

Total Time Allotted: 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: _____

Subject: _____

Phone: _____

Aditya Mahar
Law Test 3

Teacher's Remark



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Q 1-a.

Terrorism is a delict jure gentium under International law (universally punishable). State sponsored terrorism refers to cases where agencies or armed groups are supported financially and materially to cause interference in another state's political or territorial sovereignty for certain geopolitical gains.



Eg Pakistan's ISI supporting JeM, LeT in India.

Types of state sponsored terrorism include - maritime terrorism, cyber terrorism, nuclear terrorism, etc

Issues in dealing with State Sponsored Terrorism

1. Terrorism not defined.
2. No state takes responsibility



Eg Kurdish militia attacks are considered independent of states

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	3. <u>No opinio juris</u> punishing terrorists. <u>Jurisdictional Immunities</u> case (2012 - Germany v/s Italy) held that no precedent exists. 4. <u>ICTJ limitations</u>: A-36(2) of ICTJ Charter has not been used by nations (optional jurisdiction). 5. <u>Poor enforcement mechanisms</u> <u>How states handle Terrorism</u> 1. <u>Laws</u>. Eg Convention on suppression of Nuclear terrorism (2004). 2. <u>UNSC</u> → resolutions like 1267 (Al Qaeda) on use of force. Counter terrorism Committee (1267 resolution). 3. <u>ICJ</u> → <u>Barcelona Traction case</u> 1973: helps interpreting current laws to include definition under "grave threat to international ..." 4. If recognised as <u>belligerents</u>, terrorists can be subjected to <u>Geneva Convention</u> 1949. 5. <u>State Responsibility</u>: <u>Terrorist Financing Convention</u> (1997) states <u>abatement</u> is crime.	

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Q1. (b)	The <u>Rome Statute</u> created ICC as the world's first exclusive criminal court in 2002 dealing with crimes against humanity, etc. <u>Challenges in prosecuting non-state actors for terrorism</u> 1. <u>State support</u>.  Uhuru Kenyatta (Kenya) was not prosecuted as Kenya did not help investigation (2007-08). 2. <u>UNSC veto</u>.  China blocking <u>Mahood Azhar</u> resolution by India. 3. <u>Unclear definitions of terrorism or non-state actors</u>. (freedom fighters vs terrorists). 4. <u>Legal loopholes</u>: Geneva Convention 1949; Convention on suppression of terrorism are vague about role of non-state actors.	

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	5. ICC has <u>no retrospective</u> application (post 2002 only). 6. <u>Limited jurisdiction</u>: Only state parties to Statute of 2002 or their citizens can bring case. 7. <u>Threat to sovereignty</u>: India did not sign Rome Statute as UNSC can begin ICC case even for non-members. <i>Myob UN, A, I</i> 8. <u>Inefficient</u>. Only few leaders conviction till now like Thomas Lubanga (DRC), Mladic, etc. 9. <u>UN is more active</u>: UNSC → Resolution 2178 on ISIS. UNGA → Ad hoc tribunals like ICTR, ICTY. Nevertheless, <u>ICC has started taking steps</u> - ① Arrest notices (Russia-Ukraine) ② 2021 conviction of Dominico Ongwen of Uganda for child soldiers. ③ Increasing membership. In a world where state sovereignty is the rule, ICC needs global cooperation to function.	

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Q1. C.

Article 33 r/w Article 1 of UN Charter suggests peaceful means of settlement of disputes.

Types of Peaceful Settlement

A. Adjudication

↳ Judicial settlement through ICJ, ~~IC~~ ICSID, ITLOS, etc

↳ ICJ Mavromatis Palestine Concessions case held that genuine dispute must exist

↳ Arbitration (easier, flexible and time bound)

↳ 1911 Savarkar case

B. Diplomatic Means

↳ Negotiation (by two parties)

↳ North Sea Shelf case held that efforts must be put in negotiation and must not be eye wash.

↳ Mediation (moderated by a neutral party).

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Question No.	↳ Good offices (friendly 3rd state helps [Eg] Russia during India-Pakistan 1965 war ↳ Conciliation (with report and suggestions) ↳ Enquiry (fact finding) [Eg] Ullanta enquiry <u>Practical method</u> <u>Arbitration</u> has advantages: 1. Works in case of legal loopholes (law not existing). 2. Confidentiality in critical matters. 3. Flexibility → choice of law → arbitrators. 4. Binding in nature 5. Expert adjudicators. [Eg] complex issues like transfer pricing. 6. Consensual nature: [Eg] Italy vs India (Erica Lexie case) <u>Yet</u>, instances of non-execution also exist (<u>South China Sea - Philippines vs China</u>). Thus, diplomatic methods must be resorted to first.	Remarks

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Q1(d)

The ICJ is the successor to PCIJ and is currently the primary court for dispute settlement between subjects of international law.

