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.

Name: Abhishek Jaiswal

Subject: Law

Phone: [redacted]

Criterion	Average	Good	Best
Presentation			
Content			
Structure			

Teacher's Remark

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(Section -A)

Q.1(A). Write short note and define the term 'International Terrorism.' **(10 Marks) [150 words]**

Terrorism is an act of violence by State or non-State actors which are driven by some political motive. The aim of terrorism is to create fear on mind of people in order to achieve some objective.

International Terrorism

The term is vaguely defined and there is no universal definition of the same. Politically Most version

In the Declaration of Elimination of International Terrorism 1994, International Terrorism is defined as "crime against humanity which aims to create violence and fear on mind of State by non-State actors".

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Hence, invoke Art 51(c) of the UN Charter such act can be taken as a "use of force" and state would be justified in attacking it.

They, after 9/11 attack, US passed resolution in UNSC 2249 to invade Afghanistan so as to fight international terrorism.

However, India has actively pursued case in UN to actively define the term 'terrorism' and states must come at some agreement to define it.

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Q.1(B). Discuss the main feature of Treaty On The Non-Proliferation Of Nuclear Weapons (10 Marks, 150 words]

The UNGA has pursued Non-Proliferation Treaty, 1967 so as to stop proliferation of nuclear weapons. NPT is the most comprehensive treaty which currently regulates proliferation of nuclear weapons & usage of nuclear energy.

Main Features of NPT

1. Distinguish between nuclear & non-nuclear states as a cut off date. Hence, only 5 countries viz- the US, Feance, China, Russia and UK are only allowed to posses nuclear power. under Article I
2. Under Act II ~~only~~ it prohibits nuclear powered states to proliferate weapons.
3. Under Act III → it prohibits non-nuclear states from pursuing to acquire nuclear weapons.

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4. Under Art VI ⇒ However, states are allowed to use nuclear ~~energy~~ energy with IAEA safeguards for civil purpose.

5. Article IV allows State to use force and also to actively pursue denuclearisation of world.

Thus, the world must aim towards denuclearised world so as to achieve UN Preambular goals viz. peace & prosperity.

Yours Faithfully

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Q.1(C). Differentiate between International Human right law and Humanitarian Law. Is there any area of convergence between them?. [10 marks, 150 words]

International Human Rights Law deal with basic human rights which are inherited as a part of natural law. Such laws are sourced from Universal Declaration for human Rights, ICCPR, ICESCR, etc.

International Humanitarian Law, on the other hand is a special branch of law which is invoked during war. Such as rights of prisoners of war, against genocide, wounded and sick, etc. They are sourced from Hague Convention on Int. Humanitarian Law.

Area of Convergence

The difference between both is getting blurred in modern days. Such as rights of refugees, victim of genocide, etc. are also found mention in both the laws.

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For instance, Convention on Refugees deals with Human Rights and there is principle of non-refoulement. But people who are victim of State atrocities during war such as rape in Ukraine may also become subject of Humanitarian Law along with refugee rights.

Thus, now in order to provide better justice to people so that they can realize their natural rights, courts are applying distinction between them with liberal interpretation. For instance, in Myanmar v. Nicaragua, the ICJ is hearing case under both the laws.

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Q. 10) Write Short note on Hijacking, enumerate its major conventions. [10 marks] [150 words]

Hijacking is an act of terrorism where hijacked in order to achieve some political objective such as ransom or release of some terrorist captured plane. However, this may not always be the case and sometimes without any political objective also this can happen.

Major Conventions

1. Tokyo Convention 1963 ⇒ also known as Convention on some Offence committed on board Aircraft. For Instance, Some Offence is committed on board flight which affects good order & if it is peacefully seized then under Act II treated as hijacking. Hence, State is under obligation to restore such aircraft.

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2. Hague Convention 1970 → Convention on Unlawful Seizure of Aircraft → Hence if any person seize any flight under Art 1 which has been unlawfully seized.

Hence, under Art 6 such offence may lead to seizure of flight or forceful landing & punishable. Also under Art 16 it is extraditable.

3. Montreal Convention 1971 :- Convention on Suppression of Unlawful Activities against Civil Aviation safety. which is most comprehensive in nature. Hence, committing violence on board, placing any device on aircraft, etc. are treated as offence under Article 1.

