



Total Time Alloted: 3 Hours

Total Marks : 250

Question Paper Specific Instructions

- Please read each of the following instructions carefully before attempting questions.
- There are EIGHT questions divided in two sections.
- A candidate has to attempt FIVE questions in all.
- Questions no 1 and 5 are compulsory and out of the remaining, THREE are to be attempted choosing at least ONE from each section.
- The number of marks carried by a question /part is indicated against it.
- Word limit in questions, wherever specified should be adhered to.
- Attempts of questions shall be counted in chronological order. Unless struck off, attempt of a question shall be counted even if attempted partly. Any page or portion of the page left blank in the answer book must be clearly struck off.

NOTE: Please take a printout of the answer Booklet and give answers in stipulate time. So that actual examination scenario is stipulated.

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Subject: International law-II

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Criterion	Average	Good	Best
Presentation		✓	
Content	✓	✓	
Structure		✓	

Teacher's Remark

111

Some concepts you have not read at all
topics

prepare every topic

Q.1(A). Discuss various treaty with regard to prohibiting nuclear weapon testing. Do you think it is an effective strategy? (10 Marks) [150 words]

The Nuclear Weapon States are on a spree to increase their arsenal of nuclear weapons. The nuclear arms race has come to such an extent that it has threatened the mankind as a whole. So it becomes very important that nuclear weapons are curtailed on a war footing.

International Regime for ^{Nuclear} Weapons Prohibition

□ Partial Test Ban Treaty

- came in existence post the cuban missile crisis in 1962.
- prohibits testing of nuclear weapons in outer space, underwater and in the atmosphere.

Drawback: → underground testing is allowed as per this treaty.

□ Non-Proliferation Treaty (NPT)

- Divides member states into two categories:
 - (i) Nuclear weapon states
 - ↓
 - prohibited to transfer any nuclear weapons to other states or non-state actors.
 - (ii) Non-Nuclear weapon states
 - ↓
 - prohibited to test or develop any nuclear weapons.

Drawback:- It only prohibits horizontal transfer but not vertical stockpiling i.e. acquisition of new nuclear weapons by Nuclear weapon states.

□ Comprehensive Test Ban Treaty [CTBT]

This treaty comprehensively bans any new manufacturing, stockpile of any nuclear weapons by all states. No testing in any medium is allowed.

Exception:- • computer simulation to test a nuclear weapon is allowed

- Tests of nuclear weapons upto the stage of not non-criticality is allowed.

Whether this strategy is effective

Smelly

- No, because first of all some of the important nuclear weapon states have not signed/ratified them.
 - Furthermore, these are biased towards nuclear weapon states.
 - Also, there are no effective oversight mechanisms to oversee the observance of the same.
- Hence, a comprehensive approach based on consent of all the states coupled with proper oversight and enforcement mechanisms is the need of the hour.

Q.1(B). What do you mean by 'self defense'? it is a customary right? How it is deferent for pre-emptive self-defense. ? (10 Marks 150 words)

The International Law through the UN Charter prohibits the use of force by any member state against another state. However, it creates an exception of Self-defence wherein in retaliation to an armed attack, a state can exercise force in the form of self-defence.

Art. 51 of UN Charter: Conditions for Self-defence

- There must be an armed attack
- Force must be used in proportion to the attack.
- only that much force as is required to quell the attack can be used.

Nature of Right of Self-Defence

Besides the statutory sanction under Article 51, the right of self-defence is also an integral part of customary international law as it is being practiced through ages even before the coming into existence of the UN Charter.

◦ Pre-emptive Self-Defence

This is one area where International law is not very clear i.e. where there is no armed attack (imminent), however, a state in apprehension of an armed attack uses force against the same.

Arguments For Pre-emptive self-defence as valid defence

The modern day warfare has become technical and uncertain. Weapons of nuclear capability can't be afforded to be used after an attack as they can destroy a state's arsenal.

Arguments Against

- The Charter clearly mentions an 'imminent attack'.
- scope for misuse.

However, based on state practice it ~~see~~ and modern warfare, the use of pre-emptive self-defence seems to be valid as per international law provided it is not misused and also sanctified by the UN Security Council as had happened in case of Balakot Strikes by India.

Q.1(C). What are the major Feature of NPT, 1967. What was India's Objection to it. [10 marks, 150 words]

The Non-Proliferation Treaty, 1967 ^{one of} is the first major international legal instrument dealing with the issue of Non-Proliferation and Nuclear-weapons testing.