Competence to decide own jurisdiction

1. Unless otherwise specified, the ICJ can decide own jurisdiction

2. Connally Clause (Optional Clause of USA) was criticised as it led USA state to determine what fell in domestic jurisdiction.

3. Article 36(6): ICJ decides its own jurisdiction.

↳ Including whether Optional clause allows it.

↳ Interpreting what the contentious jurisdiction calls for.

4. Aerial Incidents case: Held that customarily, as per

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municipal law practice, the courts decide ^{their} competence.

5. Fisheries jurisdiction case: While determining jurisdiction, ICJ will look into -

↳ The kind of agreement

↳ Intention of parties.

↳ Preponderance of evidence (decide where they tilt).

↳ Grant itself jurisdiction unless absolutely disallowed.

Limits on ICJ

1. Cannot exercise jurisdiction unless parties file case/dispute (no suo moto)

2. Contentious jurisdiction (U/A-36) depends upon its acceptance by a 2nd state. If not accepted, jurisdiction does not arise.

3. Clauses may specifically exclude ICJ jurisdiction.

▶ Indian Optional Clause Declaration of 1959 excludes ICJ from domestic security related matters.

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Q1.(e)

Soft law refers to the flexible and non-binding nature of a law which merely serves as a guiding factor.

Violation of such laws only gives rise to diplomatic pressures and not legal accountability.

Examples

- 2022 UNGA Resolution on Right to clean and sustainable environment
- Stockholm Convention on pollutants

Emergence of soft law

1. Problems with hard laws

↳ Violates principle of sovereignty.

↳ Strict targets

Eg Kyoto targets (binding) could not be achieved.

↳ Non-signatories have less responsibility.

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	2. <u>Advantages of soft law</u> ↳ Encourages <u>participation of all nations</u> ↳ <u>Eg</u> Montreal Protocol universal ratification. ↳ Follows principle of common but differentiated responsibilities. ↳ Flexibility (changing targets). <u>Soft Law influences IL Development</u> 1. <u>Earth Summit (1992)</u> focused on soft laws. 2. Provide capability help <u>Eg</u> financial through Green Economic Facility. 3. Encourages Goal creation ↳ <u>Eg</u> India Net to Zero Emission target by 2070. 4. <u>Paris Agreement (2015)</u> focuses on diplomatic coercion (Global Stocktaking). 5. Helps incorporation into municipal laws <u>Eg</u> EPA, 1986. As per IUCN, to cater to "One Health" Approach, in future soft laws should become enforceable.	

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Q 3 (a)

International criminal Court is based on the founding document Rome Statute which came into force in 2002, specifically meant for dealing with international criminal cases.

Organisational Structure

1. Presidency
 - ↳ collaborating with states, regional offices, selecting judges.
2. Judicial division
 - ↳ Courtroom processes
 - ↳ Pre trial, post-trial ~~appeal processes~~ → Appeals
3. Office of prosecutor
 - ↳ Advocacy matters
 - ↳ Victim collaboration
4. Registrar for managing miscellaneous tasks.

Jurisdiction of ICC

1. Laws implemented

↳ Primarily Genocide Convention providing for war crimes, crimes against ~~humanity~~, genocide, etc.

↳ Implementation of Geneva Convention 1949.

↳ Eg In 2022 ICC put up arrest warrant against Russian President for violation.

2. Persons prosecuted

↳ Individual criminal liability also included.

↳ Political criminals

↳ States

↳ Eg 2012 saw ICC's first conviction of Thomas Lubanga for using child soldiers in DRC (Congo).

3. No retrospective application (since 2002).

4. Cases can be filed only by -

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	↳ countries ratified Rome Statute ↳ Citizens of above mentioned. ↳ UNSC resolution. 5. <u>Limits on jurisdiction</u> ↳ children cannot be prosecuted. <u>Effectiveness of ICC</u> 1. Since inception ICC has initiated ~37 criminal cases. 2. Using <u>local offices</u> for arresting people. 3. International Committee on Red Cross (ICRC) audits local office/jail functioning. 4. <u>2010 amendment to Rome Statute</u> provides more victim rights. Eg Trust Fund for Victims for rehabilitation. 5. Secured important convictions ↳ 2021 - Dominic Ongwen for child abuses in Uganda.	work on Cr def'n of child S, P, F, J