The Govt. of India actively to curb commital of hijacking has made laws on all 3 conventions for actively punishing it.

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Q.1(b). "International Terrorism is a threat to Human Right." Elucidate [10 marks, 150 words]

"Violence anywhere is threat to prosperity everywhere".

The act of International terrorism has been defined as usage of force under Art 2(4) of UN Charter. Here, a state or non-state actor provides weapon, place, etc. for terrorist organisation to achieve their goal i.e. to create fear in mind of people.

Threat to Human Right

The ICJ in (Nuclear Weapon case), has said that 'use of force' is against human right. It may affect rights of innocent person if any terrorist organisation would get hold of nuclear weapon.

It may take either of two forms viz. crime against humanity (nuclear weapon) or war crimes such as belligerents in a state during fight with state.

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Hence, such act of terrorism is prohibited in both human Rights as well as Humanitarian Law.

In (Nuremberg Trial) & later in (ICC trial of Yugoslavia), it was held that international terrorism is an act of crime against humanity & a war crime.

However, the world has still not come into an agreement to define international terrorism and pursue cases of violation of human rights when state sponsor terrorism.

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Q.3(A) What are the possible Approaches for eliminating nuclear weapons ? Discuss the effectiveness of Nuclear Non Proliferation regimes. **(20 marks, 300 Words)**

The UN Disarmament Commission was entrusted with elimination of nuclear weapons by various possible approaches. However, it failed to achieve its task due to lethargy on part of major powers of the world.

Possible Approaches for Elimination

1. Responsibility of Nuclear Power States : i.e 5 states under NPT, 1967 must first dispose off their nuclear weapons like South Africa to teach others.

2. International sanctions : such as imposed currently on Iran to rectificate the testing of nuclear weapons. [Vienna Convention]

3. International Environmental law : Art 116 clearly imposes state responsibility under

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UNCLOS, that they must not in any case pollute maritime water.

4. Implementation of CTBT :- So that if any state even tests nuclear weapon would face sanction from other states.

5. Fixing responsibility :- Such as under Rome Statute of ICC, state leaders must be tried who proliferate nuclear weapon for an act against humanity. This may create difference but would affect sovereignty of states.

Effectiveness of Nuclear Non-Proliferation Regime

1. Non-Proliferation Treaty 1967 :- It is a multilateral disarmament agreement. It only allows only original 5 states to possess nuclear weapons. To a large extent, it is successful as only 10 countries from

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25 countries in 1969 are now nuclear powers. However, rest countries consider terms of treaties are biased & favouring 5 states. Hence, nuclear free world not possible till date.

2. Comprehensive Test Ban Treaty 1996 :- It wanted to ban all kinds of test of nuclear weapons but due to reservation of 13 parties couldn't come into effect.

In Nuclear Weapon Case 1996), to increase the width of non-proliferation & also fix state responsibility, ICJ opined that even if non-state actors would use nuclear weapons, then also state would have responsibility.

Thus, now efforts in on parts of states such as under Article I of NPT not to proliferate nuclear weapons

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to non-nuclear weapon states.

Also Art II imposes restriction on non nuclear states to pursue nuclear weapons. However, despite that many states such as Iran, N. Korea after leaving treaty possess it.

Thus, there are loopholes in treaty such as trial of people who publicated it such as AQ Khan to North Korea still is vague. Hence, there lacks enforcement mechanism to pursue breach of treaty.

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Q.3(B). Discuss international criminal law with regard to International Terrorism. (15 Marks, 250 Words)

In the (Nuremberg Trial Case), the Court opined that International terrorism can take form of two international crimes viz.

