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Int law
Mock-3

QUESTION NO 03

PRINCIPLE OF NON INTERVENTION

INTRODUCTION

One of the major causes of failure of League of Nations was that it was not able to curtail the intervention in an effective manner. Therefore, UN charter aims to stop the intervention by ~~yes~~ putting strong restrictions on intervention. Article 2(4) and 2(7) are a classical example that UN charter discourages use of force. Furthermore, it also limits the right of intervention to on armed attack. Even the right of intervention under self defence is limited and subject to review and ~~of~~ intervention of security council. Thus UN charter limits the intervention of a state in political and territorial affairs of the other state. This was essential for international peace else the UN charter would have failed like League of Nations.

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a - ARTICLE 2(4) OF UN CHARTER AND NON INTERVENTION

Article
2(4) of UN charter stops any
state to intervene in affairs
of other state for one or
other purpose

Each state shall refrain
the use of force against
territorial integrity and
political sovereignty of the
other state

CARTICLE 2(4)

This article prohibits the violation
of territorial integrity and also
prohibits the intervention for political
reasons like changing the or
altering the governmental set up of
a state

b - ARTICLE 2(7) OF UN CHARTER AND NON INTERVENTION

Article
2(7) of UN charter limits
the right of united nation
to interfere in state affairs
of any other state for any
reason.

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UN SHALL REFRAIN FROM
USE OF FORCE AGAINST
TERRITORIAL INTEGRITY AND
POLITICAL SOVEREIGNTY OF
A STATE

ARTICLE 2(7)

Thus UN charter not only stops
states from intervention but also
limits UN itself to intervene in
a state.

(C) UN CHARTER'S LIMIT INTERVENTION
TO ARMED ATTACK

UN charter
limits a state's right to intervene
only to an armed attack.

Maximum use of force shall
only be in case of
armed attack leaving no
room for deliberation

So only choice UN charter
provides for intervention is on
armed attack.

d - UN CHARTER DOES NOT ALLOW
INTERVENTION EVEN IN CASE
OF TERRORIST ATTACK

UN attack
limits intervention to an extent that

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it even does not allow the intervention in case of terrorist attacks.

CASE STUDY: USA VS NAGARUA CASE

Nagarua was a state adjacent with USA. Terrorists from Nagarua used to conduct terrorist activities in USA. But ICJ did not allow us to intervene in Nagarua. Some precedent was set in other cases though ICJ does not follow the doctrine of precedent.

f- LIMITED RIGHT OF INTERVENTION UNDER SELF DEFENCE

Article 51

of UN Charter limits the right of self defence to following conditions.

1- There must be an armed attack

2- Right reserve with state till the intervention of SC.

3- This right shall not impede the right of security council to maintain peace.

4- Right is subject to review by security council

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g- CYBER OPERATIONS AND NON INTERVENTIONS

Cyber interventions are major concern in 21st century. As the cyber operations are aimed to alter either the territorial integrity or for political purposes altering the political landscape of a state, hence these are against the Article 2(4) of UN charter.

h- ECONOMIC COERCIONS AND PRINCIPLES OF NON INTERVENTION

In 21st century, economic coercions are tools to control the state and are form of neo-colonialism. Therefore economic coercion are also contradictory to principles of non interventions.

i- COVERT SUPPORT TO ARMED GROUPS

Covert support to armed groups is provided either to alter the territorial integrity or political government. As the Rajiv Gandhi stated that we broke Pakistan by helping Mukti Bahini. Therefore territorial integrity is political government is toppled, hence it is sheer violation of article 2(4).

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CONCLUSION

UN charter limits the ~~act~~ intervention against a state for sake of territorial alteration or changing the political governments by virtue of Article 2(4) and 2(7). Furthermore it limits the use of force to armed attack and till the review of security council.

QUESTION NO 04

HISTORICAL EVOLUTION OF INTERNATIONAL LAW

International law, which is in form of UN charter, customs and treaties didn't develop overnight. Rather it is the product of efforts of nations belonging to a wide era of time. Jews, Romans and Greeks significantly contributed towards the international law. Then muslims advocated the laws of wars and peace. 16th and 17th century also contributed in form of treaty of westphalia. Then league of nation and united nation charter emerged as polished version of international law.

