 (*) Prisoners of War	Convention IV: 1949 (*) Civilians in Conflict Zones.

(*) Additional Protocols:

Protocol-I : Restricts means of warfare	Protocol-II : Civilian protection in non-International Armed Conflicts
Protocol-III: Red Crystal	

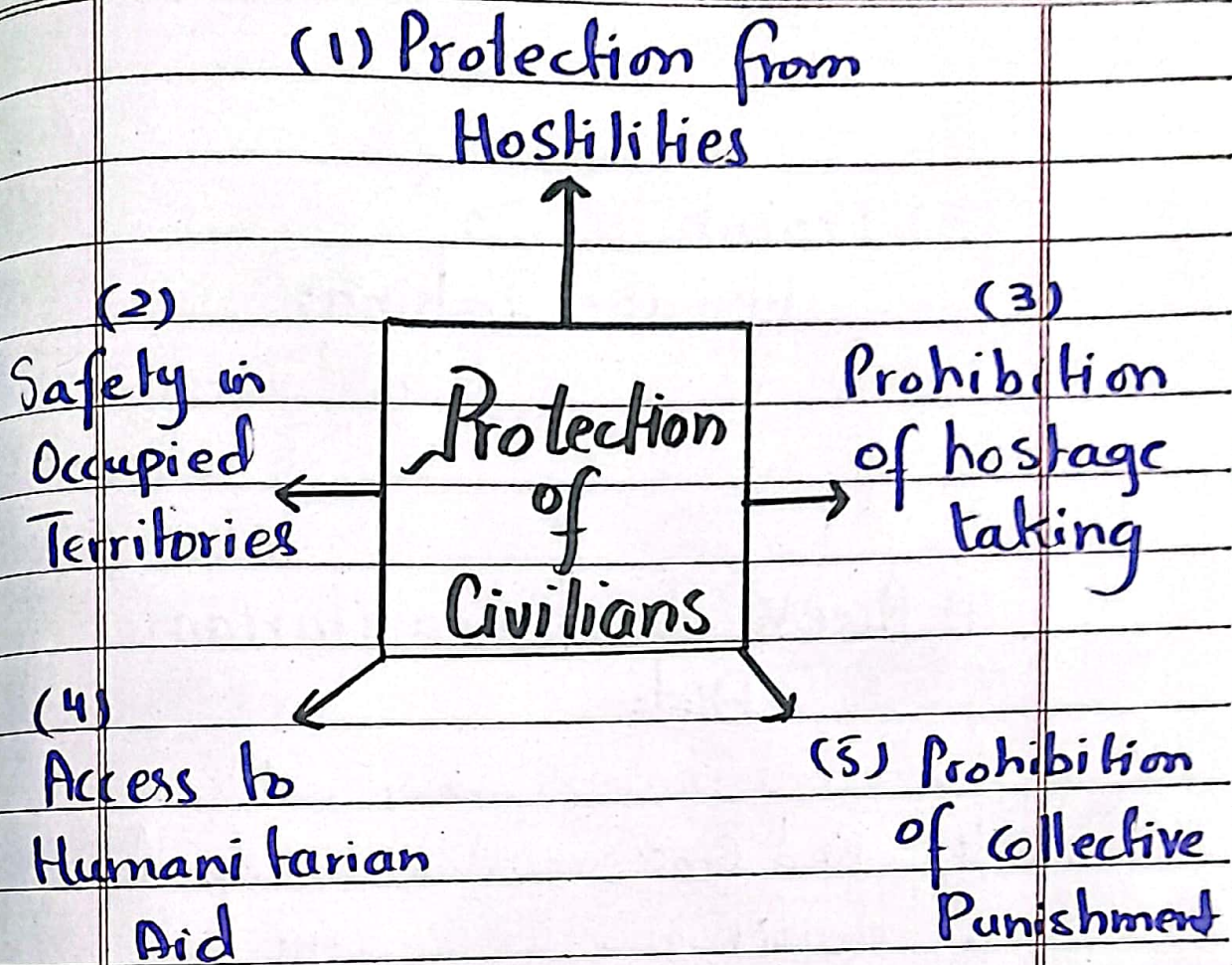
1- Fundamental Principles of laws of War under the said Conventions and Protocols:

(1.1) Distinction between Combatants and non-combatants.

(1.2) Proportionality:

Use of force should be proportional to military objective.

