

o Consequences of Recognition :- * Two fold consequences. Political and legal.

* Political; Consequences is, recognition of a state shows willingness to initiate int. interaction with the new state.

* Legal :- Consequences shows that the recognizing state is fulfills the required conditions for becoming an int. subject.

* Rights of the recognising state:

- o establish diplomatic relations
- o the diplomats of recognizing state enjoy diplomatic immunities
- o Both state may enter into treaty
- o recognised state may sue in the courts of recognizing state.
- o recognized state may claim or receive property in recognizing state.

o Is recognition is a duty of state :-

* Lauterpacht; once a state is come into possession of all essential attributes of statehood, duty of all states to recognise the new state. (it is a duty of existing states because new state has no right and duties under int. law)

* Another view is, recognition is a political act. so recognition depends upon the discretion of a state, therefore it is always optional.

* Stark; states do treat recognition is a legal act, but it is political act in some cases.

* Conclusion; states under a legal duty to recognize a new state, if the later possess all the essential attributes.

* Non-recognition is un-lawful act.

o Withdrawal of recognition; different opinions:

o Under Article 6 of Montevideo Convention 1933, that de jure recognition is unconditional and irrevocable.

o In Oct, 1918, France withdrew the recognition granted in Jan of that year to provisional government of Finnish Republic.

o Another view; is if the recognising state considers that a state has lost its independence, it may withdraw the recognition.

o In 1938, Great Britain withdrew recognition of Abyssinia.

- Involved in political dispute
- Kept in prison for two years.
- Shifted to Sweden and ambassador of Sweden in France.

Books: (i) De Jure Praedae Commentarius (1605)

(ii) Mare Liberum (1609) (iii) De Jure Belli (1625)
ac Pacis Libri iii

- He distinguished between Jus Gentium (The customary law) and Jus Caturae (Natural law of nations).
- Customary law are minor importance. • Concentrated more on natural law of nations.
- Advocated for the freedom of sea. • pointed out prisoner of war were entitled to the religious rights.
- Introduced the concept of "just war" and "unjust war"
- Lay down rules of "neutrality."
- Of the view that int law regulates the relations between the sovereign states not only in the time of peace but in time of war.
- Father of "Law of Nations".
- First writer systematically wrote a book on the subject.
- His followers in seventeen and eighteen centuries known as "Grotians".
- His work is relied "on authority" in the decisions of courts and tribunals.

⇒ Three School of Int. law:-

- (i) Naturalists:- * Believed that int. law is based on the law of nature, i.e on reason. * Law of Nations are part of nature. * The rules of ^{natural} int. law was the only source of int. law. * They were different even from Grotius. * Leader is German Jurist - Pufendorf (1632-1694), Thomasius (1655-1728). * Criticized that expression "Natural" is too vague and meaningless. * It must be conceded that naturalist school laid down the foundation of law

* Established in Dec 21, 1991. at Alma Ata. (By the eleven republics of USSR).

* Respect maintained on the basis of mutual recognition and respect for state sovereignty.

(e) Associated States:-

- o large measure of autonomy in internal affairs.
- o Different from federal states and union of states.
- o Example; Commonwealth of Puerto Rico (voluntarily associated with USA).

Sikkim:- On Sep 2, 1974 Constitution Bill was introduced in the Lok Sabha to make Sikkim an associated state of India.

(f) Trust Territories:-

→ After WWII, many territories came before the int. scene (whose political institutions were not sufficiently developed) so as to make them independent.

→ Decided under the League of Nations that such territories will be placed under the administration of other states.

→ Administered by designated Allied nations, called "Mandatory States."

→ After the formation of UN it changed to "Trusteeship System."

→ Eleven territories were placed under Trusteeship.

→ Trusteeship System → Terminated by SC on Nov 10, 1994.

(iii) Non-Typical states:-

(a) Vatican City:- o Holy city is a small sovereign state.

o land territory about half square kilometer. o 1000 inhabitants.

o Head of Catholic Christian Pope is the monarch.

o Vatican possess the formal requirement of statehood.

o Critiques say that Vatican lacks sufficient territory to call a state.

o Vatican is permanent observer of UN and

Participant of several organisations.

(b) Vassal states:-

- * A state which becomes remains under the suzerainty of another state is called vassal state.
- * Do not have capacity to enter into relationship with another states. * Different from protectorate.
- ° protectorate state; The superior state protect the weak state under treaty.
- ° vassal state; Suzerain Power absorbs foreign relations entirely. (if they have any int. status, only because of their internal independence)
- * Do not have capacity to member of UN or enter into relationship.

- Tibet:
- ° Independent till 1720 (when it was incorporated by china)
 - ° Again free from china and being an independent state.
 - ° 1907, brought under the joint protection of Britain and china.
 - ° 1913, again free. Now its occupied nation.

Indian states:- → India princely states (562 in numbers) had no int. status during the British rule.

- Do not possess any attributes which the int. community is possess.
- Oppenheim considered them vassal states because they have no supremacy on their internal independence.

(c) Federal states:-

- ° A union of several states. ° Based normally through int. treaty. of the ^{member} int. states, and accepted constitution of federal state. ° They are neither full nor half sovereign entities.
- ° Do not possess independence not exercise territorial or personal supremacy.
- ° Declare war, make peace, conclude treaties and to send and receive diplomats are in the hand of federal state.

(d) Commonwealth:-

- * It is neither a federal nor a super state.
- * Association of free and equal states who believe and recognise certain common principles (i.e British Commonwealth of Nations)

(ii) Panama Canal: * Belongs to Republic of Panama.

* Connect Atlantic sea with Pacific sea. * Under the treaty in 1903, the canal came under the control of US. * In return, Panama was to receive initial cash of one crore dollars. * Recently, Canal became disputed.

(c) Straits:-

* All straits which are not six miles wide are regarded as a part of the coastal states.

* Those straits which divide the land of one and the same state belong to that state.

(d) Bays:-

* Convention on the Law of the Sea 1982, Article 10(2) defines 'bay' as a well marked indentation whose penetration is in such proportion to the width of its mouth as to contain land-locked waters and constitute more than a mere curvature of coast.

(3) Territorial Sea:-

Convention on the Law of the Sea 1982
Article 10(2) defines

(4) Air Space:-

* A state is sovereign over the air space above its territory. → Four different theories

1) First theory: is that air space is entirely free and open to all the states.

2) Second theory: while lower zone belongs to subjacent state while the high zone is free to all.

3) Third theory: air space unlimited height is entirely within the sovereignty of subjacent state. (complete, absolute and unlimited sovereignty)

4) Fourth: state is sovereign over the air space, but it is free for all civil aviation. Based on analogy of the regime of territorial sea.

→ According to Hobbes; "Sovereignty is supreme and absolute power, unrestricted by any laws or treaties."

→ Today meaning of term "sovereignty" is changed. Even a sovereign state does not possess supreme and absolute powers."

→ In the context of municipal law, a sovereign state may have supreme power within the state, but in int. law where all states are equal and sovereign.

◦ Principle of good neighbourliness:-

- Mutual cooperation and avoidance of harm to each ^{others.}
- Charter of UN; "The states should live together in peace with one another in good neighbourliness."
- Article 74 of charter; "members of UN also agree that their policy in respect of the territories... must be based on the general principle of good neighbourliness."
- A state is responsible if it causes damage to the environment of other state beyond the limit of int. jurisdiction.

◦ Sovereign equality of the states:-

- are subjects of int. law in the fullest sense.
- All sovereign states are equal in status irrespective of their size, population, resources or any other features.
- Article 5; all states have equal rights and duties and equal members of int. community irrespective of their economic, social or political differences.

◦ Union of States:-

- "Sovereign state are single int. person → may be called simple international personati."
- Two or more single state form a union. by an int. treaty
- On Feb 2, 1958, Syria + 92 336 7801123 merged themselves into a single state under the name of United Arab Republic.

Law of the sea:-

- * evolved during the time of Grotius. (observed the states as customary rules)
- * Entire sea divide into three parts;
 - i) Territorial sea ii) Contiguous sea iii) High seas
- Russia^{in 1909} claimed territorial zone upto twelve miles.
- In 1930 Hague Codification Conference was a vain attempt.
- Economic and military interests led some states to claim the breadth of the territorial sea upto 200 miles.