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A- DEVELOPMENTS DURING ANCIENT TIMES

i- CONTRIBUTION OF JEWS

i- Jews

believed in internationalized of affairs.

ii- They gave the diplomatic privileges and immunities

iii- They gave the laws of treaties.

ii- CONTRIBUTION OF GREEKS

i- Greeks

used to solve their issues through arbitration.

ii- They gave the various laws of war.

iii- They gave the laws related to prisoners of war.

iv- They exchanged prisoners of war through diplomacy.

iii- CONTRIBUTION OF ROMANS

i- Roman fathers

developed the laws of war.

ii- They gave and advanced the laws of treaties

iii- They developed treaties like that of war, love, friendship, alliance etc.

iv- They gave just war doctrine, which is even used today to be used as a pretext for intervention

v- Roman just war doctrine state war will be just in case

- ↳ Treaty is broken
- ↳ Attack on Roman state
- ↳ Help to an enemy state by a friendly state of Rome

-V- CONTRIBUTIONS OF MUSLIM

a- They introduced laws of wars and war ethics.

Examples

i- prohibition of killing of non combatants.

ii- Human rights during war time.

iii- Environmental rights during the war.

b- They further advanced Diplomatic Immunities.

c- They developed various tactics for co-existence.

Example

i- Treaty of making for coexistence of Jews and Muslims in state of Madinah.

ii- Treaty of Hudaibiah

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B- DEVELOPMENT DURING 16th AND 17th CENTURY

16th and
seventeenth century also witnessed
the development in international
law.

i- TREATY OF WESTPHALIA

Treaty of
Westphalia played a vital role in
development of international law
as

a- It abolished feudalism

b- It took the right of law
making from the church to
the state

c- Hurdles in law making were
removed in this way.

d- Though it was not a proper
law document, it paved way for future
development in laws of nations.

ii- EMERGENCE OF POSITIVIST SCHOOL OF THOUGHT AND CONSENT OF STATE

During this
era, positivist school of thought
emerged and emphasized on consent
of state for law making and
pacta sunt servanda as a moral
obligation to follow the laws of

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nations or international law

iii- CONTRIBUTIONS OF HUGO GROTIUS

a- Hugo Grotius in this era contributed towards development of international law.

b- He shifted or secularized the bases of international law (naturalist view) from Divine law to dictate of reason.

c- He established the naturalist as a separate source of international law.

d- He synthesized the positivist and naturalist school of thought.

DEVELOPMENTS DURING 20th CENTURY

1- TRANSFORMATION OF ^{EUROPEAN LAW TO} LAWS OF NATION

First development during this century was the transformation of already existing European law to Law of nations.

2- LEAGUE OF NATION

With the efforts of Woodrow Wilson, the league of nation was made as

an institution for international peace and order.

3-UN CHARTER

To remove the deficiencies of League of nation, UN charter was introduced as a formal legal document. It is one of the most successful development of international law. It is binding on all states by virtue of Article 2(6) of the UN charter.

3- DEVELOPMENTS DURING POST UN ERA

After establishment of UN, various developments in International law are made as.

a- Laws of war or International humanitarian law is introduced through Geneva convention.

b- Laws of treaties were developed through Vienna convention on laws of treaties.

c- Laws of statehood were developed through Montevideo convention.

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d- Laws of Seas related to questions of territory in sea were developed.

e- ICC was established to tackle war crimes.

f- Conventions, Custom and Treaties among various member states are signed.

CONCLUSION

History of international law is as old as the human history itself. Various nations like Jews, Romans, Greeks and Muslims contributed towards development of international law. Hugo Grotius, effort, Woodrow Wilson efforts and formation of UN charter and various customary laws and conventions transformed international law to its modern form.

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QUESTION NO 05

INDIVIDUALS AS SUBJECT OF INTERNATIONAL LAW

INTRODUCTION

It was a common perception that states are the only subject of international law. But this claim is widely challenged by various developments through which individuals were made direct subject of international law. International humanitarian law, human right law and decision of ICJ and ICC directly impacts or involve the humans, making human a direct subject of international law.

