

NATIONAL LAW UNIVERSITY, JODHPUR
End Term Examination November -2024
Semester: UG VII Semester
Subject: Law of International Organisation (Optional)

Time: Three Hours

Marks:100

Instructions:

1. Attempt any five questions out of six.

Q.1). The theory of functionalism provides the legal infrastructure for the work of international organizations. It has facilitated the growth of organizations as well as the influence these entities can exercise. In the backdrop of functionalism theory, explain the reasons why states use formal organizations by investigating the functions IOs perform and the properties that enable them to perform those functions. (Marks 20)

Q.2). The states of Mandore and Sardarpura are neighbouring states. The relationship between both the states have been always brittle. In the past, the Mandore had submitted the boundary dispute involving Sardarpura to the ICJ. Recently, in May 2024, the state of Mandore accused Sardarpura of allowing its soil to be used for conducting operations against its territorial integrity. In September 2024, X, an agent of the United Nations (UN) was appointed as a mediator in relation to a boundary dispute between Sardarpura and Mandore. Subsequently, a team headed by X went to 'Sardarpura' to study and discuss the prevailing situation. On 20th October 2024, during an official visit to a disputed location in Sardarpura, X and her team were attacked. While X was captured and assassinated, many of her associates suffered serious injuries. In this backdrop, discuss whether UN has the legal capacity to bring an international claim against Sardarpura to obtain reparations for the damages caused to the UN itself and its agents? (Marks 20)

Q.3). In a dispute between two states A and B at the International Court of Justice, state A relies only on the United Nations General Assembly (UNGA) resolutions, as the source of international law. Considering yourself as the arguing counsel on behalf of the State A, prepare arguments supporting the use of UNGA resolutions as the source of international law. Also, prepare arguments opposing the use of UNGA resolutions solely as the source of international law based on which a case can be decided by the ICJ. Can organs of international organisations like the UNGA and UNSC make international law? Discuss. (Marks 20)

Q.4). The Tin Council litigation served as the proverbial wake up call for the international legal community in the context of responsibility of international organisations (IO). The need for rules on responsibility became more visible when in the 1990s, the UN started to administer territories such as East Timor and Kosovo. Yet, in the contemporary practices too, the rules of fixing responsibility on international wrongful act committed by the IOs seem underdeveloped.

Do you agree? Critically analyse the relevant rules on responsibility of IOs in the light of ILC draft articles on the responsibility of international organizations. (Marks 20)

Q.5). It is often contended that third world states have voluntarily seceded economic, political and social space to international organizations (IOs). Yet, these IOs have been accused of furthering the neo-colonial agenda. Do you agree? Yes/No. Argue. (Marks 20)

Q.6). India is not a state party to the Rome Statute. Critically analyze India's objection to the jurisdiction of International Criminal Court. (Marks 20)

Instructions:

1. All questions carry equal marks.
2. The paper consists of six questions. Attempt any five out of six. Write the question number of the attempted question, carefully.
3. Substantiate your answers with the use of relevant case laws.
4. If the students think any fact is missing, they are allowed to make assumptions. However, any such assumptions made, must be clearly stated in the answer.
5. Adhere to the prescribed word limit- 500 words.

Q1. Mr. Arpit, a 42-year-old businessman, is in urgent need of a liver transplant due to a life-threatening medical condition. Ms. Riya, a resident of Thailand, offers to donate part of her liver to save his life. However, during the assessment process, it comes to light that Ms. Riya is a foreign national and also not genetically related to Mr. Arpit. They claim that they have been raised together since childhood, though there is no legal or biological relationship. The hospital denied the transplant, stating that the relationship does not qualify as "near relative" under the Act. Arpit and Riya are contemplating legal action to challenge the decision in the court. Analysing the relevant legal provisions, what remedies are available to Arpit and Riya, and what is the likelihood of their success? Justify your answer with reference to ethical and legal considerations. (20 Marks)

Q2. Examine the application of the Res Ipsa Loquitur principle in the context of medical negligence cases, and analyze its interaction with the Bolam test and Bolitho Test. Evaluate how these legal doctrines contribute to the determination of liability in instances of medical negligence. (20 Marks)

Q3. Dr. X, while analyzing Mr. A, gets to know that Mr. A has a communicable disease (HIV). Dr. X informs the fiancée of Mr. A about the same. Mr. A files a case against Dr. X for breach of his right to confidentiality. Analyze the current situation with respect to the duty of confidentiality that is imposed on the doctor under the Indian Medical Council (Professional Conduct, Etiquettes and Ethics) Regulations, 2002. (20 Marks)