First and Second Conference on the law of sea:-

- * UN adopted a resolution → Feb 21, 1957. convening a Conference on "law of the sea" → Held in Geneva 1958.
- * Conference was attended by eighty two (82) States.
- * Adopted four conventions; → The most important issue was the breadth of sea which left undecided.
(It was so because there was disagreement among the states)
- * Second Conference on law of sea; held at Geneva in 1960. (Failed due to different claims of the states)

Third UN Conference on the law of sea:-

- o Due to acute need of those minerals, others military and strategic needs an effective law was the need of the hour.
- o Held in New York in 1973. (Ten others sessions held till 1981).
- o Decided that outcome of the session would be issued in a document → known as draft convention.

Convention on the law of sea (1982):-

- * Eleventh session Apr 30, 1982 → draft of convention (adopted an overwhelming majority of 130 states)
- * Signed by 117 states on that day. (remain open for sign till 1984 Dec)
- * It has 320 articles + divided into xvii parts and ix Annexes.

more
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relationship

● Formation of treaty :- * There is no specific form of conclusion of treaty. * Parties are free to agree upon the language.

1) Accrediting of persons by the Contracting States :-

* Very first step is appointment of representatives. → equipped with the necessary authority. (Instrument — called 'Full powers')

* Full powers is not necessary if the treaty is concluded on behalf a state by Heads of a states, HoGs.

2) Negotiations :- * Negotiation of treaty — representatives may consult their governments.

3) Adoption :- * adoption of 'text' of a treaty is informal step — but it is necessary — because where a large number of states participates in the drawing up of the text — the matter assumes more significance.

4) Signature :- * After adoption — The text of a treaty is required to be signed by the accredited representatives of contracting parties. * Signature on the same time, place and the presence of each other is necessary.

* When it is signed — it come into force * Treaty is subject to verification or approval.

5) Ratification :- * When it is signed — by representatives of the state is confirmed by the state — an act of confirmation is called ratification.

● Purpose of ratification :- * at present all treaties are required to be ratified. * It give the opportunities to the contracting states to re-examine and review the treaty. * It is necessary for a political debate in the democratic governments.

● Mode of ratification :- * Its different from state to state. i.e in USA a treaty must be ratified by the president with the advice of Senate, given by two-thirds of senators present.

● Refusal of ratification :- * Some treaties are still ^{not} ratified after a lapse of many years. * If a state does not ratify, it shall not be binding on it.

6) Accession and adhesion :- * The act includes signature as well as ratification. * Normally, it is open in multilateral treaty.

7) Entry into force :- * A treaty enters into force in accordance with provision of treaty.

* No difference between them and ambassadors.

(c) Charges d'Affairs:-

* Accredited not by the HoS, but by the Foreign Office to the Foreign Office. * On arrival in the accredited state present a letter of credence to the Minister of Charges d'Affairs.

(i) Staff of diplomatic mission:- * According to Vienna Convention 1961 — divided into, diplomatic staff, administrative and technical staff and service staff.

(ii) Functions of diplomatic Agents:- Vienna Con. Article 3(1)

(i) Representation:- "He is the mouthpiece of the Head of his home state" - Oppenheim -

(ii) Protection:- * protection of the home state is the responsibility. * It's not in the Int. law but in municipal law.

(iii) Negotiation:- * Negotiate on various issues on behalf of the sending state.

(iv) Observation:- * Observation, events or happening which they are accredited — especially those which affect their home state.

(v) Promotion of friendly relations. * Function to develop social, economic and cultural relations of two states.

(iii) Diplomatic Immunities:- * In old time diplomats enjoy certain ^{Privileges} _{custom}

⇒ Basic diplomatic immunities:-

(1) Extra territorial theory:- * They remain for all purposes upon the soil of the country to which they represent. * called "Fictional Theory". * theory has been discarded by modern jurists.

(2) Representational Theory:- * Regarded as agents — or personal representatives of the sovereign of the sending state.

(3) Functional Theory:- * Diplomats are given privileges because the nature of their job functions. * They are allowed immunities from legal processes of the state, they perform their job freely.

- o Rules relating to classifications of diplomatic agents.
- o Many new methods of warfare were introduced.
(This led the states to conclude multilateral treaties on rules and regulations of war)
- o Declaration of Paris (1856) relating to naval warfare, Geneva Convention (1864) provided rules regarding to the wounded and sick.
- o Hague Convention (1899) and (1907) also stipulated various rules of warfare and neutrality.
- o Alabama Claims Arbitration (1872) was perhaps the most important arbitration in favour of America, and ruled that Britain should pay 15,500,000 dollars in gold to USA as compensation.

⇒ Int. Law in Twentieth Century:-

- o writers stressed that consent of the state is the basis of int. law.
- o emphasized that rules came from customs and treaties.
- o For the first time, organisations of universal character were set up.
LON (1919), UNO (1945).
- o Setting up Int. Courts was again an unprecedented event.
Permanent Court of Justice (1921) and ICJ (1946) many legal disputes of the states have been resolved.
- o Rules of int. law have been made by the conclusion of treaties.
- o Sanctions may also be implied on states who violate the rules.

However, int. law is a weak law due to its limited effectiveness.

One may hope that in future it will be stronger and effective effectiveness will not only help in curbing the breaches but enable the states to live in peace, resulting the prosperity of all human beings.

① Diplomatic Agents:-

- * persons residing in foreign — representative of the states.
- * provide the link between the dispatch and accredited states.

② Law on diplomatic agents:-

- * The practice is since the ancient time. → Indian "doots" were sent from one "rajya" to another. → sent temporarily for specific purpose. → 14th and 15th century practice was not uniform. → Practice started from 17th century.
- "Congress of Vienna" 1815 codified rules of customary int'l law — on the ranks of diplomatic representatives.
- That was not the end. → UN give the codification to Int'l law Commission. → prepared draft and submitted to UNGA. → UN convened conference ¹⁹⁶¹ — attended by 84 nations in Vienna (adopted convention on Apr 18, 1961 by the name of "Vienna Convention on Diplomatic Relations".

→ Ratified by 24 state by 1986 — 149 states become parties.

③ Classification of diplomatic Agents:-

- o classes did not exist in early stages. o In 16th century a two class system arose. o 17th century — two class recognized.

i) Extraordinary; envoys called ambassadors.

ii) Ordinary envoys, called residents. → (in 18th century class ministers plenipotentiary)

* Congress of Vienna — divided into three categories. (Article 14)

a) ambassadors b) Ministers iii) Charges d'Affairs

④ ambassadors:- www.facebook.com/CSSExamPrep

- * personal representative — of head of their state. * enjoy special honours. * ambassador sent in commonwealth countries — called high commissioners.

* Normally, it is appointed with consent of receiving state.

* When they arrive in state where they are sent, they present a sealed of credence which is given to them by HO sending state.

⑤ Ministers Plenipotentiary and Envoys Extraordinary:

- Not regarded as personal representatives. * Do not enjoy special honours. * Do not receive the title of "Excellency".

⇒ Subject of int. law:-

◦ An entity which possesses international personality is called an international person or a subject of int. law.

◦ Possession of int. personality is the determining factor in deciding into which entities are the subject of int. law.

* Oppenheim says;

"Int. person is one who possesses legal personality in int. law, enjoy right, duties or powers and capacity to act directly on the international plane."

◦ It is not necessary for an entity to possess all these rights and duties.

(i) Realist Theory:-

* According to one view; states only are subjects of int. law.

* According to this theory, states alone are the bearers of rights and obligations under int. law.

* propounders assumes that the states as an entity is legally distinguishable from the human beings who compose them. (while the former are the subject and later are the object of int. law).

* According to this view;

Individuals lack any juridical personality because they possess neither rights nor duties under int. law.

* If they have any rights at all, that can be claimed only through state.

(ii) Factional Theory:-

* Opposite to realist theory.

* Individuals only are the subject of int. law, like Municipal law. (It is so because states have no ^{soul} ~~with~~ no capacity to form and express autonomous will. They are abstract structures acting through individuals).