[Crime against humanity] [war crimes]

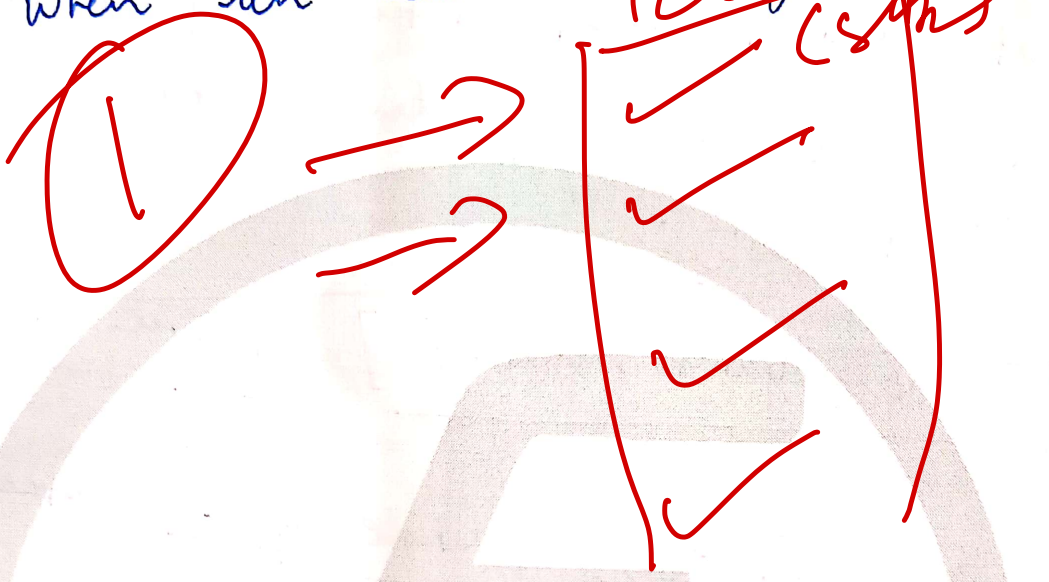
Under Art 5(2) of Statute of ICC, ~~State~~ ICC can only conduct trial of such crimes when State Parties agree for their trial. Hence, in such scenario there is no any international court or tribunal which can try commission of such crime.

However, in many cases such as ITCR, ITCY viz. Rwanda, Yugoslavia, etc. where the ICC has tried cases against such war crimes.

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Crime Against Humanity

When an act is ~~to~~ ~~grave~~ crime



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Q.3(C). Humanitarian law is no longer Geneva or Hague conventions, it has acquired a transcending status under International Law. Comment **(15 Marks, 250 Words)**

The ICC in (Nuremberg Trial Case) it was held that Geneva Convention & Hague Convention apart from Customary International law is part of International Humanitarian Law.

Transcending Status

In (Legality of the threat or use of nuclear weapon Case) held that currently Hague and Geneva Convention together are one of the most codified form of International law. They not only provide base for enforcement of humanitarian law but also enlarged scope of

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human rights also.

It seeks to protect wide range of persons viz: combatant and those not involved in hostilities.

Currently, it has started overlapping with human rights law in a way such as refugees, prisoners of war, etc. has been given different other rights too.

See in Hand, Refugee Convention has recognised right of non-refoulement which grants rights under UDHR also.

Similarly, Genocide Convention has also taken form of protecting sick & wound during war as noted by ICJ in Advisory Opinion on Genocide Convention.

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However, it has been found that recently in Russia, Myanmar, Syria, etc. humanitarian law failed to achieve its objective due to poor enforcement mechanism.

Thus, to cure it International Criminal Court has come into picture which under Act 122 allows trial of such commission of offence to punish war criminals.

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Section – B

Q.5(A). Write a Short Note on State Sponsored Terrorism. [10 Marks, 150 Words]

State sponsored Terrorism takes place when state through use of proxies such as non-state actors commit act of terrorism on other state. The main political motive on part of such state is to create terror on mind of people of other state. For instance, Pakistan is accused by India to sponsor terrorism in Jammu & Kashmir.

Manner to sponsor it-

1. Financing : State provides active finance for recruitment, purchasing weapons, etc.
2. Place : creates safe haven for training, drilling, etc. along with place to stay.
3. No prosecution : State refuses to accept UNSC tagging of such criminal as terrorist

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and refuse their trial in home by hiding them.

It has become impossible to deal with an agreed definition of State-sponsored terrorism because states do not support it in UN. However, Rome Statute of ICJ to some extent deals with certain acts of state sponsored terrorism such as recently conducted ITCR trial.