Major Provisions of NPT

• Division of states into two:-

(i) Nuclear Weapon states :-

→ obligation not to transfer any nuclear weapons to a non-nuclear weapon state or any non-state actor.

→ However, any transfer of nuclear technology for peaceful purposes like Nuclear Research is permitted.

(ii) Non-Nuclear Weapons States

→ Prohibition on developing any nuclear weapons

→ However, can seek cooperation in the field of peaceful usage of nuclear energy.

• Another important provision of the treaty was until all the Nuclear-weapon states satisfy this treaty, it won't come into force.

India's Objections to the Treaty

- The treaty is biased towards non-nuclear weapon states
 - implicitly authorizes the addition of nuclear weapons by these states.
 - creates confusion in regard to usage or development of nuclear weapons.
 - there is no proper implementation mechanism.
- (See Country work done)*
Apart from India, states like China, Iran etc. have also not ratified the treaty due to their respective objections against the treaty and hence the treaty has been a failure. However, subsequently other treaties like CTBT etc. have been announced and hopefully they will address the concerns present in the NPT.

6

Q.1(D). Write short note and define the term 'International Terrorism.' How far the emergence of Cyber world has changed its meaning and scope? (10 marks) (150 words)

There is no comprehensive definition which has universal consensus. Post the 9/11 attacks, America led the approach according to which, what looks, smells or kills like terrorism is terrorism.

However, various international legal instruments including UN GA resolutions, Treaty provisions like Montreal Convention, and also regional treaty instruments such as European Charter, African Charter have attempted to define terrorism as per their local needs.

~~Protable~~ Definition of Terrorism

Terrorism could be defined as a systemic attack targeting people based on some political or other ill motives creating a sense of terror among the community. may be referred to as an Act of Terrorism

Cyber World & Cyber Terrorism

Coming of the digital era, the dimension

of crimes including terrorism has changed as they have also gone online.

Various facets of cyberterrorism:-

- hacking of accounts of important personalities
- ~~h~~ threat to infrastructure (critical)
- ~~g~~ getting access to personal and intimate information of people and threatening for ransom
- child pornography
- use of dark web for activities like smuggling

Challenges in curbing cyberterrorism

- there is no physical boundary hence ascertainment of jurisdiction is an issue
- difficulty in locating the perpetrators
- secret functioning of the dark web

Hence, the cyber arena has widened the scope of terrorism and the acts that could come under its ambit have increased. ~~most elaborate~~ and accordingly the international regimes relating to terrorism needs to take this into account and look for immediate solutions.

Q.1(E). IMF and World Bank have worked more in favor of developed world than developing world. Do you agree IMF and World Bank have performed their desired role? Discuss [10 marks, 150 words]

The IMF and World Bank duo are referred to as the 'Bretton Woods' Institutions as they were the outcomes of the Bretton Woods Conference post the II World War.

Purposes of IMF and World Bank

The purpose for which these institutions were created was following:-

- to help in post war reconstruction of countries.
- assist the developing country with required financial and developmental assistance
- ~~to uplift the poorer states so that equality may be achieved.~~
- to make international trade free and effective

Achievements of the Bretton Woods institutions

- they helped in post war reconstruction of Europe
- gave bailouts to various countries like India, Pakistan who were in dire

need of financial assistance.

- promoted liberalisation of economies world wide.
- contributed in various developmental projects around the world, most importantly in Africa.

Have they been completely successful?

- No, because global inequality has increased ever since their inception.
- they have been promoters of capitalism in terms of liberalisation around the world.
- not proper assistance to the people in the country, people's suffering have not at all remedied.
- ever-widening gap between Global North and South.
- mostly corrupt leaders of states getting assistance have been enriched.
- Dominance of US and Europe.

Hence, overall the Bretton Woods institutions have not lived up to their potential and requires urgent overhaul giving fair representation to the Global South which has exponentially grown in terms of reputation and standing.

Q.3(A) "What was the opinion of ICJ with regard to legality of using a nuclear weapon. Is threat of using nuclear weapon legal? (20 marks, 300 Words)"

The legality of use of nuclear weapons is a contentious and controversial issue. Since the international law and practice was not clear on this issue, ICJ was thought to be the right authority to clarify the same.

Advisory Opinion by ICJ

- (1) WHO's referral : The WHO wanted the ICJ to give its opinion on legality of use of Nuclear Weapons vis-à-vis its impact on Human health.

The WHO refused to give opinion citing no locus standi for WHO.