① Rights and Duties of states:-

Written by:
Wasim Akram

⇒ Rights of the states:-

- (Draft Declaration)
- (a) Right of Independence:- Article 1 → exercise freely
choice of its own govt;
 - (b) Right of territorial jurisdiction:-
Article #2 jurisdiction over territory, all persons and things
 - (c) Right to equality:-
Article #5 right to equality in law.
 - (d) Right of self defence:-
Article #12 individual or collective self-defence

⇒ Duties of states:-

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- (a) Duty to refrain from intervention:-
 - (b) Duty to refrain from fomenting civil strife:-
<https://m.facebook.com/groups/458184410965870>
 - (c) Duty to respect of human rights and fundamental freedoms:-
<http://t.me/CssAspirantsForum>
 - (d) ensure international peace in a group
 - (e) settle disputes by peaceful means:- 8# Article
 - (f) Refrain from resorting to war:- Article # 9
 - (g) Refrain from giving assistance:- Article # 10
 - (h) Refrain from recognising territorial acquisition:- # 3
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 - (i) Carry out obligations in good faith:-

* Article 308, the convention entered into force in Nov, 1994.

1) Territorial Sea :-

- o extended to a part of the sea which is adjacent to coastal state.
- o Contained on "Marginal zone" or "Marginal Belt".

(a) Breadth of territorial sea:-

- * extent of the territorial jurisdiction was based on the "cannon shot" rule.
(cannon ~~shot~~ ball can travel three miles, this become the accepted territorial water limit).
- * many states wish that should extend upto 6 miles.
- * Convention of 1982 settled that it upto 12 nautical miles under Article #3.

(b) Rights of states over territorial sea:-

(i) Rights of Coastal states:-

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- #### (ii) Rights of other states:-
- Customary rule of Int. law that territorial sea is open to merchant vessels of all the state navigation.

2) Contiguous Zone:-

- o Coastal state does not exercise sovereignty over this part. (in other words, police and revenue jurisdiction of coastal state extend to this zone)
- o provided in Geneva Conference in 1958.
- o extended 12 miles from the baseline which the breadth of territorial ~~to~~ sea is measured.

- ## 3) Continental Shelf:-
- The concept is mainly co-related with the exploitation of natural resources from the sea adjacent to territorial sea.

1994.
Nov,

o Concept acquired significance when the US president propounded it on Sep, 1945, through a proclamation.

o It was universally accepted in Geneva Convention (1958).

⇒ Definition and outer limit of continental shelf:-

Geologically "The zone around the continent extending from the low water line to the depth at which there is usually marked increased declivity to greater depth"

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⇒ Definition under Geneva Convention 1958:-

"The sea-bed and sub-soil of the sub-marine areas adjacent to the coast, but outside the area of the territorial sea to a depth of 200 meters or beyond that limit, where the depth of superjacent waters admits of the exploitation of the natural resources of the said areas"

* US went to explore oil and gas upto 300 miles on the sea coast continental slope at the depth of 4000-5000 feet deep in the Atlantic coast.

4) Exclusive Economic Zone (EEZ):-

* Concept was initiated in Kenya in 1972, at Geneva session of UN.

* EEZ finally found place in Convention of law of sea ¹⁹⁸².

Breadth of EEZ:-

* Extending upto 200 nautical miles seaward from coastline

Rights of the Coastal State over EEZ:-

* The coastal state is sovereign right on the natural resources of EEZ. (living and non-living in surface and sub-soil)

* State also use youtube.com/c/MegaLecture/ +92 336 7801123 economic activities.

8) Registration and publication: * Required to register with UN Secretary General — after it come to force.

* Article #102 of UN — any treaty entered into by any member of UN after present charter come into force, as soon possible that published by secretariat.

① Certain General Principles of treaties:

1) * Pacta Sunt Servanda:

- o According to some — the binding force is law of nature
- o To other writers — it is moral and religious principles
- o To some others it is will of the parties. ⇒ Oppenheim of the view: "Treaties are legally binding, because there exist a customary rule of int-law that treaties are binding."

→ Pacta sunt Servanda means that states are bound to fulfill in good faith the obligations assumed by them under treaties. (Adopted before Vietnam Convention)

* Pacta Tertis Nec Nocent Nec Procent:

* Treaty is binding only to the contracting parties.

① Invalidity of treaty: * become invalid under Vienna Con. Article 42.

(i) Lack of proper authority of representatives

(ii) Error: (invalid under Article 48) (iii) Fraud: (Article 49)

(iv) Corruption of Representatives: (Article 50) (v) Coercion of Representatives (Article 51)

(vi) Coercion of a state: (Article 52) (vii) Jus Cogens (Article # 53, if conflict with general principles of int. law).

② Termination of a treaty: * When it comes to an end. ^{action} termin.

* But mere termination — where a party withdraw from a treaty.

i) By consent of the parties: Article 54 (b)

ii) By Denunciation: Article 56

iii) By concluding another treaty: (Article 59 (i))

iv) By material Breach: Article #60

v) Impossibility of performance:

vi) According to provision of Article 54 (a)

vii) By emergence of Jus Cogens Article 64

(3) By Naturalization: * A person acquire — by birth — but his nationality may, later on change. * When the nationality of person change — it is called naturalization. * They are, through marriage, legitimation, option and grant of application.

(4) By Resumption:- * If a person lost his nationality — by any reason, may acquire the nationality of the same state again. * It is called reintegration or resumption.

(5) By Subjugation:- * When part of the state, or state itself is subjugated by another state — all the inhabitants become the nationals of the latter state. i.e. Austria by Germany.

(6) By Cession:- * When part of the territory of a state is ceded to another state all nationals are required to acquire the nationality of latter.

(7) By Option:- * State is partitioned into two — the nationals of state have option to become the nationals of any successor state. i.e. Pakistan — India.

(8) By Registration:- * acquire nationality through registration. * Process is different — depending on the law of the nation.

• Modes of loss of nationality

(1) By Release:- * Release occur only when application is made to that effect, and it has been accepted by the state concerned.

(2) By Deprivation:- * May deprived — on certain happenings. i.e. if a citizen enter foreign civil, military service without permission. * Universal Declaration of Human Rights 1948, Article 15(2) prohibit arbitrary deprivation.

(3) By Renunciation:- * A person have double nationalities — they have option to retain the nationality of one and to renounce the other.

(4) By Substitution * lose nationality — acquires nationality in some other state through naturalization.

* Its purpose is [youtube.com/c/MegaLecture/](https://www.youtube.com/c/MegaLecture/) +92033607801123 no citizen have dual citizenship

⇒ INTERNATIONAL LAW :-

① Definitions:- Int. law is the name for the body of customary and treaty rules which are considered legally binding by states in their intercourse with each other.

Firstly:- It is body of rules governing the relations between states

Secondly:- states regarding these rules on binding on them.

Thirdly:- Such rules derives from customs and treaties.

② Nature of Int. law:- Is int law really law?

Two views → • Not a true law (code of rules of conduct of ^{moral} ~~form~~)

• True law → regarded as law in the same way (binding upon the ^{individual} individuals)

③ Austin's View:-

• British Jurist (19th century)

• Int. law can not be called law proper in the true sense → neither Sovereign legislative authority to enact law → nor there is an adequate sanction behind it.

• No enforcement agency which can enforce it as a body of rules.

④ Oppenheim's View:-

"Law is a body of rules for human conduct within a community which by common consent of this community shall be enforced by external power" → Three fold; (i) There must be a community (ii) must be a body of rules for human conduct (iii) must be common consent of that community.

* Basis of Int. law:-

i) Naturalist theory:- sixteen and seventeen centuries theorist → int. law is based on the law of nature.

• Exist a system of law which emanates from God or reason or morals. • Writers Grotius, Pufendorf and Vattel

• Influenced by religious scholars • All laws is derived from God.

ii) Positivist theory:-

• Bynkershoek +92-336-7801123 Int. law is the consent of-

crime is committed within its territory.
(Followed by Great Britain, USA and other countries).

* Two categories; subjective and objective territorial principles. (i.e. a man fires a gun across a frontier and kills another man in a neighbouring state, the jurisdiction of the country from where the gun is fired is subj., and that of the country in which the shock takes effect is objective.)

