

Public International Law

Module-wise Question Bank

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Jigar Ashar

STUDENT, HVPS COLLEGE OF LAW



Legal Charcha

Module - 1: Fundamentals of International Law

Q. Q. What is meant by Public International Law?

- **Public International Law** refers to the body of legal rules, norms, and principles that govern the relationships and conduct of sovereign states, international organizations, and, in certain cases, individuals within the international system. It is primarily concerned with the regulation of the interactions between these entities and the rights and obligations that arise from these interactions.
- **Here are the key components of Public International Law:**
 1. **Scope and Subjects:**
 - **States:** The primary subjects of international law are sovereign states. They have legal personality and the capacity to engage in international relations, make treaties, and establish obligations.
 - **International Organizations:** These are created by states to carry out specific functions, such as the United Nations, the World Trade Organization, and the International Court of Justice.
 - **Individuals:** While historically not a subject of international law, individuals are increasingly recognized in areas like human rights law and international criminal law (e.g., International Criminal Court).
 2. **Sources of Public International Law:**
 - **Treaties:** International agreements between states that are legally binding.
 - **Customary International Law:** Practices that have evolved over time and are accepted as binding, even without written treaties.
 - **General Principles of Law:** Fundamental principles that are recognized by the major legal systems of the world.
 - **Judicial Decisions and Teachings of Publicists:** The decisions of international courts and the writings of scholars may help in the interpretation of international law.
 3. **Main Areas of Public International Law:**
 - **Law of Treaties:** Governs the negotiation, creation, and enforcement of treaties between states.
 - **Law of the Sea:** Addresses the rights and responsibilities of states regarding the oceans and maritime resources (e.g., UNCLOS).
 - **Human Rights Law:** Ensures the protection of individuals' rights on an international level, as seen through instruments like the Universal Declaration of Human Rights.
 - **International Humanitarian Law:** Governs the conduct of armed conflict and the protection of individuals during war (e.g., Geneva Conventions).

- **International Environmental Law:** Focuses on the protection of the environment and regulation of global issues like climate change and biodiversity.
- 4. **Role and Functions:**
 - **Peace and Security:** Public international law works to maintain international peace and security through the prevention of conflicts and the regulation of the use of force (e.g., through the United Nations).
 - **Diplomacy and Relations:** It provides the framework for diplomatic relations, trade, and cooperation between states.
 - **Dispute Resolution:** Public international law facilitates the peaceful resolution of disputes between states through various judicial bodies like the International Court of Justice (ICJ) and arbitration.
- 5. **Relationship with Domestic (Municipal) Law:**
 - **Monism vs. Dualism:** International law can be incorporated into domestic legal systems either directly (monistic theory) or through national legislation (dualistic theory).
- **Challenges and Modern Relevance:**
 1. Public international law faces challenges in dealing with non-state actors like multinational corporations, terrorist organizations, and global issues like cyber warfare and environmental degradation.
 2. The increasing interdependence of states in trade, security, and human rights makes international law more relevant than ever in addressing global concerns.

Q. Nature / Characteristics of International Law?

- International law, often termed the "law of nations," is a set of rules and principles that govern the relations and interactions between sovereign states and other international actors.
- **Its nature can be understood through the following key characteristics:**
 1. **Sovereign Equality of States:** International law is founded on the principle that all states, regardless of size or power, are equal under the law. This equality ensures that no state has legal superiority over another, promoting fairness and mutual respect in international relations.
 2. **Consent-Based Obligations:** Unlike domestic law, which is imposed by a central authority, international law operates on the basis of consent. States are bound by international agreements and treaties they voluntarily enter into, reflecting their willingness to adhere to shared norms and standards.
 3. **Lack of Centralized Enforcement:** There is no overarching global authority to enforce international law uniformly. Compliance relies on

mechanisms such as diplomatic negotiations, economic sanctions, and, in some cases, collective action by international organizations like the United Nations.

4. **Dynamic and Evolving Nature:** International law is not static; it evolves in response to global developments. Issues such as cyber security, environmental challenges, and human rights have led to the creation of new legal norms and treaties, demonstrating its adaptability.
5. **Interplay with Domestic Law:** The relationship between international law and national (municipal) law varies by country. Some nations incorporate international law directly into their legal systems (monism), while others require specific legislation to enforce international agreements domestically (dualism).
6. **Influence of Customary Practices:** Beyond written treaties, international law is also shaped by customary practices that have been consistently followed by states out of a sense of legal obligation. These customs can become binding over time, even without formal agreements.
7. **Role of International Organizations:** Entities like the United Nations, the International Court of Justice, and the World Trade Organization play pivotal roles in developing, interpreting, and enforcing international law, facilitating cooperation and dispute resolution among states.

Q. Origin and Historical Development of International Law?

- The origin and historical development of international law trace back to ancient civilizations and have evolved significantly over centuries to address the complexities of global interactions.
 1. **Ancient Foundations:**
 - i. **Early Treaties:** One of the earliest recorded treaties is between the Mesopotamian city-states of Lagash and Umma, around 2100 BCE, marking the beginning of formal agreements between sovereign entities.
 - ii. **Egyptian-Hittite Treaty:** In 1258 BCE, the Egyptian Pharaoh Ramses II and Hittite King Hattusilis III concluded a peace treaty, exemplifying early diplomatic relations.
 2. **Classical Contributions:**
 - i. **Roman Law:** The Romans developed the concept of jus gentium (law of nations), which governed relations between Roman citizens and foreigners, laying groundwork for universal legal principles.
 3. **Medieval Developments:**

- i. **Canon Law and Maritime Codes:** During the Middle Ages, the Catholic Church's canon law and maritime codes like the Rolls of Oléron regulated international conduct, especially in trade and navigation.
4. **Renaissance and Early Modern Period:**
 - i. **Hugo Grotius:** Often regarded as the "father of international law," Grotius authored *De Jure Belli ac Pacis* (On the Law of War and Peace) in 1625, advocating for natural law principles governing state conduct.
 - ii. **Treaty of Westphalia (1648):** This treaty ended the Thirty Years' War and established the concept of state sovereignty, a cornerstone of modern international law.
5. **19th Century:**
 - i. **Concert of Europe:** Post-Napoleonic Wars, European powers formed the Concert of Europe, promoting collective security and diplomatic resolutions, influencing international legal frameworks.
6. **20th Century:**
 - i. **League of Nations:** Established after World War I, it aimed to maintain peace but was ultimately ineffective, leading to its replacement.
 - ii. **United Nations:** Founded in 1945, the UN became a central platform for developing and enforcing international law, addressing issues from human rights to international security.
7. **Contemporary Era:**
 - i. **International Criminal Court (ICC):** Established in 2002, the ICC prosecutes individuals for crimes like genocide and war crimes, reflecting the evolution of international law to include individual accountability.

Q. Definitions of International Law?

- Here are some widely accepted definitions of International Law provided by prominent jurists and scholars:
 1. **Hugo Grotius (Father of International Law):** "International Law is the system of rules dictated by right reason, indicating that an act, according to its agreement or disagreement with the rational and social nature, has in it a moral necessity or moral turpitude, and consequently is either commanded or forbidden by the author of nature, God."
 2. **J. G. Starke:** "International Law may be defined as that body of law which is composed for its greater part of the principles and rules of conduct which states feel themselves bound to observe, and therefore do commonly observe in their relations with each other."

3. **Oppenheim:** "Law of Nations or International Law is the name for the body of customary and conventional rules which are considered legally binding by civilized states in their intercourse with each other."
4. **Black's Law Dictionary:** "The body of rules and principles that governs the relations and dealings of nations with each other, also called the Law of Nations."
5. **Ian Brownlie:** "International Law is a body of rules and principles that governs the relations between states and other entities with international legal personality."
6. **Brierly:** "International Law is the body of rules which civilized states consider binding in their relations with each other."
7. **Dr. S. K. Kapoor:** "International Law consists of those rules of conduct which are binding upon states in their relations with one another."
8. **Hans Kelsen:** "International Law is the aggregate of rules that govern the relationship of states."
9. **J. L. Brierly:** "The Law of Nations or International Law may be defined as the body of rules and principles of action which are binding upon civilized states in their relations with one another."

