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19 (Sem-6) PBIN

2021

PUBLIC INTERNATIONAL LAW

Paper : 6:2

Full Marks : 80

Time : Three hours

The figures in the margin indicate full marks for the questions.

1. Choose the correct answer : 1×10=10

(i) The sources of international law are to be found in Article 38(1) of _____.
(Statute of the International Court of Justice/Rome Statute)

(ii) "International law is the name for the body of customary and conventional rules which are considered legally binding by the civilized states in their intercourse with each other." This definition of international law was given by _____.

(Philip C. Jessup/Oppenheim)

Contd.

- (iii) Personality of State is created not by fact but through recognition by other States is the _____ theory of Recognition. (*Declaratory/ Constitutive*)
- (iv) “Treaties shall be complied with” or the “International agreements are binding on good faith” is the translation of this Latin phrase that comprises a general principle of International Law. _____ (*pacta sunt servanda/rebus sic stantibus*)
- (v) The case concerning with the inherent right to self-defense of states against an armed attack under Article 51 of the UN Charter is _____. (*S. S. Lotus Case/Nicaragua v. United States*)
- (vi) The judges of the International Court of Justice (ICJ) are elected for a term of _____. (*5 years/9 years*)
- (vii) A state can exercise its sovereign power on _____. (*Exclusive Economic Zone/ Territorial Waters*)
- (viii) “International law is the vanishing point of jurisprudence” was stated by _____. (*Salmond/Holland*)

(ix) The recognition which is final/ permanent is _____. (*de jure/ de facto*)

(x) All countries are signatories to the Geneva Conventions. (*True/False*)

2. Write short notes on : $2 \times 5 = 10$

(i) Geneva Conventions

(ii) Sources of International Law

(iii) Asylum

(iv) International Court of Justice

(v) State Succession.

3. Answer the following : (*Each question carries 12 marks*)

1. Define International Law. Is International Law a weak law ? Discuss the relationship between International Law and Municipal Law. $2+4+6=12$

2. Explain the term 'Recognition'. What are the legal effects of recognition ? Distinguish between *de facto* and *de jure* recognition. $2+5+5=12$

Or

The states of Oceania and Genovia have been mired in conflict for many decades. In the wake of two wars in 1948 and 1967, Oceania expanded into the Genovian lands and annexed territories A, B and C, leading to hostility between both peoples. Subsequently, the two groups initiated numerous truces and peace agreements to no avail. Destruction and deadly violence became a routine affair and militaries of both Oceania and Genovia have been accused of war crimes. Although the state of Genovia has a definitive and permanent population but there is sufficient ambiguity as to Genovian territory pertaining to the territories A, B and C. Furthermore, the Genovian Authority does not enjoy exclusive authority over these territories; some parts are co-administered with Oceania. Genovia Liberation Organization (GLO) had been recognized as “sole legitimate representative of the Genovian people,” competent on all matters concerning the question of Genovia by the UN General Assembly in addition to the right of the Genovian people in Genovia

to national independence and sovereignty.

In the light of these facts, examine the statehood possibilities of Genovia as per relevant international conventions and theories of Statehood. 12

3. Discuss the principle of International Law relating to amicable means of settlement of international disputes. 12

4. Define Intervention and its types. State the valid principles relating to Intervention on the ground of Self-Defense and Self-Preservation with reference to suitable case laws. 4+8=12

Or

Formula rebellion was a right-wing rebel group against the socialist government of Dominica, a small poor island nation in Central America. These rebels violated numerous human rights and used terrorist tactics to usurp the government. They have been accused of targeting health centers, kidnapping, torturing and even executing civilians (some were children), raping and committing other sexual crimes against women, seizing civilian property and burning civilian houses. Dominica stated that the Government of Indica, a global superpower and a neighbor of

Dominica had funded the Formula Rebellion against the Dominican government. Government of Indica was also accused of planting naval mines in Dominica's territorial waters and breaching its air space and allegations of carrying out other illegal military and paramilitary activities in and against Dominica from 1981-1984. There was established evidence that the Formula Rebellion was funded by the intelligence agency of Indica. State of Indica asserts that it relied on an inherent right of collective self-defence guaranteed in Article 51 of the UN Charter when it provided "upon request proportionate and appropriate assistance..." to countries A, B and C in response to Dominica's acts of aggression against those countries.

The state of Dominica went to the International Court of Justice against the state of Indica. Did the Government of Indica violate the established principles of international law and the sovereignty of Dominica? Argue on the points of non-intervention, use of force, collective self-defence. Discuss in the light of relevant legal provisions and case laws. 12

5. Discuss the principles governing Extradition. What are the essential requirements for the extradition of a fugitive? 6+6=12

Or

Harish Chawla was a prominent business personality of India. At one time, he owned India's biggest liquor company, private jet, an Airbus, and many other riches such as a fleet of luxury cars and a private yacht. Chawla left India for UK in 2016 in the wake of cases registered by the Enforcement Directorate as well as the Central Bureau of Investigation for alleged fraud and money laundering of around 9000 crores. Chawla had fraudulently obtained huge loans from a consortium of banks led by the State Bank of India, for running his now-defunct Airlines. In January, 2019, he was declared a Fugitive Economic Offender by the Indian Government under the Fugitive Economic Offenders Act, 2018. Chawla was allegedly involved in false representation to the bank on his financial condition. India and UK have a bilateral treaty on Extradition and India also has its own law — Fugitive Economic Offenders Act, 2018.

In the light of these facts, give your legal opinion on the extradition of Harish Chawla to India. Use relevant case laws to support your reasoning.

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