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	↳ Conviction of Bosnian Serb commanders <u>Mladić</u> for crimes in Yugoslavia. <u>Challenges in Implementation</u> 1. <u>Time consuming</u>: First conviction came after a decade (Lubanga) 2. Applies <u>only to ratified countries</u>. Powerful states (USA, Russia) left. 3. <u>Violate sovereignty</u>: P5 of UNSC can initiate action even against non-party country. 4. <u>Lack of state's support</u>: Kenya did not help in investigation of Kenya for crimes. 5. <u>Lack of independent executive and police force</u>. 6. <u>Allegations of Eurocentricism</u>. ↳ Burundi left Rome Statute ↳ ~ 30 complaints of African leaders Need is to <u>diversify resources</u>, make it <u>inclusive</u>, and consider its role as <u>complementary to ICJ</u>.	

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Q 3(b)	World Trade Organisation is the successor to <u>GATT</u> created out of <u>Uruguay Rounds</u> (1984-94) and formalised by <u>Morakesh Agreement</u> in 1995. Role in managing International Trade Disputes Aims of WTO are given in <u>Article 3</u> of 1995 law - 1. <u>Negotiation</u> ↳ <u>Ministerial Conferences</u> every 2 years as deliberation chamber ↳ <u>Agreement on Fisheries Subsidies</u> (12th Ministerial) 2. <u>Implementation</u>: A ↳ <u>Single Undertaking</u>: <u>Article 2</u> states that all members are bound by all agreements.	

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	↳ Dispute Settlement Undertaking for issue settlement. 3. <u>Decision making</u> (1. done) ↳ Most disputes managed by "One person One Vote" as under Article 9 (equality of votes) ↳ Article 9 also suggests that GATT concept of <u>decision by consensus</u> followed more. 4. <u>Appeal Process</u> : Article 17 5. <u>Developing nation concerns</u> ↳ Agreement on Agriculture has de-minimis clause ↳ Developing country status. <u>Lack of Implementation</u> 1. Doha Round (2002) ongoing. 2. Issue of definition of developing nation (Korea self applied) 3. Technical barriers to trade Eg EU's Carbon Duties for import 4. Decision by consensus hampers process 5. China's State Capitalism; moratorium	

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Question No.	on e-commerce taxation harms developing nations. <u>Dispute Resolution Mechanism</u> 1. First step → Consultations and Good Offices (Article 4) 2. If not settled, Article 6, 8 setup Panels and Panellists. 3. <u>Article 10, 12</u>: Panel to <u>conclude</u> proceeding in <u>6 months</u>. 4. <u>Article 15</u>: DSB to consider <u>interim Report</u> & accept/reject. 5. <u>Article 17</u>: Appeal to and <u>Article 25</u>: Arbitration. <u>Effectiveness</u> 1. <u>Successes</u> like: DSB ① In 2024, India-USA resolved all past 7 commercial issues. ② Power to developing states Eg India filed against Australia for service sector regulation harms in 2023. 2. <u>Problems</u> ① Appellate body dysfunctional since 2017 ② Least developed nations have less resources to compete against developed nations. <u>is Challenge</u>	Remarks

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Q3(c)	Intervention refers to the dictatorial <u>interference</u> in the <u>territorial</u> and <u>political sovereignty</u> of a nation for <u>altering</u> conditions or <u>main-</u> taining status quo. <u>Principle of non-Intervention</u> 1. <u>Article 2(4)</u> UN charter prohibits use of force by states. 2. <u>Article 2(7)</u> prohibits intervention of UN members in internal matters. 3. Intervention can be - ↳ <u>Direct</u>: Military Action Eg → Israel vs Gaza (Hamas) ↳ <u>Indirect</u>: Diplomatic ties cut, economic sanctions Eg → USA on Chinese IT products (Huawei) 4. According to <u>Nicaragua vs USA (ICJ)</u> non-intervention is <u>ius cogens</u>.	