Q. Theories and Doctrines in International Laws?

- International law is underpinned by various theories and doctrines that explain its nature, sources, and the obligations of states.
- **These frameworks help in understanding how international law is formed, interpreted, and applied:**
 1. **Theories of International Law:**
 - i. **Natural Law Theory:** This theory posits that international law is derived from universal moral principles inherent in human nature. It suggests that certain rights and obligations are fundamental and exist independently of state consent.
 - ii. **Positivist Theory:** Contrary to natural law, positivism asserts that international law is based on the explicit consent of states, primarily through treaties and customs. It emphasizes that only those rules agreed upon by states are legally binding.
 - iii. **Realist Theory:** Rooted in political realism, this theory views international law as a reflection of the power dynamics between states. It argues that powerful states influence the creation and enforcement of international norms to serve their interests.
 - iv. **Fictional Theory:** This perspective holds that international law is a legal fiction, as it lacks a central authority to enforce it. It questions the binding nature of international obligations without a sovereign power to impose them.
 - v. **Functional Theory:** This theory focuses on the functions and purposes of international law, such as maintaining peace,

facilitating cooperation, and promoting human rights. It assesses the effectiveness of international law based on its ability to achieve these objectives.

2. **Doctrines in International Law:**

- i. **Doctrine of Sovereign Equality:** This doctrine asserts that all states, regardless of size or power, have equal rights and obligations under international law. It is a fundamental principle enshrined in the United Nations Charter.
- ii. **Doctrine of Non-Intervention:** It prohibits states from intervening in the internal affairs of other states, upholding the sovereignty and territorial integrity of nations.
- iii. **Doctrine of State Responsibility:** This doctrine holds states accountable for their actions, especially when they breach international obligations, leading to reparations or sanctions.
- iv. **Doctrine of Recognition:** It pertains to the acknowledgment by existing states of a new entity's status as a sovereign state, which can be declarative or constitutive in nature.
- v. **Doctrine of Jus Cogens:** These are peremptory norms from which no derogation is permitted, such as prohibitions against genocide, slavery, and torture.

Q. What is Nationality? Explain with Characteristics:

- In Public International Law, **Nationality** is defined as the legal bond between an individual and a sovereign state. It establishes the individual's membership in the state and confers specific rights and obligations both for the individual and the state. Nationality is a key concept in international law, as it determines which state has jurisdiction over the individual, particularly regarding diplomatic protection and legal rights.
- **Key Aspects of Nationality:**
 1. **Legal Bond:** Nationality is a legal relationship that connects an individual to a state, signifying allegiance to the state.
 2. **Rights and Duties:**
 - **Rights:** Individuals enjoy rights such as the right to live in the country, receive protection abroad (through diplomatic or consular assistance), and participate in the country's political process.
 - **Duties:** Individuals also have obligations, such as loyalty to the state and, in some countries, fulfilling civic duties like military service or taxation.
 3. **Acquisition of Nationality:**
 - **By Birth:** Nationality can be acquired by birth in two ways:
 - **Jus Soli (Right of the Soil):** Nationality is granted to individuals born on a state's territory (e.g., the U.S.).

- **Jus Sanguinis (Right of Blood):** Nationality is granted based on descent from one or both parents who are nationals of the state.
- **By Naturalization:** Nationality can also be acquired later in life through legal processes like naturalization, where an individual applies to become a citizen.
- **By Marriage or Adoption:** Some states allow nationality to be acquired through marriage to a national or through adoption by nationals.
- 4. **Loss of Nationality:** Nationality can be lost through voluntary renunciation or involuntary processes like revocation by the state due to criminal activity, fraud, or allegiance to a foreign power.
- 5. **Dual or Multiple Nationalities:** Individuals can hold the nationality of more than one state simultaneously. This can lead to issues of diplomatic protection and obligations to multiple states, although many states have mechanisms for handling such cases.
- 6. **Statelessness:** In some cases, individuals can become stateless, meaning they are not recognized as nationals by any state. This often occurs due to conflicting nationality laws, political changes, or revocation of nationality.
- **Importance in International Law:**
 - 1. **Diplomatic Protection:** Nationality is essential for an individual to receive diplomatic protection from their state when abroad. A state can make claims on behalf of its nationals if their rights are violated in another country.
 - 2. **Jurisdiction and Laws:** Nationality defines the legal jurisdiction over individuals, especially in terms of civil, criminal, and tax laws.
- International treaties, such as the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, seek to address issues of statelessness and promote the right to nationality.

Q. Nationality and Citizenship: Definitions and Distinctions:

- **Nationality** refers to the legal relationship between an individual and a sovereign state, signifying membership in that nation. This bond grants the individual certain rights and imposes specific obligations, such as the right to diplomatic protection and the duty to obey the nation's laws.
- **Citizenship**, while closely related, is a more specific legal status within a nation. It denotes full membership in a political community, entitling individuals to participate in the political process, including voting and holding public office. Citizenship encompasses the full spectrum of rights and responsibilities within a state.
- **Distinction Between Nationality and Citizenship:**

1. **Scope:** Nationality is a broader concept, indicating a person's legal affiliation with a state. Citizenship is narrower, focusing on the individual's full participation in the political and civic life of the state.
 2. **Rights and Duties:** All citizens are nationals, but not all nationals are citizens. Citizens typically enjoy additional rights, such as voting and running for public office, which may not be available to non-citizen nationals.
 3. **Legal Implications:** Nationality determines a person's international legal status and the state's right to protect them abroad. Citizenship defines the individual's rights and duties within the state's domestic legal framework.
- **Concept of Dual Nationality:**
 1. **Birth:** A child born in a country that grants citizenship by birth (jus soli) to parents who are nationals of another country that grants citizenship by descent (jus sanguinis) may acquire dual nationality at birth.
 2. **Naturalization:** An individual may acquire a second nationality through naturalization without renouncing their original nationality, depending on the laws of the involved countries.
 3. **Marriage:** Some countries grant nationality to individuals who marry their nationals, potentially leading to dual nationality.
 - **Legal Considerations:** The acceptance of dual nationality varies by country. Some nations permit it, recognizing the complexities of global mobility and personal circumstances. Others may require individuals to renounce their original nationality upon acquiring a new one. Dual nationals must navigate the legal obligations of both countries, which can include taxation, military service, and legal compliance.

Q. Sources of International Law:

- International law derives its authority from various sources that establish the legal framework governing relations between states and other international actors.
- **Article 38(1) of the Statute of the International Court of Justice (ICJ) outlines the primary and subsidiary sources of international law:**
 1. **International Conventions (Treaties):**
 - **Definition:** Formal agreements between states that are legally binding.
 - **Role:** Treaties establish explicit legal obligations and are a primary source of international law.
 - **Examples:** The United Nations Charter, the Geneva Conventions.
 2. **International Custom:**
 - **Definition:** Practices and customs that have evolved over time and are accepted as legally binding.

- **Components:** Consistent state practice (usus) and the belief that such practice is legally obligatory (opinio juris).
- **Role:** Customary international law fills gaps where treaties may not exist and reflects the general practice of states.
- **Examples:** Diplomatic immunity, the prohibition of genocide.
- 3. **General Principles of Law Recognized by Civilized Nations:**
 - **Definition:** Fundamental legal principles common to major legal systems worldwide.
 - **Role:** Serve as a source of international law when treaties and customs do not provide guidance.
 - **Examples:** Principles of equity, justice, and good faith.
- 4. **Judicial Decisions:**
 - **Definition:** Rulings from international courts and tribunals.
 - **Role:** Serve as subsidiary means for determining rules of law and contribute to the development of international jurisprudence.
 - **Examples:** Decisions of the International Court of Justice, International Criminal Court.
- 5. **Teachings of the Most Highly Qualified Publicists:**
 - **Definition:** Scholarly writings and analyses by esteemed legal scholars.
 - **Role:** Provide interpretations and insights that assist in understanding and developing international law.
 - **Examples:** Works by Hugo Grotius, Emer de Vattel.
- 6. **Equity:**
 - **Definition:** The application of principles of fairness and justice in legal proceedings.
 - **Role:** Used by courts to achieve fair outcomes, especially when strict application of the law would result in injustice.
 - **Application:** The ICJ may apply equitable principles to resolve disputes.
- 7. **Resolutions of the United Nations General Assembly:**
 - **Definition:** Formal expressions of the opinion or will of UN member states.
 - **Role:** While generally non-binding, they can influence the development of international law and reflect emerging norms.
 - **Examples:** Universal Declaration of Human Rights, resolutions on sustainable development.

Q. Relationship between International Law and Municipal Law (Monistic Theory, Dualistic Theory)?

- The relationship between international law and municipal (domestic) law is a fundamental aspect of legal theory, influencing how international obligations are implemented within national legal systems.