(ii) Nationality principle:-

* State has the right to extend the application of its law to its nationals even in respect of events occurring entirely abroad.

(iii) Passive Nationality principle:-

* Jurisdiction of a state is established by reference to the nationality of a person injured by the offence.

(iv) Protective principle:-

* Jurisdiction of a state is determined by reference to the national interest injured by the offence. i.e. high treason.

(v) Universality principle:-

* Jurisdiction is determined by reference to the custody of the person committing the offence.

* In case of piracy it is a well recognized principle.

* Drug-trafficking, hijacking and Sabotage of aircraft.

① Jurisdiction on the High Seas:- * Does not belong to any.

(1) The Right of Hot Pursuit:-

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(2) Right of visit [youtube.com/c/MegaLecture/](https://www.youtube.com/c/MegaLecture/)
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Acquisition and loss of state territory:

⇒ MODES OF ACQUISITION OF STATE TERRITORY:-

- * Acquisition of state territory means acquisition of sovereignty.
- * The existing acquire territory which is may be already be under the sovereignty of another state or may not belong to any state.

(1) Occupation:-

- * Derived from Roman term "Occupatio" means acquisition or res nullius.
- * Under int. law "The appropriation by a state over a territory which does not belong to any other states.

(2) Annexation:-

- (It is now illegal under Article # 2, para 4. "all members shall not use the forces against territorial integrity or political independence of any other state.")
- * When a state conquers another → the former establishes its sovereignty over the latter.
- * In conquest, enemy territory acquired through conquest.
- * Method that powerful states acquired territory to expand their territory.

(3) Accretion:-

- * The name for the increase of land through new formations.
- * May be only a modification of existing territory.
- * It may be artificial or natural.

(4) Prescription:-

- * If a state exercises control over a territory without interruption, the concerned territory becomes if past is called prescription.
- * Three conditions required: (i) possession should be peaceful (ii) should be continuous (iii) possession should be held fairly for long time.

(5) Cession:-

- * The transfer of sovereignty over a definite territory by one state to another.
- * The state to whom the territory is transferred is acquiring state.
- * The state which allows to transfer its territory is ceding state.
- * Int. law does not proscribe any particular form of cession.
- * The acquiring and ceding must be states, and transfer should be affected through an agreement.
- * it is ceded: (i) the outcome of peaceful negotiations such as sale, exchange or gift (ii) result of war culminating peace.

Place of Individual in Int. Law:

→ In classical int. law → individual is considered obj of int. law and not its subject.

→ If an injury caused by an individual → state alone owed the responsibility under int. law. (there was no responsibility if the individual was stateless).

→ UN formation → above law has been changed.

→ Charter of UN using the words "people of UN" in the preamble → Give important place to individual.

⇒ Rights of Individuals:-

o Adoption of Int. conventions → a number of rights has given.

① Human Rights:- UDHR - 1948. * Two covenants; i) Covenant on civil and political rights ii) Covenant of Economics (1966)

② Right of make positions:- * Convention on the Elimination of All forms of Racial Discrimination 1966. * Convention against torture 1984.

③ Right to conciliation and Arbitration:- * Convention on Settlement of Investment Disputes b/w states and Nationals of other states → March 18, 1965.

⇒ Duties of Individuals:-

① Offence of piracy:- * Regarded crime → under int. law. * punishable by any state which seizes the offender.

② Violations of the rules of warfare:- * After WWII, responsibility under int. law directly imputed on individuals → punished under int. procedures.

③ Offence of Espionage:- * Individuals committing espionage or war treason are considered war criminals and may be punished.

④ Crime of Genocide:- * crime under int. law * For which the perpetrators, statesmen, public officials and private individuals were punishable. * Genocide Convention adopted by UN in Dec 9, 1948.

⑤ Aircraft hijacking:-

* Aircraft hijacking or unlawful acts against civil aviation is punishable.

⑥ Kidnapping to diplomats and other personals:- * Conventions in 1973 and 1979 → individuals punishable for the act.

⑦ Apartheid:- * African term mean → Separateness or segregation.

* Convention adopted in 1948 Article III - that individuals, organisations whether in or out of the state supporting Apartheid is illegal act under law.

→ The role of individual will remain imperfect as long as they don't have access before the ICJ.

(b) Neutralized States:- "When the state declare that it would never take up arms against any other state except in the case of aggression, and adopt the attitude of impartiality in all wars that may occur, the state is called neutral state."

* Three elements required to become a neutral:

- (a) a state must abstain from offensive action.
- (b) Remain neutral in all wars in future.
- (c) The above position granted collectively by other states in an int. convention.

Switzerland:- * Permanent neutrality recognised by European Powers on March 29 1815 by a declaration signed by Congress of Vienna.

* Defended its neutrality in various European wars.

* Neutralised position ^{reaffirmed} recognised by Treaty of Versailles 1919 Article 435.

Austria:- • Came under military occupation of USA and USSR during WWII.

• On Oct 26, 1955 Austria enacted a Constitutional federal Statute on Austria's permanent neutrality.

• On Dec, 1955 become a member of UN.

(c) Free Cities:-

* Specific political formation (comprising independent towns)

* At present Trieste enjoys the status of free city.

Trieste:- * Trieste and its provinces are annexed by Italy after WWI.

* Kelsen is of the view that rules of Municipal law as well as Int. law are meant for human beings.

(The former is binding on them directly while the later indirectly).

* The duties and rights of the States are only the duties and rights of men who compose them.

(Therefore it is ultimately individuals who are the subject of Int.-law).

(iii) Functional Theory:-

- Both of the above views do not stand correctly if they are analyzed at the present time.
- It is true that Int. law addresses most of the rights and duties to the states but in last fifty years its changed.
- Int. personality is granted to those who are capable of performing legal function under it. (Therefore the theory is called functional theory).

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⇨ STATES:-

* Primary Subject of Int. law. * Possess totality of rights and duties under Int. law. * Difficult to define.

"Society of men occupying a territory, the members of which are bound together by the tie of common subjection to a government and which has capacity to enter into relations with others entities."

* Montevideo Convention on the Right and Duties of states 1933 under Article 1; (a) Permanent population (b) defined territory (c) Government (d) Capacity into enter into relationship with other states.

(a) Population:- * Term population is meant people.

* A wandering people [youtube.com/c/MegaLecture/](http://www.youtube.com/c/MegaLecture/) 492 336 7801123e. * Population must form itself into organised society.

Written by: Wasim Akram

- **EMERGENCE OF INT. LAW:-**
 - Rules of int. law have developed systematically only in last five centuries.
 - During ancient period mutual relations of states were governed by "law of nature".
 - Jews, Greek, Romans and Hindus had practiced rules of regarding war and peace.
 - Greeks who civilization quite advanced.

• **Ancient India and Int. law:-**

- Vedic as well as post Vedic India was divided into large number of states known as "Rajyas or Kingdoms".

- Foreign relations of the Rajyas were governed by dutas (ambassadors).
- The dutas was required to perform many functions identical to int. law.

- Acquisition of territory through annexation was very common.
- Wars could be either just or unjust. (use of poison weapons were prohibited).

- King Rama instructed his brother not to use weapons of mass destruction.

- Oppenheim is of the view that int. law originated from Europe is falsified by a study of Indian literature.

- These rules in India were neither uniform nor general.

• **Int. law in Middle Ages:-**

- Int. law developed in Europe because of its disintegration of great number of states after break of Roman Empire.
- Necessity of law arose. • Carried on trade and commerce (Rules were needed for sea).

- Most of states have their own rules of the sea.

- Leagues and associations were established.

- It send and receive diplomatic agents.

• **Grotius:-** (1583-1645) was born in Holland.

- Studied mathematics, philosophy and law at very young age.

the states. • The custom and treaties by which consent of a state is achieved are the basis of int. law.

• Martin and Anzilotti also have the same views.

iii) Eclectic Theory:- • Naturalists and positivists have extreme.

• eclectic have adopt a middle course

• int. law derived from both natural and voluntary law.

• Most rules are based on the basis of consent of the states and a few of them on the law of nature.