Q4. The Mental Healthcare Act 2017 provides for the advance directive and nominated representative. Explain the concept of advance directive and how it is used in decision-making for individuals with mental illness. What is the significance of a nominated representative in this context? (20 Marks)

Q5. In light of the recent amendments made to the Surrogacy (Regulation) Rules in the year 2024, critically examine the evolution of surrogacy laws in India, particularly focusing on the use of donor gametes by intending couples. Discuss the conditions under which use of the donor gametes by the intending couple is allowed. **(20 Marks)**

Q6. Prach Gaur, a 30-year old woman, had been undergoing regular checkups from the 5th week of her pregnancy. From the ultrasonography report conducted during the 20th week of gestation, it was revealed that there was a non-threatening cyst in the left lateral ventricle of the foetus. However, on completion of 24 weeks, various anomalies were found in the heart of the foetus. After taking opinions from various doctors, it was found that the survival of the infant would be 40% in the very first year of their birth and even if they do survive the first year, repeated surgeries would have to be carried out.

She approached the High Court of Delhi seeking permission to terminate her pregnancy after 24 weeks on the ground that the foetus was diagnosed with multiple congenital anomalies. The court constituted a Medical Board to examine the petitioner, who had on the said date completed 28 weeks of pregnancy, to furnish its report regarding the necessity and feasibility of medical termination of the pregnancy. The gist of the medical board's opinion was also that the foetus had substantial abnormalities. Decide whether the Medical Termination of Pregnancy Act provides a legal basis for granting permission to terminate her pregnancy beyond 24 weeks. Compare this case with recent similar cases and analyze the current scenario around reproductive health in India. **(20 Marks)**

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NATIONAL LAW UNIVERSITY JODHPUR
End Term Examination July-November – 2024
Semester – UG VII Semester
Subject: International Maritime Law (Optional)

Time: 3 hours

Marks: 100

Instructions:

- i. All the questions carry *equal marks*.
- ii. Answer any *five* out of the six questions.
- iii. Please *substantiate* your statement(s)/argument(s) with relevant case laws, whenever necessary.
- iv. Question No. 2 is compulsory to be answered.

Q.1) "What are Archipelagoes? How an Archipelagic state can be granted recognition under UNCLOS? (Marks 20)

Q.2) **Factual Background:**

The Republic of Oceania, a coastal state, and the Kingdom of Atlantica, a landlocked state, have long-standing maritime trade relations. Atlantica relies heavily on maritime routes passing through Oceania's territorial waters to access international shipping lanes. Historically, Oceania has allowed Atlantica to enjoy the right of innocent passage for its merchant vessels, in accordance with international law.

Recently, the government of Oceania enacted the **Maritime Security and Sovereignty Act, 2024**, which places stringent restrictions on the passage of foreign vessels through its territorial sea, citing increased threats to national security and marine environmental protection. Under this Act, Oceania now requires prior notification and approval for all foreign ships seeking passage, including those from Atlantica. Additionally, the Act prohibits the passage of vessels carrying hazardous materials and imposes limits on the type of cargo vessels allowed.

On June 1, 2024, the merchant vessel *Astra*, flagged by Atlantica, sought to pass through Oceania's territorial waters without prior notification. The *Astra* was transporting non-hazardous goods such as food and machinery. Oceania's coastal authorities intercepted the vessel and ordered it to return to international waters, claiming a violation of the new law.

Atlantica protested, claiming the right of innocent passage under international law, particularly under the United Nations Convention on the Law of the Sea (UNCLOS), and that the restrictions imposed by Oceania's new law were excessive and violated the principle of freedom of navigation. In response, Oceania argued that the restrictions were necessary for national security and environmental protection, permissible under Article 25 of UNCLOS, which allows coastal states to take measures to prevent passage that is prejudicial to their peace, security, or marine environment.

Atlantica has now brought the dispute before the International Tribunal for the Law of the Sea (ITLOS), seeking a declaration that:

1. The Republic of Oceania's Maritime Security and Sovereignty Act, 2024, violates the right to innocent passage under UNCLOS.
2. The interception of the vessel *Astra* by Oceania's coastal authorities was unlawful.
3. Atlantica's vessels have the right to enjoy innocent passage without prior notification.