- **Two primary theories explain this relationship: Monism and Dualism:**

1. **Monistic Theory:**

- **Unified Legal System:** Monism posits that international and municipal laws form a single, cohesive legal framework. In this view, international law is directly applicable within a state's domestic legal system without the need for specific legislative action.
- **Supremacy of International Law:** Proponents argue that international law holds supremacy over national law. Consequently, if a conflict arises between the two, international law prevails.
- **Direct Applicability:** In monist systems, international treaties and customary international law automatically become part of domestic law upon ratification or recognition, enabling individuals to invoke international rights directly in national courts.

2. **Dualistic Theory:**

- **Separate Legal Systems:** Dualism maintains that international and municipal laws are distinct systems, each operating independently. International law governs relations between states, while municipal law regulates internal affairs.
- **Requirement of Transformation:** Under dualism, international law does not automatically become part of domestic law. For international treaties or norms to have effect domestically, they must be explicitly incorporated through national legislation.
- **State Sovereignty Emphasis:** Dualists emphasize the sovereignty of states, asserting that international obligations must be consciously adopted into national law to be binding domestically.

3. **Practical Implications:**

- **Monist States:** Countries like the Netherlands and France exemplify monist systems, where international agreements are directly applicable within the domestic legal order upon ratification.
- **Dualist States:** The United Kingdom and Australia operate under dualist principles, requiring parliamentary action to incorporate international treaties into domestic law.
- **Mixed Approaches:** Some nations, such as the United States, exhibit characteristics of both theories. While the U.S. Constitution's Supremacy Clause recognizes treaties as the supreme law of the land, the implementation of certain international agreements may necessitate legislative action, reflecting a dualist approach.

Q. Recognition of States and Government?

- In International Law, **recognition** refers to the formal acknowledgment by existing states of a new entity's status as a sovereign state or the legitimacy of a new government. This process is crucial as it determines the entity's ability to engage in diplomatic relations, enter into treaties, and participate in international organizations.
- **Recognition of States:**
 1. The recognition of a state involves acknowledging an entity's status as a sovereign and independent nation.
 2. **This acknowledgment is based on certain criteria:**
 - i. **Defined Territory:** The entity must have clearly established borders.
 - ii. **Permanent Population:** There should be a stable community residing within the territory.
 - iii. **Effective Government:** The entity must have a functioning government capable of exercising control and maintaining order.
 - iv. **Capacity to Enter into Relations with Other States:** The entity should be able to engage in diplomatic and foreign relations.
 3. **Additionally, the process of state formation can occur through various means:**
 - i. **Decolonization:** Many states were formed when former colonies gained independence.
 - ii. **Secession:** Regions may break away from an existing state to form a new state (e.g., South Sudan from Sudan in 2011).
 - iii. **Dissolution:** Existing states may dissolve and fragment into multiple states (e.g., the breakup of Yugoslavia).
 - iv. **Unification:** Multiple entities may unite to form a single state (e.g., Germany's reunification in 1990).
 4. **Two primary theories explain the legal implications of state recognition:**
 - i. **Constitutive Theory:** This theory posits that an entity becomes a state under international law only upon recognition by existing states. Without such recognition, the entity lacks international legal personality.
 - ii. **Declaratory Theory:** According to this theory, an entity becomes a state as soon as it meets the essential criteria for statehood, regardless of recognition by other states. Recognition is merely a formal acknowledgment and does not confer statehood.
- **Recognition of Governments:**
 1. Recognition of a government pertains to acknowledging the authority of a governing body within an existing state, especially when there has

been a change in leadership due to events like coups, revolutions, or elections.

2. **This recognition can be:**

- i. **De Jure Recognition:** A formal and legal acknowledgment of a government's legitimacy, indicating full diplomatic relations.
 - ii. **De Facto Recognition:** A provisional acknowledgment of a government's control over a state, often used when the government's permanence or legitimacy is uncertain.
3. The decision to recognize a government is influenced by factors such as the government's control over the state, its stability, adherence to international obligations, and the manner in which it came to power. Recognition of governments is a complex and often politically charged process, as it can imply support or disapproval of the means by which the government assumed power.

• **Legal Effects of Recognition:**

1. **Recognition, whether of states or governments, carries significant legal implications:**

- i. **Diplomatic Relations:** Recognition enables the establishment of formal diplomatic ties, including the exchange of ambassadors.
- ii. **Treaty Participation:** Recognized states and governments can enter into treaties and international agreements.
- iii. **Access to International Organizations:** Recognition is often a prerequisite for membership in international bodies like the United Nations.
- iv. **Legal Standing:** Recognized entities can bring claims before international courts and have their rights and obligations upheld under international law.

Module - 2: State and Maritime Laws:

Q. What is State Territory, Explain Constitution, Acquisition, Loss of State Territory?

- In International Law, **State Territory** refers to the defined geographical area over which a state exercises sovereign authority. This encompasses land, internal waters, territorial sea, and the airspace above these areas. The constitution, acquisition, and loss of state territory are fundamental aspects of statehood and sovereignty.
- **Constitution of State Territory:**
 1. The constitution of state territory involves the establishment and recognition of a state's territorial boundaries. These boundaries are typically determined through historical claims, treaties, and international agreements. A clearly defined territory is essential for a state's identity and its interactions within the international community.
- **Modes of Acquisition of State Territory: States may acquire territory through various methods, including:**
 1. **Cession:** The transfer of territory from one state to another, usually formalized through a treaty. An example is the cession of Hong Kong from the United Kingdom to China in 1997.
 2. **Occupation:** The acquisition of terra nullius (territory belonging to no one) through effective occupation and administration. This method was prevalent during the colonial era.
 3. **Prescription:** The acquisition of territory through continuous and uncontested exercise of sovereignty over a period, leading to recognition by other states.
 4. **Accretion:** The gradual and natural expansion of a state's territory through geological processes, such as the formation of new landmasses.
 5. **Conquest (Historical Context):** Historically, conquest involved acquiring territory through the use of force. However, contemporary international law prohibits the acquisition of territory by force, as enshrined in the United Nations Charter.
- **Modes of Loss of State Territory: Conversely, states may lose territory through:**
 1. **Cession:** Voluntary transfer of territory to another state via treaty.
 2. **Dereliction:** The intentional abandonment of territory without the intention of reclaiming sovereignty.
 3. **Operation of Nature:** Loss of territory due to natural events, such as erosion or submersion.
 4. **Adjudication:** Loss of territory as a result of an international court or tribunal's decision.

5. **Revolution or Secession:** Loss of territory when a region successfully secedes to form a new state, as seen in the dissolution of the Soviet Union.

Q. What is State Jurisdiction?

- **State Jurisdiction** refers to a state's legal authority to govern persons, property, and events within its territory, as well as, in certain circumstances, beyond its borders. This authority encompasses the power to legislate (prescriptive jurisdiction), enforce laws (enforcement jurisdiction), and adjudicate legal matters (judicial jurisdiction).
- **Types of State Jurisdiction:**
 - **Territorial Jurisdiction:** A state exercises authority over all persons, property, and activities within its geographical boundaries. This is the most fundamental aspect of state sovereignty.
 - **Personal (Nationality) Jurisdiction:** A state may assert jurisdiction over its nationals, regardless of where they are located. This principle allows states to regulate the conduct of their citizens abroad.
 - **Protective Jurisdiction:** A state can claim jurisdiction over acts committed outside its territory that threaten its security, integrity, or governmental functions. This is often invoked in cases involving espionage or counterfeiting.
 - **Universal Jurisdiction:** Certain offenses, such as piracy, genocide, and crimes against humanity, are so egregious that any state may prosecute the offenders, regardless of where the crime was committed or the nationality of the perpetrators or victims.
 - **Passive Personality Jurisdiction:** A state may assert jurisdiction over offenses committed abroad that harm its nationals. This principle is less commonly applied but is recognized in specific contexts, such as terrorism cases.
- **Limitations on State Jurisdiction:** While states possess broad jurisdictional powers, International Law imposes certain limitations to prevent conflicts and uphold the principles of sovereignty and non-interference. For instance, the exercise of extraterritorial jurisdiction must be reasonable and not infringe upon the sovereignty of other states. Additionally, diplomatic immunities and the principle of non-intervention restrict the application of a state's jurisdiction in specific contexts.

Q. What is State Responsibility?

- **State Responsibility** in International Law refers to the principles governing when and how a state is held accountable for breaching its international obligations. These principles determine the conditions under which an act is considered internationally wrongful and outline the legal consequences that follow such breaches.