⇒ Functions of International law:-

• Maintain int. peace and security.

• Develop friendly relations among nations.

• Achieve int. cooperation → solving int. problems

• Settle int. disputes. • provide self-determination, freedom and human rights. • Refrain from threat or use of force by a state against any state.

⇒ Sanctions of Int. law:-

"If rules are violated or obligations contained therein are not observed by the subjects, enacted specific penalty which is enforced in order to enforce obedience to a law?"

i) Sanction by states:-

• A state may apply sanctions by means of self-help.

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2) Collective Sanction:-

• Notable of them is United Nations Org.

• It postulate economic, financial and military sanctions under chapter VII.

• Also apply political sanctions. • Economic sanctions applied under the authority of SC. • The main purpose of the economic sanctions is to hurt the economy of the state which has violated the rules.

South Africa (1977), Iraq (1990), Libya (1992) and Iran (2002)

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① Differences b/w De facto and De jure recognition:

- (i) De facto recognition is provisional, can be withdrawn on many grounds.
- (ii) Full diplomatic relations cannot be established it can be done so in de jure.
- (iii) Full diplomatic ~~env~~ immunities are not granted while de jure are granted.
- (iv) De jure can claim receive the property situated in the recognised ^{ing} state while de facto can not.
- (v) Official visit may be kept minimum and avoid all together.

② Recognition of Government in exile:-

- When recognition is granted to a new state whose administration is carried out by the government from outside the ^{state}.
- On Nov 15, 1988 PLO declared establishment of Palestine
- The government in exile based on Tunisia. • Recognised by many states including India (its territory was under dispute)

③ pre-mature / precipitate recognition:-

- It is granted, it is illegal ^{intervention in the affairs of-}
- existing state • The recognition of Israel by USA is pre-mature ^{May 14, 1948} recognition.
- In civil war in Yemen 1994 → Southern Yemen declared independence → Recognised by Russia. • In Jul, 1994 Southern surrendered. Southern state came to an end. • The recognition of Russia fell to the grounds.

④ Conditional Recognition:-

- * introduced in Jun 28, 1878. * When the recognition is granted on some conditions to fulfill. (while it is... Contrary to the true function of recognition)
- Baty; "Recognition can not be conditional... either it is a fact or it is not.

* If the condition is not fulfilled, it will not annul the recognition but relations between them become unfriendly.

cession and lease:- * Also take place by way of lease.

i.e Transfer of temporary sovereignty that of China to Britain in 1898 for 99 years of Hong Kong. * lease expires in 1997 and thereafter territory revert to china.

(6) Awards:

* acquisition through judicial organ such as ICJ.

* If a territory which is part of one state, and later, objection is raised by another state, is submitted to the judicial organ for settlement, which gives award in the favour of the latter, the title is regarded to have passed through award.

* The transfer of 350 sq/mites of Rann and Kutch to Pakistan with the award of tribunal, commonly known is Kutch award. * the transfer did not require any amendment in Indian's Constitution.

(7) Plebiscite:-

* A state also acquire territory if the inhabitants of the given territory wish to merge it with another state.

* When there is dispute as to the status of given territory.

* After WWI under Articles 32-34 plebiscites took place in Eupen and Malmedy (under Versailles treaty May 28, 1919)

* In 1935 majority of the citizens voted in favours of unification with Germany which was done on March 1, 1935)

* In case of Kashmir, Pakistan and India is also agreed.

⇒ MODES OF LOSS OF STATE TERRITORY:-

From the above state also lose territory by;

i) Secession: * either peacefully or by revolt. * The secession of Latvia, and Estonia in 1991 from USSR. * Secession of Bangladesh in 1971.

ii) Grant of Independence:- * Grant of independence to its colonies is another mode of losing territory. India by Great Britain in 1947.

iii) Dereliction (relinquishment):- * It's free a territory from the sovereignty of the present owner state. * It requires actual abandonment of territory. * The intention of giving up sovereignty over it.

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(b) Implied Recognition:- * When state indicate their intention to recognize the new state by some act. * May be unilaterally or

(i) unilateral acts:- Bilateral treaty or establish diplomatic relations with unrecognized state.

(ii) Collective acts:- * When the unrecognized state ^{participate in} enter to a Conference → intention have been indicated. Sometime it is vice versa. (USA and UK once stated that signing of a Convention does not means the recognition of those states which have not been recognised).

* In 1920, Colombia announced that it acceptance of Article #10 does not imply the recognition of Panama.

* Some states also refused to recognise Soviet Union

o Mode of recognition:-

(1) De-facto Recognition:- * When the recognizing state considers that the new state has legitimate government, but its effectiveness and continuance to govern is doubtful.

* The USSR was recognised by Great Britain de facto on Mar 16, 1924 and later de jure on Feb 2, 1924.

* Diplomatic relations are not established with de facto

(2) De Jure Recognition:-

* When it is consider that the new state is capable of possessing all the attributes of statehood with stability and permanency → de jure recognition is granted.

* It is final. * New state come into existance peacefully and constitutionally → de jure recognition may be granted directly.

* When its formed through revolt, recognition may be granted after de facto recognition.

Written by: Wasim Akram

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(b) Territory:- * Immaterial whether the territory where the people are small or large. * No size of state population
* Nauru has less than 10,000 inhabitants. * Micro or mini states are also eligible for UN memberships under Article 4 of UN charter.
* Israel is a state but it does not have defined territory.

(c) Government:-
* people and territory should be governed by government.
* A state which does not have a government does not consider a state.
* Government in the form of democracy or dictatorship. it is not necessary.

(d) Capacity into enter into relationship with other states:-
→ Those states in India, where federated states do not possess a capacity to enter into relationships with other states, not regarded states from Int. law point of view.

o Micro state:- Those which are exceptionally small in area, population and human and economic resources but they are independent.
Luxembourg, San Marino and Andorra are UN members.

⇒ KINDS OF STATE :- www.facebook.com/CSSExamPrep

(i) Sovereign State:- → "Sovereignty is meant the supreme authority which on the international plane means not legal authority over all other states but rather legal authority which is not in law dependent on any other early authority."

→ "Independent all around, within or without the border of the country."

→ A sovereign state is independent in two ways;
(i) Sovereign in internal affairs (Full freedom of socio-political system)
(ii) Independent in external affairs or foreign affairs.
(state is free to conduct its foreign policy, i.e. relationships with other states).

Immunities and Privileges of Diplomatic Agents:-

(i) Inviolability of Diplomatic Agents:- * Inviolable

- * Vienna Conv. under Article 29 — diplomats shall be inviolable.
- * Receiving state shall receive him with due respect.
- * Prevent him from any attack on his person, freedom and dignity.
- * Receiving state may arrest or detain him on exceptional cases.
- * May arrest for ^{some} time being — sent safely on ^{home} ^{time.}

(ii) Inviolability of Premises:-

- This is a right to use the flag and emblem of the sending state or premises of the mission — clearly identify ^{them.}
- Customary int-law has long recognised the inviolability of such premises.

(iii) Immunity from local Jurisdiction: * Enjoy immunity from local courts — it extend to criminal as well as administrative and civil jurisdiction.

(iv) Immunity from giving Witness: → Immune from being presented as witness in a civil, criminal or other court.

(v) Immunity from taxes and custom duties: * Vienna Conv. 1951 Article 34, exempted from all taxes, personal, real, national or regional.

(vi) Immunity from inspection of personal Baggage:-

- * exempted from detention
- * any prohibited imports and exports are subject to quarantine rules of the receiving state.

(vii) Freedom of Communication: Article # 27 → Free to communicate any information for official purposes to sending state.

(viii) Freedom of movement and travel:- Article 26

- * Free to move and travel any place in the receiving state.

(ix) Right to worship: * Free to worship any religion like within the premises — but cannot invite others to his religion.

(x) Immunity from social security provision: Article # 33

- * exempted from social security provision which may be enforce in receiving state.

(xi) Immunity from local and military obligations:

- * Exempt from local and military obligations of receiving State.

(3) Negative theory:-

⇒ Law of state Succession:- * cession, annexation, secession, union and merger... present time the most common form of state succession is emergence of full sovereignty of a number of territories which were hitherto either colonies or trust territories.