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	5. <u>1970 Declⁿ on Principles of International Law</u>, not allowed to - ↳ Military, economic, territorial intervention ↳ aiding rebels, separatists ↳ Propaganda against others. 6. <u>Advisory Opinion on Use of Nuclear Weapons</u>: held even 'threat' or signalling of interference can amount to intervention in nuclear cases. 7. <u>Eritrea Ethiopia Claims Commission</u> held that no intervention allowed even if valid claims on property exist. <u>Exceptions to Non-Intervention</u> Use of force can mean - ↓ Reprisal ↓ Retorsion ↓ Pacific Blockade ↓ Armed intervention ↓ War Allowed in case of - 1. <u>Self defence</u> y/A 51 of UN charter ↳ individual/collective self defence. ↳ A. 52 - regional collaboration	

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	↳ must be armed attack; by UN member state; until UNSC responds; ↳ <u>Caroline case</u> held threat must be imminent, overwhelming, UNSC can't help in time and no scope for negotiations. ↳ Principle of proportionality 2. <u>Against non-state actors</u> ↳ As per UNSC resolution 1373. 3. <u>Anticipatory self defence</u> ↳ Indian Balakot air strike 4. Aid humanitarian efforts (rare) 5. Aid self determination efforts (rare) <u>Examples of intervention on humanitarian grounds</u> 1. <u>UNSC Peacekeeping</u> during South Africa's Apartheid ↳ 2. USA and Russian help to Korea (1954) 3. Indian help to East Pakistan during 1971 war (on request) <u>But</u> certain cases like USA help to <u>Afghanistan Mujahideens</u> had <u>negative effects</u>. Thus, intervention must be used sparingly.	

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Q 4 (a)	Jus cogens refers to the <u>peremptory norms</u> of international character which have <u>universal application</u> and <u>derogation</u> from which is not possible <u>unless new peremptory norm arises</u>. Provision of Geneva Convention having jus cogens status <u>Common Article 3 of Geneva Convention 1949</u> provide for protections - → During non-international armed conflict, and → Civilians, people not involved in combat. As per <u>Common Article 2</u>, the convention applies when there is an <u>armed attack</u> or a threat, with or without declaration of war, or occupation, even without resistance.	

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	Common article 3 provides the following for non-combatant civilians:- 1. No violence against them 2. Respect, humane behaviour 3. Medical treatment (with Red Cross) 4. Allowing communication with families. 5. <u>Freedom of expression, religion.</u> <u>Eritrea Ethiopia Claims commission</u> has held that such acts are of the nature of <u>jus cogens</u> as they are fundamental to human existence. Further, these are considered <u>customary in nature</u> as till <u>Additional Protocol II</u>, no specific protection existed. Common Article 3 ensures that states follow the following <u>principles of humanitarian law</u> - 1. <u>Principle of differentiation</u> between combatants and non-combatants. 2. <u>Principle of not using unreasonable force.</u>	

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	3. <u>Principle of Proportionality</u> ➤ 2024-(ICC)-Interim order in <u>South Africa vs Israel</u> held that Israel was exceeding force. 4. Principle of military necessity 5. Principle of humanity. Common article 3 is supplemented by <u>Additional Protocol II</u> for <u>NIAC</u>: ↳ Extra protection to children ↳ Non destruction of critical buildings, schools, etc. ↳ Focus on <u>de hors combat</u> (injured, etc). <u>Issues with jus cogens character of Common Article 3</u> 1. <u>Armed attack</u> is interpreted differently by nations. 2. <u>No executive authority</u> (voluntary calling ICRC) 3. <u>Internal disturbances</u> fall under sovereign authority. <u>Article 2(7) UN Charter</u> demands <u>no interference</u>.	

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	4. <u>National legislations and courts may not apply humanitarian laws and decide with municipal laws</u> Thus, application of Common Article 3 may be <u>limited</u>. Nevertheless, the <u>jus cogens</u> character is <u>continuously being expanded</u> - → <u>Tadić case</u> has held that humanitarian laws and human rights laws <u>mostly converge</u> and <u>must apply in all cases</u>. → ICC, ICJ try to incorporate such laws. → Regional codification efforts • Budapest Convention 1993 • Moscow Convention 1991 Thus, common article 3 has had huge impacts on protecting rights of non combatants during internal struggles	

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Q 4(b)	The UN charter provides for non-intervention through A. 2(4), 2(7) by states and UN in other states. This is to respect the <u>principle of sovereign equality of states</u> - <u>Self defence is an exception to the same as given under Article 51.</u> Self defence provides for - → <u>Article 51</u>: individual or collective self defence → <u>Article 52</u>: Regional arrangements for self defence. → <u>NATO, CEATO, etc</u> → <u>Article 42</u>: Collective security by UNSC <u>Nicaragua vs USA</u> held that Article 51 is a <u>customary rule</u> of international law which allows <u>use of force</u> in <u>specific circumstances</u>. <u>Use of force includes</u> - 1. <u>Direct measures</u> like war,	