- **Key Aspects of State Responsibility:**

1. **Internationally Wrongful Acts:** A state commits an internationally wrongful act when its conduct, whether an action or omission, violates an international obligation. This encompasses breaches of treaties, customary international law, or other international commitments.
 2. **Attribution:** For a state to be held responsible, the wrongful act must be attributable to it. This includes actions by state organs, entities exercising governmental authority, or individuals acting under the state's direction or control.
 3. **Consequences of Breach:**
 - **Cessation and Non-Repetition:** The responsible state is obligated to cease the wrongful act and provide assurances against its recurrence.
 - **Reparation:** The state must make full reparation for the injury caused, which can take the form of restitution, compensation, or satisfaction.
 4. **Defences and Justifications:** Certain circumstances may preclude the wrongfulness of an act, such as consent by the injured state, self-defence, force majeure, distress, or necessity. However, these defences are subject to strict conditions.
- The International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts, adopted in 2001, provide a comprehensive framework on this subject. While not legally binding, these articles are widely regarded as reflective of customary international law and have been cited by international courts and tribunals.

Q. The Law of the Sea: (Law of Sea Convention, 1982):

- The United Nations Convention on the Law of the Sea (UNCLOS), adopted in 1982, establishes a comprehensive legal framework governing maritime activities and delineates various maritime zones, each with specific rights and responsibilities for coastal and other states.
- **Maritime Zones:**
 1. **Territorial Sea:** The territorial sea extends up to 12 nautical miles from a state's baseline, typically the low-water line along the coast. Within this zone, the coastal state exercises sovereignty, including over the airspace above and the seabed below. However, foreign vessels enjoy the right of innocent passage, provided they do not threaten the peace, good order, or security of the coastal state.
 - i. **Anglo-Norwegian Fisheries Case (United Kingdom v. Norway), ICJ Rep. 1951, p.116:** In this case, the International Court of Justice (ICJ) addressed the validity of Norway's method of drawing straight baselines along its coast to measure its territorial sea. The United Kingdom challenged Norway's

baselines, arguing they deviated from international norms. The ICJ upheld Norway's approach, recognizing that unique geographical features could justify the use of straight baselines, provided they did not depart significantly from the general direction of the coast and were drawn in a reasonable manner.

- ii. **Corfu Channel Case, ICJ Rep. 1949:** This case involved incidents where British warships struck mines in the Corfu Channel, leading to disputes over Albania's responsibility. The ICJ held that Albania was responsible for not notifying other states of the mines' presence, emphasizing the obligation of states to not knowingly allow their territory to be used for acts contrary to the rights of other states. The case underscored principles of innocent passage and the duties of coastal states regarding navigational safety.
2. **Contiguous Zone:** Beyond the territorial sea, up to 24 nautical miles from the baseline, lies the contiguous zone. In this area, a coastal state may exercise control necessary to prevent or punish infringements of its customs, fiscal, immigration, or sanitary laws within its territory or territorial sea. This zone allows states to enforce laws related to specific matters without extending full sovereignty.
3. **Continental Shelf:** The continental shelf comprises the seabed and subsoil extending beyond the territorial sea to the outer edge of the continental margin or up to 200 nautical miles from the baseline, whichever is greater. Coastal states have sovereign rights over the continental shelf for exploring and exploiting its natural resources, including minerals and sedentary species. These rights are exclusive, meaning no other state may undertake such activities without the coastal state's consent.
4. **Exclusive Economic Zone (EEZ):** The Exclusive Economic Zone extends up to 200 nautical miles from the baseline. Within the EEZ, the coastal state has sovereign rights for exploring, exploiting, conserving, and managing natural resources, both living and non-living, of the waters superjacent to the seabed and of the seabed and its subsoil. Additionally, the coastal state has jurisdiction over artificial islands, marine scientific research, and the protection and preservation of the marine environment. Other states retain freedoms of navigation, overflight, and the laying of submarine cables and pipelines, subject to the coastal state's rights.
5. **High Seas:** The high seas are areas beyond national jurisdiction, not included in the EEZ, territorial sea, or internal waters of any state. They are open to all states, whether coastal or land-locked, and are governed by the principle of freedom of the high seas. This includes freedoms of navigation, overflight, fishing, laying submarine cables and pipelines,

and conducting scientific research. These freedoms are exercised with due regard for the interests of other states and the obligation to preserve the marine environment.

- **Delimitation of Adjacent and Opposite Maritime Boundaries:** Delimiting maritime boundaries between states with adjacent or opposite coasts is a complex process, often requiring negotiation or adjudication to achieve an equitable solution.
 1. **North Sea Continental Shelf Cases, ICJ Rep. 1969:** These cases involved disputes between Germany, Denmark, and the Netherlands over the delimitation of the continental shelf in the North Sea. The ICJ rejected the equidistance principle as a mandatory rule, emphasizing that delimitation should be based on equitable principles, considering relevant circumstances to achieve an equitable result. This judgment has significantly influenced subsequent maritime boundary delimitations.
 2. **Libya v. Tunisia Continental Shelf Case, ICJ Rep. 1982:** In this case, the ICJ was tasked with delimiting the continental shelf between Libya and Tunisia. The Court reiterated that there is no single method for delimitation and that each case must consider its unique circumstances. The judgment emphasized the importance of equitable principles and relevant factors, such as the geography of the coastline, to achieve an equitable result.
 3. **Republic of Italy v. Union of India (2013) 4 SCC 721:** This case, commonly known as the Enrica Lexie incident, involved the shooting of two Indian fishermen by Italian marines aboard an Italian vessel off the coast of Kerala, India. The incident led to legal disputes over jurisdiction and immunity. The Supreme Court of India held that India had jurisdiction to try the marines under its domestic laws, as the incident occurred within India's contiguous zone. The case highlighted complexities in jurisdictional claims and the application of international law principles in maritime incidents.
 4. **Bay of Bengal Maritime Boundary Arbitration (between the People's Republic of Bangladesh and the Republic of India), 2014:** This arbitration addressed the maritime boundary between Bangladesh and India in the Bay of Bengal. The tribunal delimited the boundary by applying principles of equidistance and relevant circumstances to achieve an equitable solution. The award clarified the rights and responsibilities of both states concerning their respective maritime zones, including the territorial sea, EEZ, and continental shelf.

Q. Exclusive Economic Zone (EEZ):

- The **Exclusive Economic Zone (EEZ)** is a concept in Public International Law defined under the **United Nations Convention on the Law of the Sea**

(UNCLOS), particularly in Part V of the convention. It is an area beyond and adjacent to a state's territorial sea, extending up to **200 nautical miles** from the baseline (usually the coastline) of the coastal state. The EEZ grants certain exclusive rights and responsibilities to the coastal state while maintaining certain freedoms for other states.

- **Key Features of the EEZ:**

1. **Sovereign Rights:**

- A coastal state has sovereign rights within its EEZ for the purpose of exploring, exploiting, conserving, and managing natural resources (both living and non-living) found in the waters, seabed, and subsoil.
- This includes rights over resources like fish, oil, gas, and minerals.

2. **Jurisdiction:**

- The coastal state has jurisdiction over activities such as the establishment of artificial islands, marine scientific research, and the protection and preservation of the marine environment.
- The coastal state also has the right to regulate economic activities like fishing and mining in the EEZ.

3. **Rights of Other States:**

- While the coastal state has exclusive rights over resource management, other states enjoy certain freedoms in the EEZ, including the freedom of navigation, overflight, and the laying of submarine cables and pipelines, as long as these activities do not interfere with the coastal state's rights.

4. **Obligations of the Coastal State:**

- The coastal state must manage and conserve the resources in the EEZ in a way that avoids over-exploitation and promotes sustainability.
- The state is required to allow other states to access surplus living resources in the zone if it does not have the capacity to harvest them fully, under certain conditions.

5. **Dispute Resolution:**

- Disputes concerning the delimitation of the EEZ between states with overlapping claims can be referred to international adjudication or arbitration, including the **International Tribunal for the Law of the Sea (ITLOS)** or the **International Court of Justice (ICJ)**.

- **Importance of the EEZ:**

1. The EEZ concept is crucial because it provides a framework for balancing the rights of coastal states to exploit marine resources and the rights of other states to engage in traditional maritime activities. It

has become especially important for the extraction of resources such as fisheries, offshore oil and gas, and minerals.

2. The establishment of the EEZ has led to enhanced maritime jurisdiction for coastal states, particularly for resource-rich waters, while fostering cooperation and conflict resolution mechanisms between states with overlapping maritime claims.