⊙ Consequences of state Succession:-

(a) Treaties:-

Nationality:-

o Definition:- "status of a natural person who is attached to a state by the tie of allegiance."

"Individual who owe permanent allegiance to a state are known as the national of that state."

→ Article 1 convention on the Conflict of Nationality Law → Hague Codification Conference (1930) → "It is for each state to determine under its own law who are its nationals."

* State is free under Int-law → "To choose as to whom it may select or whom it may reject as its nationals."

* Nationality — the medium through which individual can enjoy the benefits from Int-law.

* State exercises jurisdiction over its nationals — under its personal ^{supremacy}.

* Inconvenient for Int-law — allow a person to have multiple or ^{nationality} no nationality. * Goal of Int-law — each person have single

Nationality and citizenship:-

o Nationality: is the quality of belonging to a particular state, by which the person is internationally known.

o Citizenship: denotes the relations between the person and municipal law. (all persons who enjoy full political and civil rights are called citizens.)

Modes of acquisition of nationality:-

(1) By Birth:- * persons whose birth take place within the territorial limits of a state — acquire nationality (called *Jus Soli*) * The US, UK and Latin America follows *Jus Soli* * India Citizenship Act 1950 → also this rules.

(2) By Decent:- * acquire nationality — on the basis of — either parents. (known as *Jus Sanguinis*) * Germany and France follow this principle.

* US, UK also recognise this ^{in addition to jus soli} +92 336 7801123

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⇒ Sources of Int. law:- A question arises as to from where such rules have come into int. law?

Methods by which have been discovered as known as Sources

- i) Custom:-
- Original and oldest source/important.
 - Large part of int. law consisted of customary rules.
 - "Int. Custom means a kind of qualified customs practice distinguished from others. * Custom may be general and regional.
 - Customary rules are those which are practiced by most of states.¹⁾
 - Usage is a general practice while custom is more than ^{through ages as a} mere practice ^{habit.}
 - The breach of int. customary law is regarded as illegal act.

ii) Treaties:-

- Rules are clear and precise.

- Important source.
- Article 38 of the statute of ICJ.
- "An agreement between two or more states by which they create relationships."
- Convention, protocol, accord.
- General and particular treaties.
- Process of customary rules is very slow while treaty making process is rapid.

iii) General principles of law recognized by the civilized nations:-

- Paragraph (1)(c) of article recognise it a third source.
- Statute of permanent court was being framed by the Advisory Committee of Jurists appointed by the Council of the League of the Nations.
- After long debate, inserted under Article 38(3) of the statute of ICJ, (same text has been included under Article 38(1)(c) of ICJ.

iv) Judicial Decisions:-

- Subsidiary means and indirect source of int. law.
- ICJ at present is the main int. judicial tribunal (however, it does not create a binding rules for int. law).
- (a number of decisions of the British Prize Courts has been acknowledged universally as authoritative declaration of law).
- Apply to those cases which cannot be decided by the court due to non-availability of rules.

v) Writings of Jurists:-

- Teachings of the most highly qualified publicists of the various nations.
- very often cited; i.e Grotius, Vattel and Bynkershoek are quoted in ICJ.
- This source may be resorted - the final resort when all other sources failed.
- Harvard Research Draft, secondary materials, Hague Codification Conference 1930 are also important sources.

⇒ Treaties :-

① Definition:- "written agreement" → by two or more states or int. organizations create or intend to create law.

② Four elements; a) Should be written b) Parties may be either states or int-organizations c) To create relationship d) should operate in sphere of int. law.

③ Treaty through exchange of notes:-

→ may conclude through notes or letters. → Naval agreement of UK and Germany in 1935.

→ Jul 1, 1994 — Found that exchange of letters between King of KSA and Amir of Qatar — and King of KSA and Amir of Bahrain.

⇒ Vienna Convention on Law of Treaties:-

* The codification — Int. Law Commission proposed in 1949.

* Work completed in 1966 — UNGA — draft article prepared

* Vienna Convention on Law of Treaties May 23, 1969 adopted.

* A preamble and 58 Articles — divided in 8 parts.

* Came into force in Jan 27, 1980. * Ratified by 35 states.

* As of Dec 1989 — 59 states parties

→ At present treaties concluded by "old" and "new" law.

④ Kinds of treaties:- www.facebook.com/CSSExamPrep

(a) Bilateral treaties: * Between two parties. * Sometimes called treaty-contract or biparties.

(b) Plurilateral treaties:- * Open to a restricted number of states * Minimum number should be more than two.

* purpose is to promote peace or economic development. i.e. OPEC, NATO

(c) Multilateral treaties:- * Open to all states for participation without restriction. * Perform function of legislation.

* if sometimes, described as law-making treaties.

* Vienna Convention is divided into bilateral and multilateral treaties.

⇒ Those states which are fully sovereign can be parties to a treaties — not www.facebook.com/CSSExamPrep can also if they can make.

Recognition of Government:-

- * Change of government or overthrow of a government by an opposing political party → domestic concern.
- * The change of government does not mean that it will lose its recognition.
- * Recognition of ^{state is} different from recognition of government.
- * Change of regime is not a matter.
- * However, when a ^{change} state is occur, through revolt or by coup d'etat, some difficulties arises.
- * De facto or de jure recognition is granted to the new govt.
- * New government recognised in several ways. i.e.
 - i) Sending notification to new head,
 - ii) by an announcement
 - iii) by acknowledgment
 - iv) by according reception of envoy of new government by head of the state.

Recognition of Belligerency:-

- o When civil war takes place and the rebels are recognized.
- o It shows that the rebels are in a position to exercise authority over the territory.

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Recognition of Insurgency:- → When rebels or insurgents are recognized by other existing states, known as recognition of insurgency.

- Before recognition conditions are required for recognising state.
 - i) Insurgent occupied over a considerable part.
 - ii) Support from majority of the inhabitants of territory.
 - iii)

US in 1989 supported the Afghans insurgents.

- Oppenheim stated that untimely and precipitate recognition is more than a [youtube.com/c/MegaLecture/](https://www.youtube.com/c/MegaLecture/) the dignity of a parent state.

vi) Equity:- • Not been mentioned in the statute of ICJ.

- Great importance in those fields where rules are not readily available.
- Rules of "equity" do not form part of Int. law and not a source but its rules transform into customary law with the passage of time.
- The (USA vs Canada) case, Continental shelf (Libya vs Malta) case etc.

vii) Resolutions of the General Assembly:-

- Instances of some of the principles that have acquired the status of Customary rules of Int. law through adoptions of resolutions: non-intervention, right of self defence, UN Declaration of Human Rights 1948, Prohibition of the use of Nuclear Weapons 1961, Declaration of Permanent Sovereignty over Natural Resources 1962 etc.

⇒ Int. law is a weak law:- Weak law → Its rules are not effective as rules of Municipal law.

1) Rules are based on Int. treaties and customs → But they are sometimes formulated in such a way to give wide option to the state.

2) No court in true sense to decide the legal disputes of all states.

- ICJ does not have jurisdiction, it acts only on the consent of the states.

3) Enforcement measures are not effective.

- Court does not have real power to enforce its decisions.

4) Rules of Int. law are frequently violated by the states. (takes the law in his own hands)

- Charter of UN reduced the area of self help, Int. law is far behind from being quite effective.

5) Its units are quite weak. • The Sanctions against breaches are normally effective and easy to maintain.

⇒ RECOGNITION :-

- May broadly divided;
- * Recognition of state
 - * Recognition of government
 - * Recognition of belligerency
 - * Recognition of insurgency.

① Recognition of States :- → An entity in order to be called a state when it possess essential attributes.

→ When possession of these attributes in a state is acknowledged by other existing state → Recognition of state

→ On many occasions → state possess all these attributes but they are not recognized while some other states not fulfill these essentials but recognition is granted.
i.e Israel

→ Recognition of state is a political act.

② Law of recognition of state :-

- Recognition is granted only on political considerations.
- Yet there is no codification and law of recognition.