- (2) UN General Assembly ultimately referred the same to ICJ requesting opinion on the legality of use of Nuclear Weapons.

Issues framed by the ICJ

→ Whether the use of nuclear weapons is prohibited under any international law

- whether the use of nuclear weapons is prohibited by Customary International Law.
- Whether the threat or use of nuclear weapons is against UN charter.

Judgment by ICJ

- ICJ opined that there is no express provision in any international treaty or convention which explicitly prohibits the use of nuclear weapons.
- Furthermore, it said that there is also no existing international custom which forbade the use of nuclear weapon.
- The ICJ however opined that the threat of nuclear weapons use against any state is clearly against Article 2 para 4 of UN Charter.

Similarly its indiscriminate use may not be valid under principles of International Human Rights Law

and so also the International Humanitarian Law:

◦ Justice Weeramantri's dissent

Justice Weeramantri from Sri Lanka gave a powerful dissent arguing that no international law or custom permits the use of nuclear weapons and if they ~~don't~~ permit then it implies that such a use is prohibited.

Legality of Use of Nuclear Weapons

Based on the aforesaid discussion it is clear that there is no substantial clarity on the use of nuclear weapons and its legality. However, one thing is for certain that such a use will definitely be in contravention of principles of humanitarian and Human Rights law if it has an indiscriminate effect on the human population.

82

Structure like this?

- ① N. W
- ② Judgment
- ③ Customary
- ④ Treaties
- ⑤ Custom

Q.3(B). International Human right law and international humanitarian law have certain area of overlap, still they are two distinctive concepts. Elucidate (15 Marks, 250 Words)

International Human Rights law (HR law) and International Humanitarian Law (IHL) both are aimed at the protection of human beings and the humanity as a whole. Accordingly, they have an overlapping in some aspects, however the essence of the two fields is distinct as given hereafter:-

<u>IHL Law</u>	<u>HR law</u>
• ~~been~~ in existence since time immemorial. (as soon as wars began) • Are Applicable in times of <u>war</u> or <u>armed conflict</u>. • Are of <u>Special character</u> i.e. only for specific situations. • Source laws are <u>Hague Convention</u>, <u>four Geneva Conventions</u> etc.	• It is of recent origin. • Are more relevant in <u>peace time</u>. • Applicable generally to humanity as a whole. • Primary sources are the <u>UDHR</u>, <u>ICCPR</u> and <u>ICESCR</u>.

connection between IHL and HR law

- Art. 66 of Additional Protocol (II) to Geneva Convention mentions that even in times of war or an armed conflict, the general guarantees of Human Rights of people may be relevant.
- Similarly, in war torn areas and hostile conditions and people in enemy territory when not participating in war, these people do have their human rights intact.
e.g. Guantanamo Bay detainees' Human Rights upheld by US Supreme Court.

Hence, it may be seen that in terms of their applicability, scope and source the IHL and HR Law are distinct, however in practical terms sometimes they do overlap owing to considerations of protection of people but still it is argued by International scholars that these two must be read in two different terms.



Q.3(C). Discuss major convention with regard to Terrorism. (15 Marks, 250 Words)

Terrorism is a great threat to humanity worldwide and hence accords great need of protection via the International Legal instruments.

- The UN Comprehensive Treaty on International Terrorism

This treaty prohibits any act of aggression against a population to create a sense of terror and resulting into loss of human lives.

- Security Council Resolutions 1373 & 1276

~ Any state giving shelter to terrorists will be declared as an aggressor.

~ These resolutions were in light of the US War on Terror.

- Regional Treaties

- The European Commission's Charter also prohibits acts of terrorism intended

for political or any other purposes.
It prescribes for immediate prosecution
or extradition of terrorists (Aut dedere
Aut judicare).

Similarly, the American Charter, African Charter, South Asian Charter all contain provisions prohibiting terrorism and the obligations of states to punish or extradite the offenders.

□ Aviation treaties

- The Tokyo Convention, Hague Convention and the Montreal Conventions also contain provisions relating to any act of terrorism against a plane and its passengers.

Overall, there is no uniform and comprehensive treaty ~~prev~~ on terrorism because notions of terrorism are varied according to local circumstances around the world.

7

Major
conventions
you have only written law



Q.5(A). Write a Short Note on State Sponsored Terrorism. How it different form other form of terrorism.

Post the 9-11 incident, the idea of state-sponsored terrorism became prominent and it was acknowledged by the Security Council led by USA in its war on terror.