Q. Concept of Common Heritage of Mankind, relating to the Resources of International Sea-bed Area?

- **The Common Heritage of Mankind (CHM)** is a principle in International Law asserting that certain global commons, such as the deep seabed, are the collective inheritance of all humanity. This concept mandates that the exploration and exploitation of these areas benefit humanity as a whole, with particular consideration for the interests of developing nations.
- **Application to the International Seabed Area:** The International Seabed Area, often referred to simply as "the Area," encompasses the seabed and ocean floor beyond national jurisdiction. Under the **United Nations Convention on the Law of the Sea (UNCLOS)**, the Area and its resources are designated as the common heritage of mankind.
- **Key Principles of CHM in the Context of the International Seabed:**
 1. **Non-Appropriation:** No state or entity can claim sovereignty over any part of the Area or its resources. This ensures that the deep seabed remains beyond national claims and is managed collectively.
 2. **Shared Benefits:** Activities in the Area must be conducted for the benefit of all humanity, with particular emphasis on equitable sharing of financial and other benefits derived from resource exploitation.
 3. **Peaceful Use:** The Area is reserved exclusively for peaceful purposes, prohibiting any military activities or installations.
 4. **Environmental Protection:** States are obligated to protect and preserve the marine environment, ensuring that activities in the Area do not cause harm to the ecosystem.
 5. **International Management:** The International Seabed Authority (ISA) is established under UNCLOS to organize and control activities in the Area, ensuring compliance with the CHM principle.
- **Role of the International Seabed Authority (ISA):** The ISA is the organization responsible for regulating mineral-related activities in the Area. It ensures that such activities are carried out for the benefit of all humanity, with special consideration for developing countries. The ISA's functions include granting exploration and exploitation licenses, establishing environmental standards, and ensuring equitable sharing of benefits.
- **Contemporary Challenges:** The implementation of the CHM principle faces challenges, particularly concerning deep-sea mining. Balancing resource exploitation with environmental protection and equitable benefit-sharing

remains complex. Recent debates have highlighted concerns over potential environmental impacts and the need for robust regulatory frameworks.

Q. International Seabed Mining / Parallel System of Mining?

- **International Seabed Mining:** International Seabed Mining refers to the exploration and extraction of mineral resources from the seabed areas beyond national jurisdiction, known as "the Area." These activities are governed by the United Nations Convention on the Law of the Sea (UNCLOS) and administered by the International Seabed Authority (ISA).
- **Parallel System of Mining:** The Parallel System of Mining is a framework established under UNCLOS to ensure equitable access to seabed resources and to implement the principle of the Common Heritage of Mankind.
 1. **This system mandates that any entity seeking to explore or exploit mineral resources in the Area must:**
 - i. **Submit Two Sites:** Applicants are required to propose two mining sites of equal estimated commercial value.
 - ii. **Reserved Area:** The ISA designates one of these sites as a "reserved area" for potential future exploitation by developing countries or the Enterprise, the ISA's operational arm.
 - iii. **Contractor's Area:** The applicant is granted rights to explore and potentially exploit the remaining site.
 - This system aims to balance the interests of technologically advanced nations with those of developing countries, ensuring that all humanity benefits from seabed resources.
- **Role of the International Seabed Authority (ISA):** The ISA is responsible for regulating all mineral-related activities in the Area. Its key functions include:
 1. **Granting Exploration and Exploitation Licenses:** The ISA reviews applications and issues contracts to qualified entities.
 2. **Environmental Protection:** It establishes guidelines to prevent harm to the marine environment from mining activities.
 3. **Benefit Sharing:** The ISA ensures that financial and other benefits from seabed mining are shared equitably among all member states, with special consideration for developing nations.

Module - 3: Treaties and International Organizations:

Q. Law of Treaties?

- **Law of Treaties** is a fundamental branch of International Law that governs the creation, interpretation, and enforcement of agreements between sovereign states. These agreements, known as treaties, are pivotal in establishing legal obligations and rights among nations, thereby facilitating international cooperation and order.
- **Definition of a Treaty:** A treaty is defined as "an international agreement concluded between [sovereign] states in written form and governed by international law." This definition underscores that treaties are formal, written agreements that create binding legal obligations under International Law.
- **Vienna Convention on the Law of Treaties (1969):** The primary instrument codifying the Law of Treaties is the Vienna Convention on the Law of Treaties (VCLT), adopted in 1969 and entering into force in 1980. The VCLT provides comprehensive rules on various aspects of treaties, including their formation, interpretation, and termination.
- **Key Provisions of the Vienna Convention on the Law of Treaties, 1969 (VCLT):**
 1. **Formation of Treaties:** The VCLT outlines the procedures for negotiating, adopting, and authenticating treaty texts. It specifies that treaties enter into force upon the expression of consent by the parties, which can be through signature, ratification, acceptance, approval, or accession.
 2. **Reservations:** States may make reservations to certain treaty provisions, provided they are not incompatible with the treaty's object and purpose. The VCLT details the procedures for formulating, accepting, and objecting to reservations.
 3. **Interpretation:** Treaties are to be interpreted in good faith according to the ordinary meaning of their terms, in context, and in light of their object and purpose. Supplementary means, such as preparatory work, may be used when the meaning remains ambiguous or leads to absurd results.
 4. **Invalidity, Termination, and Suspension:** The VCLT enumerates grounds for declaring a treaty invalid, such as fraud, coercion, or conflict with a peremptory norm (jus cogens). It also outlines procedures for terminating or suspending treaties, including by mutual consent or material breach.
- **Types of Treaties:**
 1. **Bilateral Treaties:** Agreements between two states, addressing specific issues pertinent to the parties involved.
 2. **Multilateral Treaties:** Agreements involving multiple states, often establishing general principles or norms applicable to the international community.

- **Role of Treaties in International Law:** Treaties serve as primary sources of International Law, creating binding obligations that govern state behaviour. They facilitate cooperation, establish international organizations, and codify customary international norms. The International Court of Justice recognizes treaties as a source of law, alongside general principles and customs.

Q. Inception and interpretation of Treaties?

- Inception and Interpretation of Treaties are fundamental aspects of International Law, governing how treaties are formed and understood among sovereign states.
- **Inception of Treaties:** The process of treaty formation involves several key stages:
 1. **Negotiation:** States engage in discussions to draft the treaty's terms, aiming to reach mutual agreement.
 2. **Adoption of the Text:** The agreed-upon text is formally adopted, often requiring a two-thirds majority in multilateral settings.
 3. **Authentication:** The text is authenticated through signatures or other agreed methods, confirming its accuracy.
 4. **Expression of Consent to be Bound:** States express their consent through ratification, acceptance, approval, or accession, as specified in the treaty.
 5. **Entry into Force:** The treaty becomes legally binding upon meeting conditions outlined within its provisions.
- **Interpretation of Treaties:** Interpreting treaties ensures that their terms are applied consistently and in line with the parties' intentions. The Vienna Convention on the Law of Treaties (VCLT) provides the primary framework for treaty interpretation:
 1. **General Rule (Article 31):** Treaties are to be interpreted in good faith, according to the ordinary meaning of their terms, in context, and considering the treaty's object and purpose.
 2. **Supplementary Means (Article 32):** When interpretation under Article 31 leaves ambiguity or leads to absurd results, supplementary means, such as preparatory work and circumstances of conclusion, may be considered.

Q. Rights and duties of Parties in a Treaty?

- In International Law, treaties are formal agreements between sovereign states or international organizations that establish specific rights and obligations for the parties involved. The Vienna Convention on the Law of Treaties (VCLT), adopted in 1969, provides a comprehensive framework governing these agreements.
- **Rights of Parties in a Treaty:**

1. **Exercise of Sovereign Rights:** Parties retain the right to exercise their sovereignty within the bounds of the treaty, allowing them to implement provisions in a manner consistent with their national interests and legal systems.
 2. **Participation in Decision-Making:** In multilateral treaties, parties often have the right to participate in decision-making processes, such as attending conferences of parties, proposing amendments, and voting on procedural and substantive matters.
 3. **Withdrawal or Termination:** Parties may have the right to withdraw from or terminate the treaty, subject to the terms specified within the treaty itself or under general principles of International Law. This allows states to disengage from obligations that no longer serve their interests or align with their policies.
- **Duties of Parties in a Treaty:**
 1. **Pacta Sunt Servanda (Good Faith Performance):** Parties are obligated to perform their treaty obligations in good faith, adhering to the principle that agreements must be kept. This foundational norm ensures that treaties are honored and implemented as intended.
 2. **Non-Contravention of Object and Purpose:** Even before a treaty enters into force, parties must refrain from acts that would defeat its object and purpose. This duty maintains the integrity and anticipated benefits of the treaty during the period between signature and ratification.
 3. **Implementation into Domestic Law:** Parties are responsible for adopting necessary legislative or administrative measures to implement treaty obligations domestically. This ensures that international commitments are effectively translated into national legal frameworks.
 4. **Dispute Resolution:** Parties must adhere to the treaty's provisions for dispute resolution, which may include negotiation, arbitration, or adjudication by international courts. This commitment facilitates peaceful and orderly resolution of conflicts arising from treaty interpretation or application.
 5. **Notification of Changes:** Parties are often required to notify other parties of significant changes affecting the treaty's operation, such as alterations in domestic laws or circumstances that may impede compliance. This duty promotes transparency and cooperation among treaty members.