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	reprisal, pacific blockades 2. <u>Indirect methods</u> like diplomatic fall back, economic ties disruption <u>Conditions for Self Defence</u> 1. There must be <u>armed attack</u> ↳ <u>Oil Platforms case</u> (USA vs Iran) held attack must be deliberate and intentional and burden of proof is on those alleging. 2. Attack by UN member. 3. UNSC to be informed. 4. Only till UNSC arrives 5. <u>Caroline case</u> held that <u>principle of necessity</u> applies i.e. ↳ immediate harm ↳ overwhelming ↳ No time for peaceful measures. 6. <u>Principle of proportionality</u>: Use as a shield and not sword. ↳ <u>2024 ICJ Advisory opinion on Israel Occupation of Palestine</u> held that forced eviction is unjustified use of force.	<i>Armed</i> <i>Caroline</i> <i>Paragraph</i>

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Use of force wrt cyber & Non state actors

1. Includes Anticipatory self defence in strict conditions.

→ Preemptive strike by Indian Air force on Balakot terror camp.

2. Article 51 can be used in non-state actor cases where it is shown that they acted on behalf of a state; or under supervision of a state.

3. Paramilitary activities in Nicaragua held that providing arms to terrorists can lead to state responsibility (state sponsored terrorism).

4. UNSC resolutions 1267, 1373 mention specifically that force can be used in self defence against terrorists.
→ USA War on Terror 2001 (Af).

5. Using similar analogies, cyber criminals like Edward Snowden, Wanna Cry ransomware are sought to be handled.

Counter Terrorism Committee can help in synergising efforts in tackling terror.

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Q4(c)

The efforts of United Nations in protection of human environment began with Stockholm Conference of 1972 and culminated into the Earth Summit of 1992.

Role of United Nations

1. International Conventions

↳ Vienna and Montreal Protocols on Ozone

⇒ As per WMO, Ozone hole in Antarctica is 90% healed.

↳ Paris Agreement 2015 on Climate Change.

↳ 2024 UN convention on High Seas Protection

2. Encouraging domestic Action

↳ EU's Green Deal.

↳ India's PM announced Panchamita goals for climate.

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	→ 30 by 30 plan for combating desertification. 3. ICJ <u>Decisions by courts</u> → <u>Pulp Mills Case (Argentina vs Uruguay)</u> held in 2012 that transboundary impact assessment is customary law. → <u>Billy Et El vs Australia the UNHRC in 2024</u> held that inter-generational equity, common heritage principles uphold environment. → ²⁰²⁴ <u>ITLOS Advisory Opinion by Small Islands</u> upheld connection of seas with GHGs. 4. <u>Imposing Liability</u> ICJ in <u>Corfu Channel case</u> held → states have strict liability → Absolute liability in ultra-hazardous cases → liable even for private companies. 5. <u>Principle 13 of 1992 Rio Declaration</u> states that actions should be taken only after consultation	

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	with other nations. 6. <u>UN bodies like UNEP, WMO</u> provide researches on nature and suggest actions. <u>Limitations of UN Role</u> 1. <u>Failures</u>. <u>Eg</u> Kyoto Protocol. 2. Many states do not have <u>Nationally Determined targets</u> under Paris Agreement. 3. <u>Terminability</u> and <u>establishing causation</u> is difficult. 4. lacks executive/monitoring authority. 5. Trouble incorporating Private International law. <u>Way Ahead For UN</u> 1. Focus on <u>voluntary compliance</u> <u>Eg</u> 5 yearly Global Stocktaking 2. Incorporation of <u>Environmental Rule of law</u> as specified by Indian court in <u>Hamdani Lawin Aroshkar</u>. 3. Focus on Forum <u>necessitates</u> <u>necessitates</u> to hope in private complaints. Efforts are needed in order to achieve Goals 4, 5, 6 of SDG 2030.	

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Q5(a)

The development, testing, stockpiling, use of nuclear weapons is a grey area in the international law and Treaty on Prohibition of Nuclear Weapons seeks to solidify the stance.

TPNW was signed in 2017 and is currently active by over 120+ ratifications (60 were needed).

Aims of TPNW

1. Prohibition on possession, creation, stockpiling, selling, using of nuclear weapons.
2. Dissuading existing users.
3. Suppression of related activities by even non-state actors.
4. Compensation to persons harmed in the testing process.

Eg Australia vs France case focused on reparations for

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France testing in 1970s. The case was dismissed when France stopped activities.

5. Restoring damaged environment.

Impact

1. Total global nuclear warheads are down to ~14000 (efforts of NPT included).
2. Increase in areas like no-nuclear zones (eg- various African regions).
 ↳ Affirmation of Antarctic Treaty 1959, and Outer Space Treaty 1966.
3. Increase in usage more towards energy generation.
4. Diplomatic sanctions. [Eg] 2018 Iran uranium enrichment was curbed by international pressure.