③ Theories of recognition :-

(i) Constitutive Theory :- A state not become state when it possess all essentials (Become a state when it acknowledge by other)

• Anzilotti and Holland. • The theory has the following defects:

- (i) It is not necessary that a state possess all the essentials. China → USA recognized in 1979.
- (ii) Recognition is political, if it is accepted then the fate of other state will be by decide other states.

(ii) Declarative Theory :-

* Hall, Brierly, Fisher. * Hall; state enter into the statehood when it possess all attributes.

- * The advocates of this theory → Reduced the importance of recognition. (recognition is only for official intercourse with others)
- * The recognition create a relationship.

④ Forms of recognition :-

(a) Express Recognition :- when the new state is recognized by notification, or declaration. Recognition of Bangladesh by India.

→ It is also granted by the conclusion of treaty.

- (ii) Positivists:-
 - Antipodes of naturalists.
 - According to them Int-law derived from customs and treaties.
 - Int-law is the sum of the rules by which states have consented to be bound.
 - Completely denied the notion of natural law. in their writings.
 - Bynkershoek (1673-1743), Moser (1701-85) are leading positivists.
 - Their writings considerably influenced the writers of the nineteenth and twentieth century.
 - Criticised on number of grounds. i.e to say that all the rules of int-law are based on the consent of the states is erroneous.
 - Statute of ICJ under Article 38 (2) that apart from Custom and treaties "General principles of law recognized by civilized nations" is also a source of Int-law.

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- (iii) Grotians:-
 - Those who believe that Int-law derived from positive law as well as the law of nature are called Grotians.
 - Main exponents Wolff (1679-1754) and Vattel (1714-1767).
 - Adopted the middle position of the two extremes.

⇒ Int-law in 19th century:-

- Developed rapidly.
- Earlier it was only confined to Europe and Christian states.
- Extended to the part of the world due to emergence of new states.
- Outside Europe America was the most important state which entered to the family of law of nations.
- Turkey in 1856
- Modernisation of world transport and communication enabled these states to contact each other easily.
- States begin to negotiate with others on issues.
- Congress of Vienna (1814-1815) was landmark event. (Important Conference, many rules of Int-law were formulated).

⇒ State Territory:-

* Territory is one of an attribute. (agreed boundary)
 "State territory is that defined position of the globe which is subjected to the sovereignty of a state."
 Oppenheim

(1) Land Territory:- * A line on surface of earth which separate one state from another, or from the open sea.

* Sometimes referred to frontiers. * Two kind; Natural: Rivers, mountains or deserts. Artificial: walls, pillars, poles and trenches.

(2) National Waters:-

→ Sometimes called internal waters.

(a) Rivers:- Four Categories; i) Flows wholly ii) Separate two state iii) Run through two or three states iv) Navigable from open sea.

(i) Indus Water Agreement • Treaty concluded on Sep 19, 1960. (IBRD) for regulating the use of Indus water.

(ii) Farakka Issue:-

• Farakka was built by India (1974) on Ganga River to save the port of Calcutta. • Bangladesh made an objection
 • In 1976, Bangladesh brought the matter before UN, which referred it to the special political committee. • Issue was then withdrawn by Bangladesh.

(b) Canals:- * Constructed by the states.

* when it connect int. waterway so then it important for other (Suez Canal, Kiel Canal, Panama Canal etc)

(i) Suez Canal:

* Connect Red sea with Mediterranean. * Opened in 1869, owned by French company. * Became under control of US in 1986.

* 1956 President Nasser announced the nationalization of Canal.

(Took complete control over it). * USA, France and UK protest against the nationalization.

* Council adopted resolution that sovereignty of ~~Suez~~ Egypt Canal shall be respected (the canal shall be free for all nations).

written by: Wasim Akram

(3) Right to punish piracy:

- * Under customary rules → every state can punish pirates
- * Vessels of all nations, whether men-of-war, other public vessels, can chase, attack and seize the pirates and bring it for trial to home country.
- * Transfer from Customary law to treaty rule. (Article 19 Geneva Convention on High Seas 1958).

(4) Right of Belligerents during blockade:-

- * Belligerents apply blockade (during war) not only in enemy ports but also its territorial coast waters
- * Such attempts can be confiscated.

(5) Right to encounter Ships without Nationality:-

Ship flying no flag and refusing to show a flag when called upon to do so in a proper manner, may be boarded by ships of any state.

① Jurisdiction on Air-crafts:-

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① Jurisdiction on Antarctica and outer Space:-

- * Antarctica treaty 1959 * Antarctica and outer space are res-communis. → neither can be appropriated nor a state can exercise jurisdiction over it.

(ii) Acts of diplomatic Envoys: * diplomats enjoy immunities → although they are responsible for those injurious acts which was performed by them at the command of home state.

(iii) Acts of members of Armed Forces:-

* state is responsible of any injurious acts when the acts has been commanded by the state.

(iv) Acts of Judiciary:-

* Fundamental principle → Judiciary remain independent.

* If court give any decision which is contrary to int. law, state is responsible.

(v) Constituent units of Federal states:-

* According to Int. law commission 1974 → "Federal state is responsible for the wrongful acts of its constituent units."

(b) Indirect Responsibility:-

* Responsibility of state to prevent its own as well as well other subjects living within its territory from committing such acts which causes injury to other.

* If act is committed → state is not responsible.

i.e crime against foreign ambassadors, offences to the flag of a foreign state, org. of armed bands on support of insurrection etc.

(i) Mob and violence:-

* state responsible → damage cause by a group or by mob.

* Firstly; because mobs is due to substantial preventive action. (It is a duty of state to have foreseen the danger and made special effort to prevent it).

* If all the necessary steps has been taken but the incidence happened, then state is not responsible.

* Secondly: state is responsible if ^{mob take place due to} an indifferent attitude of its organs.

(arms attack of US embassy (Tehran) ICJ decided that Iran should pay reparation to US, for the injury caused by

(ii) Non-fully Sovereign States-

→ A state which possesses some, but not of all these rights, duties and powers in nevertheless an int. person → called non-fully Sovereign state:

→ They remain ~~the~~ subject to the authority of one or more other states.

(a) protectorate States:-

* One state surrenders → by an agreement to the protection of another state, a kind of relationship → "protectorate".

* Treaty of ^{not} protection need to be between the two states.

* protectorate states are not sovereign states. (However they are prima facie independent and the possessor of all rights which they have not surrendered)

o Bhutan:- o Protectorate of India through a treaty of friendship Aug 8, 1949. o Under Article 3 of the treaty, India undertook to exercise no interference in the internal affairs/administration of Bhutan.

o It external affairs will be guided by India.

o Article 6 Bhutan shall be free from ^{to} impost into Bhutan

o In 1971 Bhutan was admitted to UNO (full support of India). (However, Bhutan continue to be protectorate of India).

o Bhutan acted contrary to India's position on many issues. (Signatory of NPT - which is opposes by India)

o Five rounds talks on border with China, (1988 at ^{Beijing}),

o Sikkim:- o Becom. the protectorate of India 1950.

o Assumed the responsibility of Indian foreign affairs, communications, defence and territorial integrity.

o Indian protectorate terminated in 1974, when Sikkim

became ^{associated state of India.}

(ii) Violence in insurrections and in civil wars:-

- * state responsible → injuries caused to an alien in the consequences of civil strife.

(iii) state Responsibility for the Acts of Corporations:-

- * legal persons → such as Corporations are treated like nationals → Thus a state become responsible of any wrongful acts of the corporation on the basis of their nationality.

(iv) state responsibility to other subjects of int-law:-

- * state is responsible for injurious acts to that state whose right has been infringed.

* Court Bernadotte and French Observer → appointed

as mediator by SC → Conflict between Arabs and Jews.

* Both were murdered → in Jerusalem (under occupation of Israel)

* UN requested ICJ → give advisory opinion (which state is responsible). * After ICJ decision;

* The Secretary General of UN claimed compensation from Israel.

⊙ Consequences of state Responsibility:-

→ In int. law responsibility is discharged normally by reparation. * Reparation includes various methods:

(a) Restitution:-

* reestablish the situation which was before → done by performing obligation, revocation or abstention from further wrongful conduct.