(B) Protection of Civilians: / 4th Geneva Convention 1949:



(1) Protection of Civilian Hostilities:

Cannot be targeted in military operations. Indiscriminate attacks and use of force are prohibited.

(2) Safety in Occupied Territories:

Occupying powers must ensure the safety, food and medical supply

DAY: _____

DATE: _____

of civilians.

(3) Prohibition of Hostage Taking:

Must not be used as hostages or shields

(4) Access to Humanitarian Aid:

Neutral organizations, like the Red Cross, must be allowed to deliver aid to civilians.

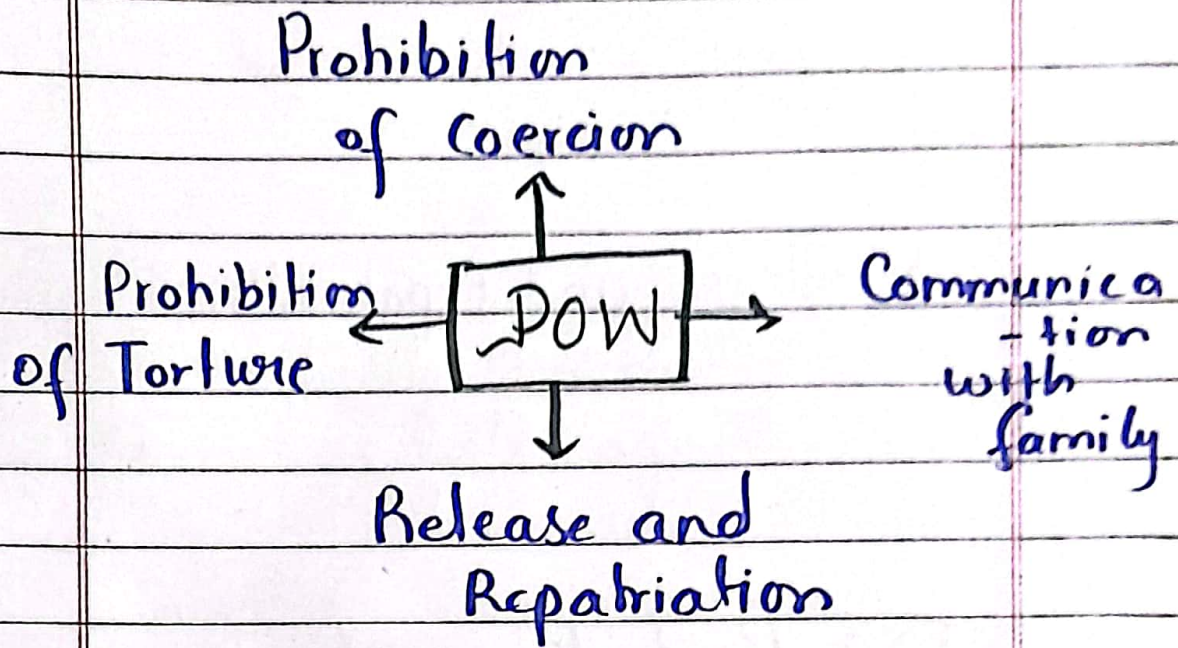
(5) Prohibition of Collective Punishment:-

Civilians cannot be punished for acts they did not commit.

(C) Prisoners of War:

3rd Geneva

Convention (1949):-



(1) Prohibition of Coercion:

Must not be coerced to reveal extra information except name, rank, serial number or date of birth.

(2) Prohibition of Torture:

Prisoners must not be subjected to physical, sexual or emotional assault. They must be provided safe living conditions.

(3) Communication With Families: They have the right

DAY: _____

DATE: _____

to correspond with their families and receive aid.

(4) Release and Repatriation:

The prisoners should be released / repatriated as soon as the hostilities end.

(D) Protection of Wounded and Sick Personnel:

1st Geneva

Convention 1864;

Additional Protocols

(1) Respect for the Dead

(2) Collection and Evacuation

Protection of Sick / Wounded

(3) Must not be attacked

(1) Respect for the Dead:

The dead must be handled with dignity, not mutilated and their remains should be collected, identified and returned to families.

(2) Collection and Evacuation:

The dead ^{/wounded} must be searched for, collected and given care.

(3) Must not be attacked:

The sick, wounded or dead, unable to fight, must not be attacked.

Conclusion:

As Plato has remarked:

"Only the dead have seen the end of war", it can

V: _____

DATE: _____

be seen that war is an inevitable tragedy of human existence. Hence, only the sufferings and loss can be minimised. The Geneva Conventions are a comprehensive framework to materialise this goal.