Limitations

1. As per SIPRI, weapons of countries like India increased to ~160 in 2024.
2. None of the nuclear states are parties.
3. Less focus on verification of countries.
4. Less legitimacy as ~~san~~ conference on Determament was not used.

5 → ✓

✓ 1363
 ✓ TCM
 ✓ national
 ✓ position

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Q5.(b)

Hijacking, akin to piracy and genocide is considered jure gentium i.e. universal crime.

Defining Hijacking

1. No clear definition exists even in conventions; domestic laws have different definitions.

2. As per Hague Convention 1970 Article 1:

↳ when a person uses force or threat of force

↳ while being aboard

↳ to illegally gain control over the aircraft, or attempts to do so

↳ or is an accomplice

↳ to cause harm to person or vessel

the crime of hijacking is committed

3. As per Anti-Hijacking Amendment Act,

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	of 2016 in India - ↳ remotely gaining such control over air craft, ↳ hoax calls are also punishable. <u>Main Provisions of Hague Convention</u> 1. Every state must aim to <u>gain control</u> over vessel. 2. As soon as possible, <u>send to original route</u> safely with passengers. 3. <u>Enquiry</u> must begin. 4. Usually <u>universal jurisdiction</u> exists. But others may demand jurisdiction based on - ↳ Flag state ↳ Nationality of accused ↳ Place of landing 5. Should be assumed to be <u>extraditable offence</u> 6. Must report to <u>Int'l Civil Aviation Organisation</u>. Further, the <u>Montreal Convention 1971</u> (harm to vessel), <u>Beijing Convention 2000</u> (using chemical, nuclear weapons) aid in preventing hijacking.	Effort → Provisional 4

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Q5(c)

Terrorism can be defined as illegal interference in state sovereignty, territory, political sovereignty to gain control over person, property or polity for ulterior motives.

No internationally accepted definition exists.

Types of Terrorism

1. ~~State terrorism~~. Eg Myanmar Civil Crisis 2021.
2. ~~State sponsored terrorism~~. Eg Kurdish Militia in Turkey region.
3. Non-state actors Eg ISIS.

Handling Terrorism under IL

1. Laws:
 - Eg Convention on Suppression of Terrorist financing (1997)
 - Eg Convention on Nuclear terrorism 2005.
2. Judicial Decisions: Eg ICJ on

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	<u>Ukraine vs Russia (2024)</u> held that Russia violated Terrorist financing convention by failing to investigate. 3. <u>UNGA</u> : ↳ Ad hoc tribunals like ICTY ↳ Resolution based Committees (Counter Terrorism Strategy - 2005) 4. <u>UNSC</u> ↳ Resolutions like 1267 (Al Qaeda) 1373 ↳ Committees 1267 Sanctions Committee ↳ Collective action <u>y/A. 52 of UN.</u> ↳ <u>Eg</u> Peacekeeping missions in Sudan. 5. <u>Regional groupings</u> y/A. 42 of UN. ↳ <u>Eg</u> RATS of SCO. <u>Limitations</u> 1. No definition. 2. Less state support 3. Poor enforcement mechanism 4. No optional clauses y/A 36(2) of ICJ. 5. ICRC less effective. <u>India supported Comprehensive Convention on Terrorism</u> is a way ahead for global support.	5

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Q5(d)

According to Cyprus vs Turkey (Additional 1 and 2) case human rights law and humanitarian law are starting to have impact on similar fields, even though differences exist.

Human Right Law

1. Origin: Natural law

2. Source

- ↳ UN Charter
- ↳ ICCPR, ICESCR

3. Applicable to

- ↳ combatants
- ↳ non combatants

4. Applicable when

- ↳ both peace and war

5. Derogations allowed

- ↳ Restrictive for certain

Humanitarian Law

1. Origin: Hague Convention 1899.

2. Source

- ↳ 4 Geneva Conventions
- ↳ 2 Additional protocols.

3. Applicable to

- ↳ mostly combatants

4. Applicable when

- ↳ only during armed attack.