Q. Validity and enforcement of Treaties?

- **Validity and Enforcement of Treaties** are fundamental aspects of International Law, ensuring that agreements between states are legally binding and effectively implemented.

- **Validity of Treaties:** The validity of a treaty refers to its legal standing and enforceability under International Law. The Vienna Convention on the Law of Treaties (VCLT) outlines specific grounds that can affect a treaty's validity:
 1. **Consent Obtained by Coercion:** If a state's consent to a treaty is procured through coercion, such as threats or force, the treaty is considered invalid.
 2. **Conflict with Jus Cogens Norms:** A treaty that conflicts with peremptory norms of general International Law (jus cogens), such as prohibitions against genocide or slavery, is void.
 3. **Fraud or Corruption:** Treaties concluded through fraudulent means or corruption are subject to invalidation.
 4. **Error:** A fundamental error regarding a fact or situation that was assumed by a state when consenting to a treaty can render it invalid.
- **Enforcement of Treaties:** Enforcement pertains to the mechanisms through which treaty obligations are upheld. Unlike domestic legal systems, International Law lacks a centralized enforcement authority, relying instead on various methods:
 1. **Domestic Implementation:** States incorporate treaty obligations into their national legal systems, enabling domestic courts to enforce them.
 2. **International Adjudication:** Disputes arising from treaty interpretation or application can be resolved by international courts or tribunals, such as the International Court of Justice (ICJ).
 3. **Diplomatic Measures:** States may employ diplomatic channels, including negotiations and consultations, to address non-compliance.
 4. **Sanctions and Countermeasures:** In cases of significant breach, states or international organizations may impose sanctions or take countermeasures, provided they conform to International Law.

Q. Explain in detail about the United Nations Organisation?

- **The United Nations Organisation (UN/UNO)** is an international organization established in 1945 with the primary objectives of maintaining international peace and security, fostering friendly relations among nations, promoting social progress, better living standards, and human rights.
- **Historical Background:** In the aftermath of World War II, the global community recognized the need for a platform to prevent future conflicts and facilitate cooperation. This led to the formation of the UN, succeeding the League of Nations, which had been deemed ineffective. The UN Charter was signed on June 26, 1945, in San Francisco, and the organization officially came into existence on October 24, 1945.
- **Membership:** The UN began with 51 member states and has since expanded to 193 member states, encompassing nearly all recognized sovereign nations.
- **Principal Organs:** The UN operates through six main organs:

1. **General Assembly:** A deliberative body where all member states have equal representation, addressing a wide array of international issues.
 2. **Security Council:** Responsible for maintaining international peace and security, it has 15 members, including five permanent members with veto power.
 3. **International Court of Justice (ICJ):** The principal judicial organ, settling legal disputes between states and providing advisory opinions.
 4. **Economic and Social Council (ECOSOC):** Coordinates economic, social, and related work of 15 UN specialized agencies, functional commissions, and five regional commissions.
 5. **Secretariat:** Carries out the day-to-day work of the UN, headed by the Secretary-General.
 6. **Trusteeship Council:** Established to oversee the administration of trust territories, it has suspended operations since the last trust territory gained independence.
- **Specialized Agencies and Programs:** *The UN system includes various specialized agencies and programs addressing specific global issues:*
 1. **World Health Organization (WHO):** Focuses on international public health.
 2. **United Nations Educational, Scientific and Cultural Organization (UNESCO):** Promotes education, science, and culture.
 3. **United Nations Children's Fund (UNICEF):** Provides humanitarian and developmental aid to children worldwide.
 4. **World Food Programme (WFP):** Addresses hunger and promotes food security.
 - **Key Functions and Achievements:**
 1. **Peacekeeping and Security:** The UN deploys peacekeeping missions to conflict zones to maintain peace and security.
 2. **Human Rights:** Through the Universal Declaration of Human Rights and various treaties, the UN promotes and protects human rights globally.
 3. **Humanitarian Assistance:** The UN provides aid during emergencies, such as natural disasters and armed conflicts.
 4. **Sustainable Development:** The UN has established Sustainable Development Goals (SDGs) to address global challenges like poverty, inequality, and environmental degradation.

Q. Settlement of Disputes:

- In **Public International Law**, the **settlement of disputes** refers to methods used to resolve disagreements between states or international entities in a peaceful manner, without resorting to force. These disputes can arise from issues like territorial claims, treaty violations, environmental concerns, or human rights violations.

- There are two broad categories for dispute settlement: **peaceful (non-coercive)** and **coercive methods**:

1. **Peaceful Settlement of Disputes:** Peaceful methods are preferred under international law, as enshrined in *Article 33 of the UN Charter*, which encourages states to settle their disputes by peaceful means.

Some key methods include:

- **Negotiation:** This is a direct and informal method where the disputing states engage in discussions to reach a mutual agreement. It is the most commonly used method due to its simplicity and flexibility.
 - **Mediation:** In mediation, a third-party neutral entity (a state, international organization, or individual) assists the disputing states in reaching a settlement. The mediator facilitates dialogue but does not impose a binding solution.
 - **Conciliation:** Conciliation involves a third-party commission or body that investigates the facts of the dispute and proposes a solution. While the proposed solution is non-binding, it provides a formal basis for negotiation.
 - **Arbitration:** Arbitration involves referring the dispute to an arbitral tribunal composed of arbitrators chosen by the parties. The tribunal issues a binding decision based on international law. Arbitration is more formal than mediation or conciliation but still offers flexibility in procedures.
 - **Judicial Settlement:** Judicial settlement refers to submitting the dispute to an international court, such as the *International Court of Justice (ICJ)* or the *International Tribunal for the Law of the Sea (ITLOS)*. The court's decision is legally binding. States can approach the ICJ if both agree to its jurisdiction.
 - **Enquiry:** A commission of inquiry is sometimes formed to investigate the facts surrounding a dispute, particularly when the disagreement involves factual issues. The results are non-binding but can help clarify issues and promote negotiation.
 - **Good Offices:** A third party offers its "good offices" by acting as an intermediary between the disputing states, facilitating dialogue without actively participating in the negotiation.
2. **Coercive Methods (Non-Peaceful Settlement):** When peaceful methods fail or are rejected, coercive measures can be employed. However, these must adhere to the rules of international law, particularly the UN Charter
 - **Retorsion:** Retorsion refers to unfriendly but lawful acts that a state takes in response to another state's conduct, such as diplomatic expulsion or trade restrictions. These actions are legal but serve as a form of protest or pressure.

- **Countermeasures:** Countermeasures are acts that would otherwise violate international law but are allowed in response to another state's unlawful actions. These measures must be proportional and aimed at inducing the offending state to comply with its obligations.
- **Sanctions:** Sanctions, often imposed by the *United Nations Security Council (UNSC)* or other international bodies, are measures taken to force a state to comply with international obligations. Sanctions can involve economic restrictions, travel bans, or arms embargoes.
- **Use of Force:** Under the UN Charter, the use of force is generally prohibited except in two circumstances:
 - (i) in self-defense (Article 51), and
 - (ii) when authorized by the UN Security Council to maintain or restore international peace and security.
- **United Nations and Dispute Settlement:** The UN Charter emphasizes the peaceful resolution of disputes and provides mechanisms through the UN itself:
 1. **The Security Council** can intervene when a dispute threatens international peace and security.
 2. **The General Assembly** can discuss issues related to international peace but does not have binding authority to enforce decisions.
 3. **The International Court of Justice (ICJ)** is the principal judicial organ of the UN and plays a key role in settling disputes between states when they consent to its jurisdiction.