Elements of State sponsored terrorism

→ financing and other support for terrorists/ contras by a state

e.g. US v. Nicaragua

US sent contras funded by it to fight/attack in Nicaragua.

→ even harbouring of terrorists and not taking against them would amount to state terrorism.

e.g. USA's operation Neptune Spear in Pakistan

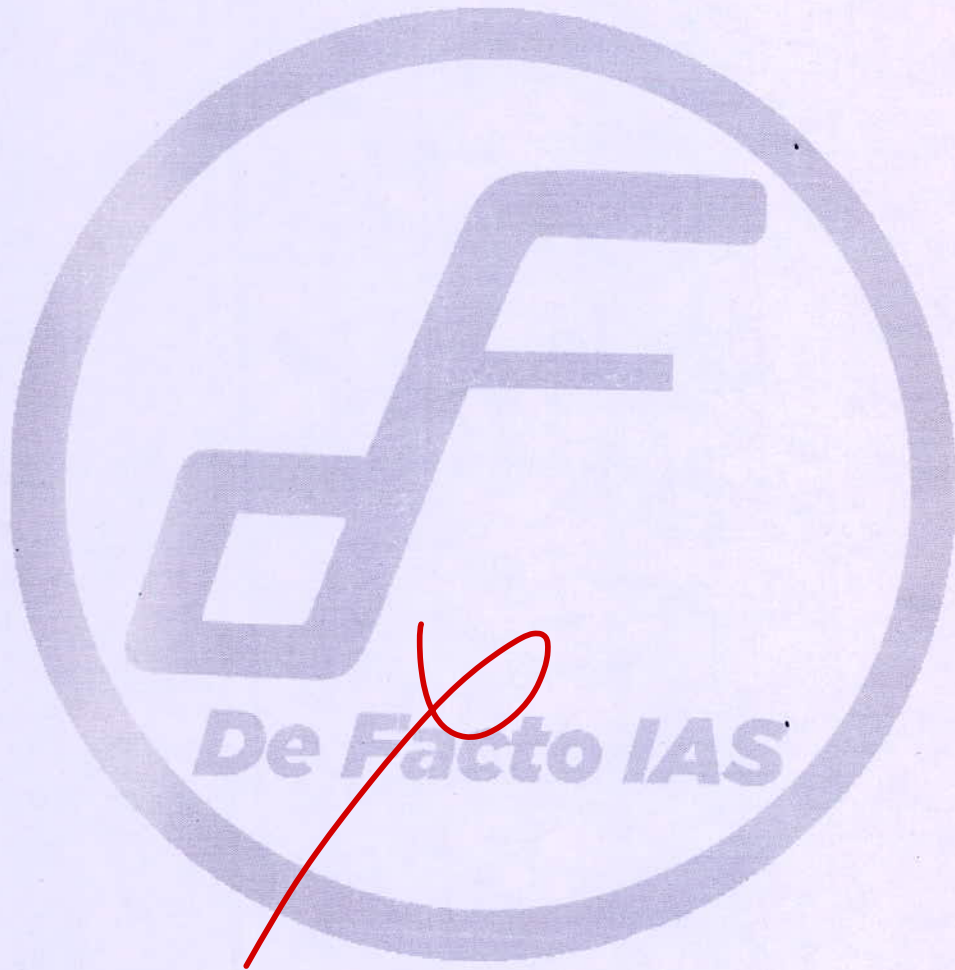
Different from other forms of Terrorism

→ Self-funded, not assisted by state in any form

→ ~~State~~ is willing to ~~bare & prosecute~~

~~have a political ideology~~

(4)



Q.5(B). Structure and Function of WTO need to be suitably changed to help accelerate development of developing countries. Do you agree?

Developing countries like India have always been at the receiving end of WTO's stringent policy requirements and are a major obstacle in their development.

Problematic WTO principles

- Its strict stand against subsidy hamper progress of the less privileged in country like India - where subsidies is a must for development.
- Stringent Phyto-sanitary measures
Unnecessary rejection of goods by countries for a small deviation from the WTO norms.
- Intellectual Property Regime
Promotes monopoly of large companies, unfavourable for the developing states where a large population can't afford expensive patented technologies.

Structure

The Dispute Settlement Board and other offices dominated by USA.

It is completely dependent on USA's contribution.

All these issues trump social inequalities in the developing and underdeveloped countries and hence require some overhaul to take into consideration the realities and need for socio-economic development.