But, the world through various specific framework through FATF, and use of Art 2(4) UN charter tried to prosecute such cases for instances, in US Consular Tehran case, it was held that when there is active involvement of state then it would be treated as state-sponsored act.

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Q.5(B). Where are the major source of international humanitarian law?. [10 marks, 150 Words]

International Humanitarian Law deals with the law which governs the rules of war. Hence, it makes implicit on each states to treat certain class of people by principle of Humanitarian Law.

Major Source of Int. Humanitarian Law

1. Custom : Customary International Law has recognised since time immemorial certain rules of war (Eg) not killing civilians who are not part of war. But they are now codified :

2. Hague Convention 1907 :- It deals with inter-state rules governing use of force as held in (Nuclear Weapon Case).

3. Geneva Convention 1949 : which is applied in all cases of armed conflict even if 'state of war' is not declared by either parties

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as illustrated under Article 2. It categories rights of four class of people

- → Prisoners of War → 3rd Geneva Convention
- → Wounded & Sick → 1st Geneva Convention
- → Civilians & Occupations → 4th Geneva Convention.

4. Judicial Decisions and UNSC mandate → also affect rights of parties and directs what should be behaviour of belligerent states. Otherwise under Art 51, UNSC has certain rights to take collective action.

Recent hostilities in Ukraine has once again brought Geneva Convention at forth so as to humanely treat ~~to~~ people who are indulged in war.

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Q.5(C). Discuss the main feature of CTBT. **[10 marks, 150 Words]**

Comprehensive Test Ban Treaty 1996 is a treaty which aimed to ban use of all kinds of nuclear tests by any state. However CTBT couldn't came into force as it failed to get adequate signatures due to reservations.

Main Feature of CTBT

1. Article I of the Treaty bans trial of nuclear weapon at any place i.e. underground, in space or water. Thus, all states must take responsibility ~~or state~~ to punish people who test it.

2. Also states must themselves prohibit, usage, omission, commission, etc. of any kind of nuclear weapons in their territory.

However, CTBT was uneven in nature and many states had reservation as

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they would be held responsible for even individual acts. Thus, this would be against sovereignty of state.

Introduction

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Q.5(D). What do you understand by "Nuclear Free Zones". Is it an effective approach for nuclear free world?? [10 Marks, 150 Words]

Nuclear free zones are those part of world which have either no nuclear weapons as of date or those who had actively destroyed it. It has been aim of Art IV of non-Proliferation Treaty to persuade non-nuclear states to create "nuclear free zones" in their territory.

Approach for nuclear free world

Under Art III of NPT, only non-nuclear states are mandated for not pursuing nuclear weapons in future.

Whereas, under Art IV, "nuclear weapon states may aim to dispose of their weapons". Hence, it does not mandate but only directs nuclear states to pursue it.

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This provision hence been called 'bias' by India and this is the reason to pursue their own security states like India, Israel possess nuclear weapons.

Hence, till the time nuclear weapon states won't be mandated to actively denuclearise their arsenals, it is impossible to aim for nuclear world.

However, the recent Declaration on Elimination of Nuclear Weapon sets hope for world community that states may understand their responsibility and aims towards it.

Ends //

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Q.5[E]. Is nuclear disarmament possible in current global scenario of International Law? [10 Marks, 150 Words]

Nuclear disaemament means when nuclear weapon states actively dispose of their nuclear arsenals and also commit not possession of same in future. The defunct UN Disarmament Commission was entasked to achieve the same who failed in its objective.

Disarmament Possible?

There have been many instances such as passage of resolution for traditional medicine, promotion of human rights, etc. when world community agreed together.

However in most of controversial issues such as Palestine rights of state, definition on terrorism, sanction against Russia, etc, world failed to achieve at any decision.

Similarly, in case of nuclear weapon Disarmament due to global wealth hegemony,

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many declaration and treaties on nuclear disarmament failed to reach at conclusion.

In case on threat of use of nuclear weapons case 1996 ICJ, the ICJ opined that "disarmament must be a global goal". However, state raises their own sovereignty and national security concern.

Thus, it is absolutely impossible to achieve disarmament in such a fragmented world order. But, what is achievable is to impose a state responsibility on all states to use their nuclear establishments with utmost care & caution.