Q. Mediation:

- In Public International Law, **Mediation** is a peaceful method of resolving disputes between states or international entities through the involvement of a neutral third party. The mediator facilitates negotiations and communication between the disputing parties to help them reach a mutually acceptable solution. However, unlike arbitration or judicial settlement, the mediator does not have the authority to impose a binding decision.
- **Key Features of Mediation in Public International Law:**
 1. **Third-Party Involvement:** A neutral third party (usually a state, international organization, or individual) is brought in to mediate between the disputing states. The mediator's role is to offer suggestions, clarify misunderstandings, and propose potential solutions.
 2. **Voluntary Participation:** Mediation is based on the voluntary agreement of the disputing parties. Both parties must consent to the mediator's involvement and agree to participate in the process.

3. **Non-Binding Nature:** Unlike arbitration, mediation does not result in a legally binding decision. The mediator only facilitates discussion and negotiation, with the final agreement being reached by the parties themselves.
 4. **Flexibility:** Mediation allows for more flexible and informal proceedings compared to judicial or arbitral processes. The parties have greater control over the procedure and the outcome.
 5. **Confidentiality:** Mediation is often conducted confidentially, allowing states to engage in discussions without the pressure of public scrutiny. This can be beneficial when sensitive diplomatic or political issues are involved.
 6. **Mediator's Role:** The mediator does not take sides or impose a solution but rather helps to bridge gaps between the parties by facilitating constructive dialogue. The mediator may propose solutions, but the parties retain the authority to accept or reject them.
- **Examples of Mediation in Public International Law:**
 1. **Camp David Accords (1978):** The United States acted as a mediator between Egypt and Israel, leading to a peace agreement after years of conflict.
 2. **Dayton Accords (1995):** The U.S. mediated peace talks between parties involved in the Bosnian War, leading to a peace agreement and the end of hostilities.
 - **Role of International Organizations:** Organizations like the United Nations or regional organizations (e.g., the African Union, the European Union) often act as mediators in international disputes. The UN Secretary-General can offer mediation services through the UN's good offices, and special envoys or mediators may be appointed to resolve conflicts.
 - **Benefits of Mediation:**
 1. **Preservation of Relationships:** Mediation helps states maintain diplomatic relations, as it focuses on cooperation rather than confrontation.
 2. **Cost-Effective:** It is generally quicker and less expensive than arbitration or judicial processes.
 3. **Creative Solutions:** Mediation allows for innovative and customized solutions, as the process is more flexible and less formal.
 - Mediation plays a critical role in international diplomacy by providing a peaceful way to resolve disputes while maintaining stability and cooperation between states.

Module - 4: Contemporary Issues in International Law:

Q. What is WHO?

- **The World Health Organization (WHO)** is a specialized agency of the United Nations dedicated to international public health. Established on April 7, 1948, and headquartered in Geneva, Switzerland, the WHO's primary mission is to promote health, keep the world safe, and serve the vulnerable.
- **Key Functions of the WHO:**
 1. **Global Health Leadership:** The WHO provides leadership on global health matters, shaping the health research agenda, setting norms and standards, and articulating evidence-based policy options.
 2. **Health Research and Dissemination:** It monitors health trends and disseminates valuable health information to member states and the public.
 3. **Technical Support:** The organization offers technical assistance to countries, helping to strengthen their health systems and respond to health emergencies.
 4. **Disease Control and Prevention:** The WHO plays a pivotal role in controlling and preventing diseases, including coordinating international responses to outbreaks and pandemics.
- **Organizational Structure:**
 1. **World Health Assembly (WHA):** The decision-making body comprising representatives from all member states, responsible for setting policies and approving the budget.
 2. **Executive Board:** Composed of health experts from member states, it advises and facilitates the work of the WHA.
 3. **Secretariat:** Led by the Director-General, the Secretariat implements the decisions of the WHA and Executive Board.
- **Global Impact:** The WHO has been instrumental in significant public health achievements, such as the eradication of smallpox and ongoing efforts to combat diseases like malaria, HIV/AIDS, and tuberculosis. It also addresses non-communicable diseases, mental health, and health system strengthening.

Q. Explain in details / Write in Brief about the Global Health Law?

- **Global Health Law** is a field that encompasses the legal norms, processes, and institutions designed to create the conditions for people worldwide to achieve the highest possible level of physical and mental health.
- It addresses the legal frameworks that govern health issues transcending national boundaries, focusing on the collective action required to tackle global health challenges.
- **Key Components of Global Health Law:**
 1. **International Agreements and Treaties:** These are formal accords between countries that establish legal obligations related to health. A prime example is the International Health Regulations (IHR), which are

legally binding on 196 countries, including all WHO Member States. The IHR aim to prevent, protect against, control, and provide a public health response to the international spread of disease.

2. **International Organizations:** Entities like the World Health Organization (WHO) play a pivotal role in shaping global health policies, setting standards, and coordinating international health activities. The WHO's constitution itself serves as a legal instrument guiding international health governance.
 3. **Human Rights Law:** Global Health Law intersects with human rights, emphasizing the right to health as a fundamental human right. This perspective ensures that health policies and practices uphold the dignity and rights of individuals.
 4. **Trade and Intellectual Property Law:** Agreements like the Trade-Related Aspects of Intellectual Property Rights (TRIPS) influence access to medicines and healthcare technologies, impacting global health outcomes.
- **Challenges in Global Health Law:**
 1. **Health Inequities:** Significant disparities exist in health outcomes between different regions and populations, often exacerbated by legal and policy barriers.
 2. **Emerging Health Threats:** Globalization and environmental changes contribute to the emergence of new health threats, requiring adaptive legal frameworks.
 3. **Coordination Among Nations:** Achieving consensus and coordinated action among diverse legal systems and political interests remains a complex endeavor.
 - **Recent Developments:** The COVID-19 pandemic has underscored the importance of robust Global Health Law frameworks. In response, the WHO and its member states have been working on strengthening the IHR and negotiating a potential pandemic treaty to better prepare for future health emergencies.

Q. International Health Regulations (IHR)?

- **The International Health Regulations (IHR)** are a legally binding framework established by the World Health Organization (WHO) to guide countries in preventing, protecting against, controlling, and responding to the international spread of diseases. The IHR aim to enhance national, regional, and global public health security by establishing a set of rules that all member states must adhere to.
- **Key Features of the IHR:**
 1. **Comprehensive Scope:** The IHR are not limited to specific diseases but apply to any public health emergency of international concern, including emerging pathogens and other health threats.

2. **Core Public Health Capacities:** Member states are required to develop and maintain the capacity to detect, assess, report, and respond to public health events. This includes establishing effective surveillance systems and response mechanisms.
 3. **Notification and Reporting:** Countries must promptly notify the WHO of events that may constitute a public health emergency of international concern, enabling timely international coordination and response.
 4. **Public Health Measures:** The IHR provide guidelines on implementing health measures at points of entry, such as airports and seaports, to prevent the spread of diseases while minimizing interference with international traffic and trade.
 5. **Collaboration and Assistance:** The regulations encourage international collaboration and provide a framework for countries to request and receive technical assistance and support from the WHO and other member states.
- **Historical Context and Evolution:** The original IHR were adopted in 1969, focusing on six diseases. Recognizing the need for a more adaptable framework, the WHO revised the IHR in 2005, expanding their scope to address a broader range of public health threats. The revised IHR (2005) came into force in 2007 and have since been instrumental in guiding global health responses to events like the H1N1 influenza pandemic, the Ebola outbreaks, and the COVID-19 pandemic.

Q. General Principles of International Trade Laws?

- International Trade Law is governed by several fundamental principles that facilitate fair and predictable trade relations among nations.
- **These principles are primarily enshrined in the agreements of the World Trade Organization (WTO) and include:**
 1. **Most-Favored-Nation (MFN) Treatment:** This principle mandates that any favorable trading terms granted by a WTO member to one country must be extended to all other WTO members, ensuring non-discriminatory trade practices.
 2. **National Treatment:** Under this principle, imported goods and services should be treated no less favorably than domestically produced ones once they have entered the market, preventing discrimination against foreign products.
 3. **Reciprocity:** This concept involves mutual concessions in trade negotiations, where countries agree to provide comparable benefits to each other, promoting balanced trade relationships.
 4. **Transparency:** WTO members are required to publish their trade regulations and maintain institutions that allow for the review of

administrative decisions affecting trade, ensuring openness and predictability in trade policies.