⑥

→ Suggest more specific
charges
→ Connect it with NIEO principles

Q.5(C). Define Hijacking? What are the various International law to prevent and punish hijacking.

Hijacking is defined as an act of using force to damage or take control of a civilian aircraft from the lawful commander of that aircraft.

International Law

- Tokyo Convention, 1963

Prohibits any act prejudicial to the security of the aircraft.

The passengers & crew along with the aircraft should be given a right of safe passage and to continue their journey.

- Montreal Convention

→ Lists out various acts including use of force, damaging the aircraft etc. as Hijacking.

→ Prescribes Aut dedere Aut judicare principle i.e. responsibility to prosecute or extradite the hijackers.

Problems with the Conventions

- Not many signatories
- No uniform procedure for extradition
- No uniform definition of hijacking
- No enforcement mechanisms

Why write?

(4th 1/2) write other Conventions
There are 3 major Conventions

Q.5(D). What is crime against humanity? Discuss the major feature of Rome statute creating international criminal court.

Rome Statute came into force in 2002 and was a watershed movement in the realm of International Crimes and Criminal law.

Features of Rome Statute

- Creates International Criminal Court (ICC) to try and prosecute individuals / bodies guilty of international crimes listed therein.

- Principle of Complementarity

According to this ICC would only try such cases which are not being tried by state or a trial is a mere sham to protect the perpetrators in that state.

- Jurisdiction:

- Ratio Temporal: only with respect to crimes committed after 1st July, 2002.
- Ratio Personae: only persons of state parties
- material: only for crimes listed in the statute

- Offences: There are 4 crimes mentioned

in the statute viz,

- (i) Genocide
- (ii) War Crimes
- (iii) Aggression

✓ (iv) Crimes Against Humanity

→ only define it
in detail

which have a bearing on the
humanity and the international
community as a whole

③

you have answer only
second half of qⁿ

Q.5(E). Discuss in brief, 1954 Convention for the Protection of Cultural Property in the Event of Armed Conflict.

International Humanitarian Law (IHL) besides protecting interest of humans in times of war also prescribes protection of cultural property in the zones of conflict.

1954 Convention :

- In no way damage could be inflicted to any cultural property / heritage located in the conflict zone.
- Such property has the same inviolable status as is of hospitals and schools.

~~The only exception that it provides is when ^{combatants} combatants are sheltered in the property, then proportional force can be used.~~

3 However, the Convention is ~~is~~ applied more in breach than observance because cultural properties become the first targets by the combatants e.g. Taliban.



Q.6(A). Discuss the principles of UN resolution on New international economic order. What is its relevance? 300 words, 20 Marks]

Post the WW-II and the Cold War years, due to increasing gap between the Global North and South in terms of development and economic capacity, the developing countries were unhappy and demanded justice and fairness.
Accordingly, in 1974 in a session of UN General Assembly, the Charter the Resolution on New International Economic Order (NIEO) was passed.

Meaning of NIEO

It is basically a new order which is fair to the developing states, which promotes equality, North-South Cooperation and grants a fair chance and share in global trade and global financial arena to the developing and underdeveloped countries.

Reasons for the demand for NIEO

- Monopoly of Developed states in international trade
 - Rising inequalities in the third world.
 - ostensible rule of MNCs over small states
 - Unfair terms of trade
 - Dominance of US Dollar and Euro
- Historical responsibilities mean but*

Demands of developing states

- Fair share in world trade
 - Removal of tariff barriers for products from these states
 - Control over MNCs's activities.
 - Overhaul of Bretton Woods institutions
- ### Principles of NIEO Resolution

- New era of cooperation between Global North and South
- Fairer terms of trade
- Promotion of Equality

Hence, NIEO is basically a demand for justice for the developing and the underdeveloped countries so that they also

get a greater say in terms of International Trade and Development.

if scans you have not read
NTEO resolutions. I suggest
you read them.

Q2

~~you are writing generically~~

Q.6(B). Discuss the Advisory opinion of ICJ and their utility. Can NGO affiliated UN seek advise from ICJ? 250 words, 15 Marks]

International Court of Law/Justice (ICJ)
is also called the World Court.

It has various jurisdictions including
Advisory Jurisdiction.

- Any The UN General Assembly (UNGA) or any other body of UN, with the specialised bodies (with UNGA approval) can approach the ICJ for advisory opinion on a contentious issue of international law.

Conditions:-

- Specialised body of UN can only seek advise upon a matter associated with its working
- only legal issues can be referred and not political issue.