Q#6:

Dispute Settlement
in International
law:

Introduction:-

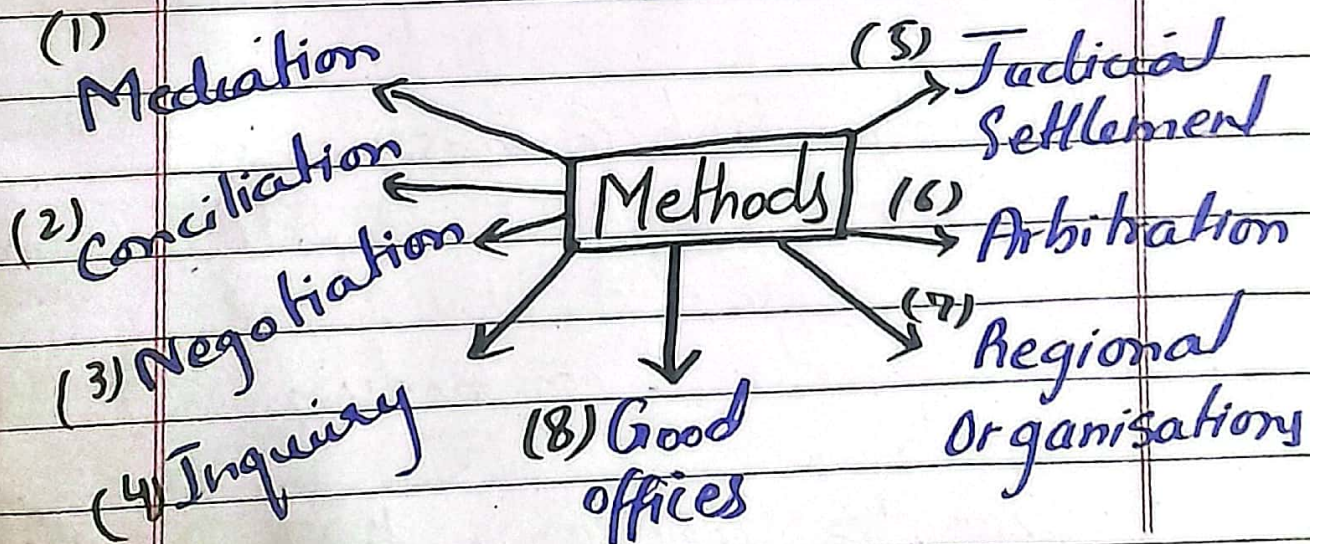
“An eye for an eye will
leave the whole world
blind”

[Mahatma Gandhi]

The above quote inadvertently

necessitates peaceful methods of dispute resolution. International Law recognises various methods of settling disputes peacefully. The U.N., in Chapter VI lists down various methods of dispute settlement: Mediation, Good offices, Arbitration, Inquiry, Judicial Settlement, Conciliation, Negotiation. Regional Organisations, under Chapter VIII can also settle disputes amicably.

(A) Peaceful Methods of Dispute Settlement:-



(1) "U-N Chapter VI"
(1) Mediation :-

"Non-Binding"

A third neutral party mediates between parties to a dispute. It offers suggestions, but has no binding authority.

(1) Example:

Norway's mediation in the Israel-Palestine Oslo Accords (1993)

(2) Conciliation :-

"Non-Binding Report"

An independent commission or conciliator investigates the dispute, suggests terms for settlement and provides a non-binding report.

Example: Conciliation in the Timor

DAY: _____

DATE: _____

Sea dispute between Australia and Timor-Leste (2018).

(3) Negotiations :-

Direct negotiation between parties to a dispute.

(4) Inquiry :

An impartial, fact finding body prepares a non-binding report.

(5) Judicial Settlement: "Binding"

Parties to a dispute bring their claim to international court of justice by mutually consenting to its jurisdiction.

(6) Arbitration: "Binding"

An impartial arbitral tribunal agreed upon the disputing states decides on the issue with a final and binding award.

DATE: _____

DAY: _____

(7) Good offices:

A neutral state provides its good offices for dispute resolution without offering suggestions.

Example:

Tashkent Agreement:

Uzbekistan provided good offices to India and Pakistan

Conclusion:

The peaceful methods of dispute resolution are the ~~most~~ primary and yielding methods of dispute settlement.