Q - INTERNATIONAL CRIMINAL LAW AND HUMANS AS SUBJECT OF INTERNATIONAL LAW

As the international criminal law directly applies on humans making human a direct subject of the international law.

b- PIRACY AS A SUBJECT OF INTERNATIONAL LAW AND STATUS OF HUMANS IN INTERNATIONAL LAW

As the piracy is a subject of international law and international law applies on pirates directly, making humans as a direct subject of international law.

c- COLLISION IN HIGH SEA (CONVICTION OF LOTUS CAPTAIN) AND INDIVIDUALS AS A SUBJECT OF INTERNATIONAL LAW

Similarly, in collision in high seas, captain is dealt by states as per international law. For example, Lotus' captain was captured and tried by Turkey and ICJ held it right. As this directly involves individual, making individuals as a subject of international law.

d- ASYLUM, EXTRADITION AND NATIONALITY LAWS MAKE INDIVIDUAL A DIRECT SUBJECT

Likewise, the laws

associated with asylum of an individual, extradition of an individual and nationality of an individual are subjects of international law directly impacting individuals, hence these laws are evident that individuals are ~~the~~ direct subject of international law.

E- HUMAN RIGHT TREATIES AND INDIVIDUALS AS SUBJECT OF INTERNATIONAL LAW

As the human right treaties directly deal with rights of individuals and human rights are directly conferred to individuals, it makes individuals as a direct subject of international law.

F- INTERNATIONAL COURT OF JUSTICE AND INDIVIDUALS AS DIRECT SUBJECTS

International court of justice also deals with cases related to individuals like human rights, so this also shows that individuals are subjects of international law.

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h- INTERNATIONAL CRIMINAL COURT AND INDIVIDUALS AS SUBJECT OF INTERNATIONAL LAW

International
criminal court directly deals with
war crimes and convict war
criminals making ~~it a international~~
~~law~~ ^{individuals} a direct subject of
International law.

EXAMPLE: CONVICTION OF WAR CRIMES OF PUTIN AND NETANYAHU

Recent conviction of
war crimes by International court
of criminal on war crimes in
Ukraine and Palestine also
support the view that individuals
are major subject of international
law, as the court convicted
Putin and Netanyahu, directly
implying international law over
individuals.

CONCLUSION

Direct implication of
international law on individuals
through international human right
laws, law of war show that
individuals are also direct subject
of international law.

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QUESTION NO 08

PART [a]

TERRITORIAL SEA

Territorial sea refers to the area of sea in which state has exclusive rights and state can exercise its sovereignty over it.

It is the area of around 12 NM from the base line.

RIGHTS AND OBLIGATIONS OF TERRITORIAL STATE

RIGHTS

a- State can exercise sovereignty over territorial sea.

b- State can exercise criminal as well as civilian jurisdiction in territorial sea. Thus, state can apply its civil as well as criminal law in territorial sea.

c- State enjoys exclusive economic rights in territorial sea.

No state can do any economic activity except the permission of the ~~the~~ state.

No ships can be passed except from innocent passage without permission of territorial state.

→ So territorial sea is like the territory of the coastal state

OBLIGATION

1- State must provide **innocent passage** to other states for navigation purpose

2- State must ensure the security of territorial water against sovereignty of another state

3- state must accept the trade request of the landlocked state in territorial sea.

PART B

CONTIGUOUS AND EXCLUSIVE ECONOMIC ZONE

a) CONTIGUOUS ~~ECONO~~ ZONE

→ It was the area from 12 NM till **24 NM**

→ State had exclusive economic rights.

→ It existed in UNCLOS-1982 but was discarded in later UNCLOS conventions

→ Other states had to take possession of coastal state for economic activities.

EXCLUSIVE ECONOMIC ZONE

→ It

extends beyond the territorial water to 200 NM.

→ State can enforce exclusive economic rights in EEZ.

→ Other states are required to take the permission of coastal state for economic activities.

→ State cannot exercise its civil jurisdiction.

→ State cannot exercise its criminal jurisdiction unless there is a threat or drug smuggling.

PART C

LEGAL STATUS OF HIGH SEAS

→ The area beyond EEZ is high seas.

→ All states can use the high seas but for peaceful purpose.

→ All state must sail their ships under a flag.

→ Ships in high seas are considered as floating territories.

→ All states have universal jurisdiction against piracy and can punish piracy in high seas.

→ No flag in high seas admit

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to piracy.

JURISDICTION OVER SHIPS WITH FLAGS

→ Flags are considered as floating territories of states under flag of which are they floating.

→ Flag must be of the state with which ship is registered

→ Only that state can board the ship with which it is registered.

PART D

CONTINENTAL SHELF

→ It is the area under the water.

→ Coastal state has exclusive economic rights

→ Other states must seek permission of coastal state for economic activities in continental shelf

→ State cannot exercise its sovereignty but only has exclusive mining and economic rights.