5. Derogations

- ↳ not allowed
- ↳ jus cogens

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	freedoms like movement ↳ No derogation from right to life, against torture 6. <u>Liability on</u> ↳ Only against states 7. <u>External control</u> ↳ UNHCR 8. <u>Case</u> Bosnia Genocide case - genocide violates right to life 9. <u>Enforcement by</u> ↳ mostly domestic ↳ UNHCR Tadic' case (through ICTY) held that differences between the two have started to <u>reduce</u>.	under common article 3. 6. <u>Liability</u> ↳ both states and non-state actors like belligerents 7. <u>External verification by</u> ↳ ICRC ↳ Red diamond 8. <u>Case</u> 2024 Advisory Opinion on Israel Occupation 9. <u>Enforcement</u> ↳ mostly international tribunals

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Q5(x)

International terrorism refers to scenarios where illegal interference is done by states or non-state actors to achieve poli~~to~~-economic aims through subversion of sovereignty.

Artificial Intelligence

1. Threats include

↳ Cyber attacks

Eg → Akin to company ~~Red~~ Dragon

↳ Deep fakes

Eg → Videos to incite

↳ Misinformation (radicalisation)

Eg → AQIS creating social media posts en-masse

2. Ways to tackle

↳ Global collaborations like Osaka Track on digital threats

↳ Laws like ^{Digital} Data Protection Act, 2023

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	↳ UN efforts like <u>2024 Resolution</u> to exchange info between INTERPOL and UN. <u>Drones</u> 1. <u>Threats</u> ↳ Low lying (<u>Privacy invasion</u>) ↳ Difficult to <u>detect</u> through radars ↳ used for <u>remote bombings</u> Eg Russia used drones in Ukraine ↳ <u>Easy to build</u> 2. <u>Tackling</u> ↳ Drone regulations ↳ Prohibition on use near critical areas. ↳ Registration of drone and user and OTP for usage. ↳ Size restrictions ↳ Collaborations for global supply chain management Along with this, states need <u>International conventions</u> specifically to deal with emerging issues.	

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Q6 (a)

The concept of NIEO emerged in the 1970s by a group of developing nations to decide the course of action for their developing economies.

Concept of NIEO

1. Post War world was based on Bretton Woods Conference (IMF, WB).
2. The policies of Bretton wood institution depicted world view of western nations like G7.
3. Help provided by IMF and WB was -
↳ not in sync with help needed.
↳ onerous conditions like IMF conditionalities to reduce welfare programmes in developing countries.
4. Interest rates decided by west.
(higher-than normal)
5. Old order seemed as neo-colonialism due to G7 control over resources.

Relevance of NIEO Today

1. Old problems still exist
↳ Eg IMF imposed onerous conditionalities on India during BOP crisis in 1991.
 2. South-South cooperation leads to achieving similar aims.
 3. World trade tilted in favour of a few nations.
↳ Eg Share of African^{nations} in world trade did not grow proportionately.
 4. Cheaper loans
↳ New Development Bank by BRICS.
 5. Diversified goals relevant to G77
↳ Asian Development Bank.
 6. Nudging G7 to help developed states
↳ Eg India led CDRI for helping in better infrastructure.
 7. WTO Doha rounds for agriculture.
- But problems exist —
- G77 large group with different aims.
 - Some nations like India, China, South Korea are alleged to use developing status for concessions.

NIEO

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	→ Inter rivalries Eg Post COVID supply chain changes. <u>Contribution of IMF and WB to NIEO</u> 1. <u>IMF</u> ↳ Helps manage BOP crises, <u>exchange rate management</u> Eg lending to Greece, Sri Lanka ↳ Conduct studies on world order Eg World Economic Outlook for better policy making. ↳ Acts as monetary system watchdog and warns NIEO 2. <u>World Bank</u> ↳ IBRD lending Eg During 1980s India was the highest loan recipient. ↳ Intl Development Corporation Eg 50 yr interest free loans to small islands ↳ MIGA for political disturbance insurance. ↳ IFC for private entities. ↳ ICSD for commercial dispute settlement. <i>Handwritten note in red:</i> NIEO x UP position	

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3. Helped restructure nations policies during 1971 Oil Crises.
4. Cheap loans during 1997 Asian Crises.
5. IMF was able to predict 2008 Global Financial Crisis though with less success.

6. Collaborations with G20, G77

→ Contribution for STARS programme in India for education sector.

→ Supporting FAO efforts towards reducing world hunger.

Hindering NIEO Goals

1. IMF, WB leaders are European or USA.

2. Less focus on environment.

→ Lending to oil companies like Shell.

3. IMF Quota system tilted towards G7 (with 17% vote share)

4. Ethical concerns like supporting Dictators → loans to General August Pinochet.

5. Charter amendment difficult as 85% voting majority needed.

6. Article 4 consultations mostly about developing nations only.

Sub-regional arrangements like SCO, RCEP should complement Bretton Woods.