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(A) Discuss the principles of UN resolution on New international economic order. Has its objective been achieved? [300 words, 20 Marks]

New International Economic Order (NIEO) is a resolution passed by 3rd world countries i.e. Global South as an act of solidarity to achieve their due rights for a balance of Power.

Principles of UN Resolution on NIEO

1. Right of self determination :- i.e. they will decide their own economic policies rather than forced by Global South.
2. South-South Cooperation :- so that 3rd world countries can create their own block against hegemony of North. Hence G-77 countries demanded clearing historical debt
3. Control of Trans National Corporations as per domestic laws.

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4. No string attached transfer of tech. nology i.e. South must get it without any conditionality.

5. Allowing capital in South so that they can stabilize domestic prices

6. Providing preferential trade thro' generalised system of preferences by North to South.

Thus, this would lead to provide economic independence to post decolonized 3rd world.

Objective Been Achieved?

1. Inequality has been increased such as there has been revival of mercantilism.

(Eg) WTO was established for free trade but various countries in North have put quantitative restrictions on imports from South.

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2. Under TRIPS regime, transfer of technology has been not been easy as failed to fulfil their objectives under Art VIII to 'transfer' using 'may' as a clause.

3. Various 'State Contracts' has been onerous and has affected right to exploit natural resources of states. For instance, in neo-colonialism many territories in Africa have been exploited for minerals by West.

4. Agreements such as Agreement on Agriculture does not allow cartelization of many products as it affects trade. For instance, in South Korea Beef case, it was held violation of AoA.

Thus, NIEO as Prof. R P Anand notes could not achieve its objectives due to fragmented 3rd world without any leader and thus, further led to domination of the West.

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Ways to serve NEO

1. Expose the loopholes of various laws such as Art VIII TRIPS, Art XX GATT etc. to use it for national interest by 3rd world country. Also forcing developed countries to fulfil their promises.
2. Democratisation of world order such as regular appointment in WTO Dispute Settlement Body.
3. India can lead 3rd world country using International law as a tool to seek demands fulfilment.

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Q. Discuss the Advisory opinion of ICJ and its utility, given they are non binding in nature. [250 words, 15 Marks]

Art 38(d) Statute of ICJ deals with Advisory opinion of ICJ. As per Art 36(2), any "State parties or UNGA can seek opinion of ICJ on any legal matter arised or likely to arise".

Features of ICJ Advisory Opinion

i) UNGA or UNSC can seek it on request

ii) Any organs of UNGA can also request provided they are of legal and not academic in nature.

iii) States ~~under Art 67~~ before signing treaties can also seek opinion of ICJ.

iv) Under Art 67, ICJ must deliver it in open court.

v) Quorum is 9 Judges.

vi) ICJ cannot refuse to give advisory opinion otherwise it would look as they

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have any political pressure by declining to do so.

Utility of ICJ Opinion

1. UNGA/UNSC before taking any action such as use of force may themselve want to ensure whether their action is appropriate or not.

2. Special organs of UNGA, when any state breaches any agreement, then before pursuing against them can seek ICJ opinion.

3. States also before signing any treaties in order to clearly understand any obligation arising out from any provision want to get it clear.

Thus, it prevents any future hassle between states which may affect peace bet

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Conflicts:

In Advisory Opinion on Genocide convention 1951, the court when interpreted this treaty held that rather than compatibility, necessity should be the test to any kind of reservation on treaties.

Thus, such an Advisory opinion gave states opportunities to get clear before getting bound by it and also to other countries to rectify any error on apparent on face of it.

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Clerk
Ground of IR
Moral Book

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Q.6(C). Judicial settlement of dispute is unique among all other method of pacific settlement. Do you agree? Argue. **[250 words, 15 Marks]**

Peaceful settlement of dispute is necessary in order to avoid any conflict between states arose due to some acts.

Method of Judicial Settlements

1. Arbitration :- Here both parties chose an arbitrator, who, in turn, chose 3rd person as head of tribunal. Thus, it provides speedy justice with less procedural difficulties.

In (Alabama Claims Accord case), the era of settlement of dispute started which later codified as Hague Convention 1857.