Can NGO affiliated to UN seek advise:

No, because it will not come under the category of a specialised body of

They Can the UN. However, it may request the UNGA to seek opinion of ICT on a particular matter.

Utility of ICT's Advisory Opinion

- Gives clarification on contentious issues requiring interpretation.
- Helps in development of International jurisprudence.
- Serves as precedent for future cases.
- Helps in development of new treaties and customs.

So, in overall growth and development of principles of International law the advisory opinion/jurisdiction of ICT has a special role.

relatively good

7

Q.6(C). What are the major sources of international humanitarian law? Discuss its major principles...[250 words, 15 Marks]

^(IHL)
International humanitarian law also called as laws of war have been in existence ever since human started fighting war in one form or the other.

Sources of Inter IHL

- Customary International law
Principles of Proportionality etc.
- The Hague Conventions on the laws of War (1904)
- Geneva Convention (4)
 - (1) protection of soldiers in armed conflict
 - (2) " " of " at sea
 - (3) treatment of Prisoners of War (POWs)
- Additional Protocol I and II on Geneva Convention (1967).

Major Principles of IHL

- Proportionality
The force used must be proportional & justified.

- Necessity : only as much damage as necessitated is to be used.
- Distinction : civilians and soldiers need to be differentiated.

(B) you have another word principles and also contain them & like relevant conventions

Q.7(A). What are the major method of peaceful settlement.? Explain the role of security council in it. 300 words, 20 Marks]

The VN Charter under its Article 33 prescribes a few modes of pacific settlement of disputes which ~~do not~~ ^{do not} involve the recourse to force. ^{write how this mode leads to permanent settlement} These modes are as follows:

- Negotiation: It means arriving at a settlement by way of bilateral talks between the two parties.
- Inquiry: To initiate Negotiation, the terms of negotiation are to be settled first. So inquiry is used to ascertain the facts that needs to be discussed between the 2 parties.
- Good offices: If Negotiation are facilitated by a third party like a VN Body than it becomes a Good office.
- mediation: When a third person is used to mediate. He sits with both the parties and help them reach to a settlement and can also suggest measures based on his assessment.

- Conciliation : Here also a third person or a forum is used to ascertain the facts required to settle and finally suggest solutions for an amicable settlement.
- Arbitration : Here an arbitral tribunal is chosen by both parties which will decide the dispute based on equised terms and conditions. The judgment is binding on both the parties.
- Judicial Settlement : Here a judicial tribunal like the ICTJ decides the dispute and gives a detailed binding judgment based on the relevant principles and laws.

Role of Security Council

- It can act as a good office to initiate negotiations between two parties
- Under the UN Charter, Chapter VI it has the power to induce parties to arrive at a peaceful settlement and to do the same, the Security Council also invokes the aforesaid methods

to promote international peace and security. ~~Like UN charter article~~

Good thing is the ~~course of action~~ prescribed by the Security Council is binding on the parties and it ~~can~~ also use other coercive ~~measures~~ to enforce the same.

Hence, overall the peaceful modes of settlement of disputes are in furtherance to the spirit of the UN Charter which envisaged that as far as possible disputes should be settled amicably without the use of any force to maintain international peace and security.

12

Q.7(B). Discuss the need for strengthening New international Economic Order with reference to developing country like India and International economic organisations like World bank and IMF. [250 words, 15 Marks]

The NIEO is an instrument which advocates for the economic upliftment and empowerment of the developing and underdeveloped countries.

Need for Strengthening NIEO in light of India and World Bank - IMF

One of the initial demand of the NIEO movement was overhauling the Bretton Woods institutions because :-

- (i) dominance of US & Europe in them
- (ii) imposition of Stringent liberalization conditions on developing countries.

And, WB and IMF are still marred with these problems as USA and Europe dominates these institutions. They have failed in reducing inequalities between the developing and the

developed countries.

Hence, to give more representation
and say to developing and underdeveloped
countries a overhaul in these
bodies is required.

~~Q. New NIEO bodies~~

~~↓
V. Imp Topic~~

Q.7(C). What do you mean by contentious jurisdiction International court of justice ? How it is determined?. [250 words, 15 Marks]

Contentious jurisdiction of ICJ is in respect to any contentious issue between two parties regarding interpretation of a treaty provision.

Both the parties have to draw a compromis consisting of the relevant facts and issues that the court needs to determine.

The court can only delve into the issues drawn up in the compromis.

The judgment is binding upon both the parties.

in compromise