(b) Indemnity:-

* Take place → when normal form of reparation is not possible.
* most useful form of reparation under int. law.

(c) Satisfaction:-

* Form of reparation — paid in those cases where the "dignity or personality of a state has been injured."

* When material damage is not available. * Such acts includes the presentation of official regrets and a apologies.

o Recognition: State Succession:-

* The substitution of one state by another over a territory.

* "Succession of int. persons occurs when one or more int. persons take the place of another int. person in consequences of certain changes in latter's condition" Oppenheim

o Kinds of State Succession:-

(i) Universal Succession:- * The personality of the predecessor state is completely destroyed. * It is absorbed by another int. person (universal or total succession). * It may be through voluntary merger, annexation or subjugation. i.e Korea by Japan in 1910, Austria by Germany in 1938. * Unification of Germany in 1991.

(ii) Partial Succession:-

* When a part of the territory is severed from parent state and personality is affected only to the extent by which the territory is transferred. i.e either by secession, separation, or by cession. * Latvia and Lithuania from USSR in 1991. * Further replacement of Soviet Union by 12 sovereign states.

o State Succession — Voluntary and by revolt:-

* Universal and partial succession may take place by voluntary or revolt.

o Theories of State Succession:-

(1) Universal Succession theory:- when one state is completely absorbed by another, either through conquest or voluntary merger, or is extinguished by breaking into independent parts.

i.e when the whole of the territory of the state 2 is divided among A, B and C.

(2) Continuity theory:-

State Responsibility:

- * State perform totality of rights and duties under int. law
- * Duties and responsibilities correlated → The duties of one state are the responsibilities of another.
- * State responsibilities may incur during war as well peace.
- * According to Article 3 of Hague Convention 1907
"a belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation."

Law on state responsibility:-

- * First session in 1949 → provisional list of 14 points which are suitable for codification.
- * Due to lack of time could not discussed further.
- * GA → it started work in 1973, by codifying the rules * Commission during its 1985 session adopted draft Articles. * it is expected → state responsibility will be adopted in near future

Kinds of state responsibility:-

- o incur in two ways; either by the act of state or by the act of its individuals. It may be called "original" and "vicarious" responsibility by Oppenheim.

(a) Direct state responsibility:-

- * When breach of an int. obligation is caused by a state → become responsible to that state whose right has been infringed.

- * State perform its functions through agencies and institutions → so if any wrongful act is done by any, state becomes responsible directly on their behalf.

(i) Executive and administrative organs:-

- * Any act committed by the Head of the state → which causes injury to another state → int. delinquency. (may be caused by high authorities or subordinate officers) i.e. breach of treaty.
- * state is not responsible of any unintentional act.

(ii) Conduct relations with other states:- Article #14

① Economic Rights and Duties of state:- 1970s could be called the decade of diplomacy. It was a period economic work given priority by UN. Demand for NIEO made in 1972. On Dec, 1972 UN adopted resolution known as economic duties and rights.

→ Economic Rights of the states:-

(i) Right to choose economic system:- Article #1
Choose economic, social and political system.

(ii) Permanent Sovereignty over natural resources:-

(iii) Right to engage in Int. trade:- Article #2

(iv) Right to associate with producer organizations:- #4

(v) Right to participate in Int. decision-making:- #5

(vi) Transfer of technology:- Article #13

→ Economic Duties of states:-

(a) Duty of promotion, expansion and liberalisation of world:-

(b) Duty of utilization of resources:-

(c) Duty of most-favoured nation treatment:-

(d) Duty of indexation of prices:- #28 achieving adjustment in prices of export.

(e) Duty of worldwide community agreement:-

Rights of other states over EEZ:- Article 58, Para 2 of the Convention of 1982, lays down that the coastal states shall have due regard to the rights and duties of other states in exercising their rights in EEZ.

5) High sea:-

"High sea" meant under customary rule the part of the sea which are not included in the territorial waters. * Rules formulated in 1609, by Grotium in his book.

Freedom of high sea:- under customary rule high seas were free and open to all states. "Freedom of high seas" was a well recognized principle.

① Piracy:-

"unauthorized act of violence committed by a private vessel on high seas against another vessel with intent to plunder."

* Piracy *Jure gentium* is an int. crime, pirates is considered enemy of every state. * defined Article 15 in Geneva Convention, 1958.

① Land-locked states:- "A ^{state} ~~land~~ whose boundaries is surrounded by ~~the~~ lands"

"A state which is no sea coast" Article 124(1)(a) 1982.

* 30 land-locked states (Fourteen are in Africa).

① Deep Sea mining:- * The extremely ^{flat} deep area of the deep ocean floor lies beyond the continental margin.
* Depth varies. * generally, it is 5000 meters depth.

⑤ By Expiration:- * Some countries have rules that citizenship expires in the case of such of their subjects as have left the country and stayed abroad for a certain length of time.

⇒ Double Nationality:- * If a person born in some foreign country — he would be national of the born country — and the same time he become the national of their parental country. * Individual possess it knowingly or unknowingly and with or without intention.

* LoN 1930 Codification Conference, ^{Artid #5} "if a person have double nationalities may be treated in a third state as he is single nationality".

* If a woman marries, she automatically acquire the nationality of husband state.

① Nationality of Married Women * Convention on Nationality of Married Women (GAWM) — Jan 29, 1957. * Convention is now in force.

* Convention — signed by limited number of states. * No positive efforts have been made.

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① Statelessness:- * When a person does ^{not} possess any nationality. * It may occur by birth — or by deprivation by way of penalty.

* Refugees flee from their country to abroad is also stateless.

* Their interest does not protected by any state. * Their all

right become doubtful. * Conflict on Nationality Law 1930 — provide nationality to those who born in their territory.

* UNGA Conference met in Geneva in April (1959) — arrive to reduce statelessness at birth but failed. * Met again in NY in 1961.

① Nationality and Pakistan:

State Jurisdiction:

(Judicial, legislative and administrative)

- * The term is meant the legal competence which a state enjoys over the territory which belongs to it.
- * Jurisdiction of state may be divided into two categories
i) Territorial ii) Extra-territorial Jurisdiction

o Territorial Jurisdiction:-

- * Jurisdiction of state over its territory
- * A state enjoys civil as well as criminal jurisdiction over all persons and things.
- * it extends to → land territory within boundaries, internal waters, territorial sea, air space (above the land and sub-soil)
- * Draft Declaration on the Rights and Duties of state 1949. (every state has the right to exercise jurisdiction over all persons and things).
- * Area theory: * Kelsen states: "Territory of state is not a thing; it is especially not a piece of land; it is an area determined by int. law."

o Limitations on Territorial principles:-

- * exclusive jurisdiction is not absolute. * certain limitations have been imposed by int. law.
- * Embassies and diplomatic agents situated in other states have excluded from the jurisdiction of other the state where they are situated.

(a) Civil Jurisdiction:

- * civil jurisdiction over all the persons found in its territory.
- * Also civil cases of aliens be decided by it.
- * aliens remains under two concurrent jurisdiction, that is they state they reside, and the state they belong.

(b) Criminal Jurisdiction:-

- * Five general principles on which criminal jurisdiction is based. (National codes of criminal law & cr. procedures)
- (i) Territoriality +92 336 7801123 A state may punish all the persons, whether he is a national or an alien, if the

* The aircraft of others are allowed only if there is a treaty relationship.

⇒ Law of Air Space:- Divided into two categories.

(a) Paris Convention (1919):-

* Before WWI air space was exclusively of the territorial state.

* Peace Conference held in 1919. (Article #1; every ^{power has} complete and exclusive sovereignty over its state)

* Article #2 every Contracting State in the time of peace to accord freedom of innocent passage above its territory.

(b) Chicago Convention (1944):-

* Int. Civil Aviation Conference. * attended by 52 nations.

* Came into force in April 4, 1947.

* Part I deals with "Air Navigation" * Part II is the constitution

* Part III deals with "Int. Transport"

(5) Sub-Soil under earth

o It is important for telegraph and telephon wires.

o Also on account of the working of mines and building tunnels.

Oppenheim: "Sub soil on an unlimited depth belongs to state which owns the territory on the surface and territorial waters."

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