2. Negotiation, Settlement, good Office :- Here a 3rd party act as intervener who brings other two parties into table & ask them

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to resolve these disputes peacefully. This has also been provided such as Conciliation in Hague Convention 1907.

3. Under auspices of UN :- as has been codified under Art 2 of UN Charter. But it only empowers UNSC to take action in its wings which may get affected by usage of veto.

4. Judicial Settlement of Dispute :- It has been codified under UN Charter itself and Art 1 & 2 imposes responsibility on Int. Court of Justice to act as its judicial organ. As per Art 93 of UN charter, all parties of UN are ipso facto member of ICJ and hence under Art 36 Statute of ICJ if they agree can bring case under Contentious Jurisdiction of ICJ.

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The reason because this procedure is unique is because here all principles of laws are followed and interpreted by judges who are highly learned in laws. Whereas, in other methods except arbitration there was no scope of expertise and also misuse of discretion.

Thus, judicial settlement is best method though it lacks enforcement mechanism and depends upon will of member States.

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8(A). What are lawful recourse state can exercise for aggression? What is the role of security council in it?
300 words, 20 Marks]

Aggression is an unlawful recourse of use of force by one state against other and hence regarded as crime under Customary International Law.

Thus, Art 5(2) of the UNGA Resolution 1974, post Nuremberg Trial defined it & fixed responsibility of aggressor state if they commit crime against peace.

Lawful recourse for States

1. Retorsion - It is adoption by one state of an unfriendly & lawful act, which is lawful as a method of retaliation against injury
   - e.g. severance of diplomatic relation
   - economic & trade restriction

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2. Reprisal :- They are themselve illegal but adopted in retaliation of an earlier illegal act by another State.

3. Embargo → to stop international trade.

Role of Security Council

In Naulilaa case, when Germany killed Portugal & Germany in turn, retaliated using retorsion. The court held that such an act is not allowed as a matter of course.

Hence, UN has given certain Charter of UN which gives certain methods :-

i) Negotiation :- Under Art 33 along with usage of good offices.

ii) Arbitration :- can be used in Hague Convention

iii) Judicial settlement :- under Art 94 of the UN Charter allowed for ICJ as

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court of settlement of dispute.

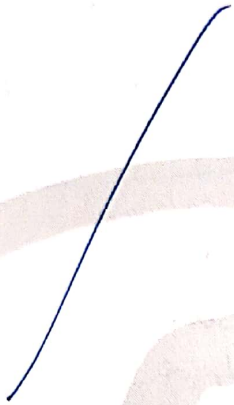
ii) Role of Security Council :- under Art 2 it that it can take two recourse :-

- if it affects International peace then may call parties to take above action
- and if leads to act of aggression then decide what action to be needed & take some provisional measures by directing parties.

Thus, recently when Russia did act of aggression against Ukraine, an then UNSC tried this along with UNGA by passing resolution but it was vetoed. Hence, there are flaws on system which needs to be corrected.

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2.8(B). Discuss the major feature of Rome statute creating international criminal court. Has it weakened in recent times? **[250 words, 15 Marks]**

Rome Statute of International Criminal Court 1998 aims to punish four crimes which under Art 5 are treated as most serious crimes viz

- crime of genocide → Article 6
- → crimes against humanity → Article 7
- → War crimes → Article 8
- → Crimes of aggression → Article 9

Major Features of Statute

1. As per Art 12(2)(a) → if national of one party commits aggression against territory of other, then to conduct trials both State must agree under opt-in mechanism.

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Q.8(C). Is threat to use nuclear weapon, legal under international law? [250 words, 15 Marks]

Under Art 2(4) of UN Charter, "use of or threat of use of force" is treated as an act against peace & prosperity of the world order.

Is it legal

The ICJ in (Use or threat of use of nuclear weapon Case 1996), it was held that use of or threat of use of nuclear weapon by state is held as against Art 2(4) of UN charter.

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However the court clarified that such an act can be justified in cases when

→ used for self defence i.e. when other state attacks territory of state or there is threat of such attack then state would be justified in using it

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↳ when such action is mandated by UNSC or its enforcement mechanism

↳ Art 51 when states act in pursuance of self-defence.

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→ Enough
→ Human lives will be

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