5. **Binding and Enforceable Commitments:** Members commit to binding tariff rates and other trade obligations, which can only be altered through negotiations, providing stability and predictability in international trade.
 6. **Safety Valves:** The WTO agreements permit members to take measures to protect not only the environment but also public health, animal health, and plant health, allowing for exceptions to trade obligations under specific circumstances.
- These principles collectively aim to create a stable and equitable trading system, fostering economic cooperation and development globally.

Q. UNCITRAL?

- **The United Nations Commission on International Trade Law (UNCITRAL)** is a subsidiary body of the United Nations General Assembly, established in 1966 to promote the progressive harmonization and modernization of international trade law.
- **Mandate and Objectives:** UNCITRAL's primary mandate is to develop legal frameworks that facilitate international trade and investment. This involves creating conventions, model laws, and other instruments that address key areas of commercial law, including dispute resolution, international sale of goods, electronic commerce, insolvency, and secured transactions.
- **Key Contributions:**
 1. **Conventions:** UNCITRAL has formulated several international conventions, such as the United Nations Convention on Contracts for the International Sale of Goods (CISG), which standardizes international sales law.
 2. **Model Laws:** The commission develops model laws to assist states in reforming and harmonizing their domestic laws. Notable examples include the UNCITRAL Model Law on International Commercial Arbitration and the UNCITRAL Model Law on Electronic Commerce.
 3. **Legislative Guides:** UNCITRAL provides legislative guides offering detailed analyses and recommendations on specific areas of commercial law, aiding legislators in drafting effective laws.
- **Structure and Working Methods:** UNCITRAL operates through:
 1. **Commission Sessions:** Annual plenary sessions where member states discuss and adopt texts.
 2. **Working Groups:** Specialized groups focusing on specific topics, drafting texts that are later reviewed by the commission.
 3. **Secretariat:** The International Trade Law Division of the UN Office of Legal Affairs provides substantive services to UNCITRAL.

Q. International Arbitration Laws?

- **International Arbitration Laws** provide a framework for resolving cross-border commercial disputes outside traditional court systems. These laws are designed to offer a neutral, efficient, and enforceable means of dispute resolution, which is crucial in the context of global trade and investment.
- **Key Components of International Arbitration Laws:**
 1. **Arbitration Agreements:** Parties consent to arbitration through agreements that specify the scope of disputes to be arbitrated, the applicable rules, and the seat of arbitration. These agreements are foundational, as they define the jurisdiction and authority of the arbitral tribunal.
 2. **Governing Legislation:** National laws govern the arbitration process within their jurisdictions. Many countries have adopted legislation based on the UNCITRAL Model Law on International Commercial Arbitration, which provides a standardized framework for arbitration proceedings.
 3. **Institutional Rules:** Various institutions, such as the International Chamber of Commerce (ICC) and the London Court of International Arbitration (LCIA), offer procedural rules that parties can adopt to govern their arbitration proceedings. These rules cover aspects like the appointment of arbitrators, conduct of proceedings, and issuance of awards.
 4. **Enforcement of Arbitral Awards:** The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, commonly known as the New York Convention, facilitates the enforcement of arbitral awards across its 172 contracting states. This convention is pivotal in ensuring that arbitration remains an effective dispute resolution mechanism globally.
- **Advantages of International Arbitration:**
 1. **Neutrality:** Arbitration allows parties from different jurisdictions to select a neutral forum and arbitrators, reducing potential biases associated with national courts.
 2. **Flexibility:** Parties have the autonomy to tailor procedures to their specific needs, including choosing applicable laws, languages, and procedural rules.
 3. **Confidentiality:** Arbitration proceedings are generally private, protecting sensitive business information from public disclosure.
 4. **Finality:** Arbitral awards are binding and typically not subject to extensive appeals, providing a definitive resolution to disputes.
- **Challenges in International Arbitration:**
 1. **Cost and Duration:** While arbitration is often faster than litigation, complex cases can still be time-consuming and expensive.

2. **Enforcement Issues:** Despite the New York Convention, enforcing awards can be challenging in jurisdictions with weak legal systems or where public policy objections are raised.
3. **Divergent Legal Cultures:** Differences in legal traditions and practices can lead to misunderstandings and complications during arbitration proceedings.

Q. TRIPS?

- **The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)** is a comprehensive international legal framework that establishes minimum standards for **the protection and enforcement of intellectual property rights (IPRs)** among **World Trade Organization (WTO) member nations**. Adopted on April 15, 1994, during the Uruguay Round of **the General Agreement on Tariffs and Trade (GATT)**, TRIPS became effective on January 1, 1995.
- **Key Features of the TRIPS Agreement:**
 1. **Comprehensive Coverage of IPRs:** TRIPS encompasses various forms of intellectual property, including:
 - i. **Copyright and Related Rights:** Protecting authors, performers, producers of phonograms, and broadcasting organizations.
 - ii. **Trademarks:** Safeguarding distinctive signs identifying goods or services.
 - iii. **Geographical Indications:** Recognizing products originating from specific regions with unique qualities.
 - iv. **Industrial Designs:** Protecting the aesthetic aspects of products.
 - v. **Patents:** Granting exclusive rights for inventions.
 - vi. **Layout-Designs of Integrated Circuits:** Protecting the design of semiconductor chips.
 - vii. **Undisclosed Information (Trade Secrets):** Safeguarding confidential business information.
 2. **Enforcement Mechanisms:** The agreement mandates that member countries implement effective enforcement procedures, including civil and administrative procedures, provisional measures, and criminal procedures for wilful trademark counterfeiting or copyright piracy on a commercial scale.
 3. **Dispute Settlement:** TRIPS integrates into the WTO's dispute settlement system, allowing member states to resolve disputes regarding the agreement's interpretation and application through established WTO mechanisms.
 4. **Transitional Arrangements:** Recognizing varying levels of development, TRIPS provided transitional periods for developing and least-developed countries to comply with its provisions, allowing them

additional time to implement necessary legal and institutional frameworks.

- **Impact and Significance:** TRIPS has significantly influenced global trade by harmonizing intellectual property laws, thereby reducing trade barriers and fostering innovation. However, it has also sparked debates, particularly concerning access to medicines in developing countries. In response, the Doha Declaration on the TRIPS Agreement and Public Health was adopted in 2001, affirming that TRIPS should not prevent members from taking measures to protect public health and promoting access to medicines for all.

Q. International Laws on Air and Space Rights?

- International laws governing air and space rights establish the legal frameworks for activities in the Earth's atmosphere and outer space. These laws ensure the safe, orderly, and peaceful use of these domains by defining the rights and responsibilities of states and other entities.

1. International Air Law:

- i. International air law regulates the use of airspace and the operation of aircraft, focusing on safety, security, and the facilitation of international air navigation. The cornerstone of this legal framework is the Convention on International Civil Aviation, commonly known as the Chicago Convention, adopted in 1944. This convention established the International Civil Aviation Organization (ICAO), a specialized UN agency responsible for coordinating international air travel.
- ii. **Key principles of international air law include:**
 - a. **Sovereignty of Airspace:** Each state has complete and exclusive sovereignty over the airspace above its territory.
 - b. **Freedom of Overflight:** While states control their airspace, the Chicago Convention facilitates international air travel by granting certain freedoms of the air, subject to agreements between states.
 - c. **Safety and Security Standards:** ICAO sets international standards and recommended practices to ensure the safety and security of international civil aviation.

2. International Space Law:

- i. International space law governs activities in outer space, promoting its peaceful use and preventing conflicts.
- ii. **The legal framework is primarily based on five United Nations treaties:**
 - a. **Outer Space Treaty (1967):** The foundational treaty establishing that outer space, including the Moon and other celestial bodies, is free for exploration and use by all states and is not subject to national appropriation.

- b. **Rescue Agreement (1968):** Obligates states to assist astronauts in distress and return them safely to their launching state.
 - c. **Liability Convention (1972):** Holds launching states liable for damage caused by their space objects on Earth or in space.
 - d. **Registration Convention (1976):** Requires states to register space objects with the UN, enhancing transparency and accountability.
 - e. **Moon Agreement (1984):** Declares the Moon and its resources the common heritage of mankind, though it has limited ratification.
- iii. **Key principles of international space law include:**
 - a. **Non-Appropriation:** Outer space is not subject to national appropriation by any means.
 - b. **Peaceful Use:** Space activities must be conducted for peaceful purposes, prohibiting the placement of nuclear weapons or other weapons of mass destruction in orbit.
 - c. **International Responsibility:** States are responsible for national space activities, including those conducted by private entities, and must ensure compliance with international law.