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Q6 (b)

According to UN Secretary General Antonio Guterres, international terrorism is one of the biggest challenges of the 21st century.

Role of International law in Combating International Terrorism

1. Providing jurisdiction

- ↳ considered delict jure gentium (universal crime)
- ↳ National courts can have jurisdiction when committed on land; on national; culprit is national.

2. Extradition

- ↳ To satisfy Aut dedere Aut punire.
- ↳ Includes MLATS
- ↳ India - UK MLAT.

3. Article 51 may allow use of force:

- ↳ Nicaragua vs USA held that if non-state actors act under

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	states, force may be used. ↳ <u>UNSC Resolution 1373</u> specifically allows action against terrorism. 4. <u>Application of humanitarian law</u> ↳ if terrorists identified as belligerents [Eg] Hamas. 5. <u>Expanding scope</u> ↳ Inclusion of <u>non-state actors</u> and <u>state sponsored terror</u> [Eg] <u>Jurisdiction case (Germany vs Italy (2012))</u> held that non-use of force is <u>opinio juris</u> for military (state immunity is not for terrorism). <u>Legal Instruments</u> 1. <u>Laws</u> : ① <u>Nuclear Terrorism Convention (2005)</u> ② <u>Terrorist financing Convention</u> [Eg] <u>2024 (ICJ) Ukraine vs Russia</u> ICJ held that Russia violated ICSTFT investigation. ③ <u>Hague Convention, 1970</u> 2. <u>Judicial</u> ① <u>Barcelona Traction Case (1970)</u>	<u>UPSC</u> <u>ans</u> <u>100%</u> <u>✓</u> <u>✓</u> <u>✓</u>

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held that terrorist conventions use the terms "grave threat to international community" to interpret crimes.

3. UNGA

- ↳ Counterterrorism Strategy 2005
- ↳ Resolution 77/20 (2022) to collaborate UNGA & Interpol.

4. UNSC

- ↳ Binding actions under A. 42, 52 of UN Charter
- ↳ Resolutions eg 1267
- ↳ Committees eg 1373 Counter Terrorism Committee.

5. Ad hoc Tribunals

- ↳ ICTY, ICTR
- ↳ Hybrid Tribunals Eg Khmer Rouge prosecution

Challenges in Prosecution

1. Not all states ratified Rome Statute.
2. Lack of state support Eg Kenya of Kenya.
3. State terrorism is difficult to define.
4. Lack of enforcement due to UNSC veto.
5. Not defining terrorism.

2

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Q 6(C)	Henry Dunant has been instrumental in development of International humanitarian law, first through <u>Hague Conference</u> in 1899 and then <u>Geneva Red Cross</u>. This was followed by <u>Geneva Convention</u> of 1949. As per <u>Eritrea Ethiopia Claims Commission</u> International Humanitarian Law (IHL) have acquired <u>jus cogens</u> status. <u>Major Principles of IHL</u> 1. <u>Principle of discrimination</u> ↳ Between combatants and non-combatants ↳ Direct attack amounts to violation ↳ Eg ICC(2024) Interim order in South Africa vs Israel suggests violation in Gaza by Israel. ↳ <u>De hors combat</u> are also not to be attacked.	

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	2. <u>Principle of non-usage of indiscriminate harm</u> ↳ <u>Advisory Opinion of ICJ on Use of Nuclear weapons</u> stated such weapons cause excess harm. 3. <u>Principle of proportionality</u> ↳ No more harm than required ↳ Avoiding civilian areas and buildings when possible - ↳ Should not impose more than <u>collateral damage</u>. 4. <u>Principle of military necessity</u> ↳ to grant legitimacy to the act ↳ There must be <u>no</u> other peaceful means remaining ↳ Considered important for achieving goals → hence military action allowed.	

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	5. <u>Principle of Humanity</u> ↳ Follow natural laws (human rights) ↳ Compassion when possible ↳ <u>Eg</u> <u>Bosnia Genocide case</u> where leaders Karadzic' and Mladic' violated the principle. <i>note</i> <u>How principles are incorporated</u> 1. Customary laws. 2. <u>Prosecutor vs Tadic'</u> case held that even <u>human rights</u> laws apply in most cases of wars. 3. 4 Geneva Conventions + 2 Additional protocol. 4. <u>Responsibility to protect</u> can lead to legal intervention in <u>non-international armed conflicts</u>. 5. Courts like ICC, ICTJ, Adhoc tribunals; etc. Ultimate aim is to create society without wars; with short term goal of humanising conflicts.	<i>8</i>