Oceania has countered by arguing that:

1. Its measures are consistent with its rights under UNCLOS to protect national security and the marine environment.
2. The requirement of prior notification does not violate the right of innocent passage but is a legitimate safeguard.
3. Atlantica's refusal to comply with the lawful requirements of Oceania justified the interception.

Decide the above case including relevant articles from UNCLOS.

(Marks 20)

Q.3) Answer the following short notes:

(Marks 10+5+5 = 20)

- a) What are the rules governing baselines?
- b) What are the rules governing Juridical bays under international law?
- c) What are historic bays and what are the elements of the title of such bays?

Q.4) A cargo ship, *MV Orion*, carrying valuable goods, encounters mechanical failure and starts drifting near the rocky shores of an uninhabited island. A privately-owned tugboat, *Seaforce*, responds to the distress call and successfully tows the ship to safety, preventing its wreckage. However, there was no formal contract signed between the tugboat and the cargo ship before the salvage operation commenced. The owner of *MV Orion* refuses to compensate *Seaforce*, arguing that the assistance was unsolicited, and no specific terms of compensation were agreed upon beforehand.

Discuss the legal principles that apply under the Law of Salvage. In your answer, address the following points:

(Marks 5*4 = 20)

1. What are the essential elements required for a valid salvage claim under maritime law?
2. Can the absence of a formal salvage contract nullify *Seaforce's* claim for compensation?
3. What factors would the court consider in determining the amount of salvage award, if any?
4. Would the concept of "No cure, no pay" apply in this scenario, and how does it influence the outcome?

Q.5) "A foreign vessel discharges harmful substances into the exclusive economic zone (EEZ) of a coastal state, causing significant marine pollution. The coastal state wants to impose fines and detain the vessel for violating its environmental laws.

Under the United Nations Convention on the Law of the Sea (UNCLOS), evaluate the rights and jurisdiction of the coastal state in preventing and addressing marine pollution in its EEZ. To what extent can the coastal state enforce its laws against foreign vessels in such cases?"

(Marks 20)

Q.6) "Explain the concept of a coastal state's territorial sovereignty under the United Nations Convention on the Law of the Sea (UNCLOS). To which maritime zone does this sovereignty extend, and what are the rights and limitations imposed on coastal states within this zone?"

(Marks 20)

NATIONAL LAW UNIVERSITY, JODHPUR

End Term Examination, Nov.-2024

Semester: VII

Subject: Service Law (Optional)

TIME: Three Hours

Instructions:

Marks: 100

1. *Attempt any Five Questions.*
2. *Marks for all questions are indicated in the brackets at the end.*
3. *This is a close book exam; no student is allowed to carry any study material.*
4. *No clarification will be sort during examination.*
5. *Support your answers with suitable case laws.*

Q.1. In government services there are different cadres. Normally, cadre means the strength of a service or a part of service sanctioned as a separate unit. Appointments are done in different ways to these posts in the cadre. Discuss in detail kinds appointments with their specific characteristics. (Marks 20)

Q.2. Critically analyse *any one* case: -

- i. B.C.Chaturvedi vs UOI AIR 1966 SC 484
- ii. V.P. Gidroniya vs State of M.P. AIR 1970 SC 1494.

(Marks 20)

Q.3. Discuss the following concept in detail with respect to the public services: -

- i. Compassionate Appointment and Absorption.
- ii. One Mrs. Asha hereinafter called as petitioner joined the Rajasthan Finance Service and served in different departments of the State. Presently she was functioning as the Financial Advisor of State Police Housing Welfare Corporation, Jaipur. The petitioner's case was that she was unable to conceive a child, so she opted for surrogate motherhood and accordingly entered into a Gestational Surrogacy Agreement along with her husband as "Commissioning Parents" with a "Surrogated Mother" on 30-01-2018. The surrogate mother delivered the child on 25-10-2018. It was submitted that since there were no female members in her family to look after the new-born baby and after much prolonged waiting the petitioner could become a mother through surrogacy, so the petitioner applied for maternity leave on 20-10-2018 which was granted from dated 25-10-2018 to 22-04-2019. Subsequently, in continuation to the Maternity leave, on 10-04-2019 she applied for earned leave of 140 days from 23-04-2019 to 09-09-2019. When the petitioner joined on 10-09-2019, the Joint Commissioner, granted maternity leave of the petitioner for a period of 180 days i.e. w.e.f. 25-10-2018 to 22-04-2019 as per Finance Department office Memorandums and allowed her to draw her pay as admissible during the period of leave. The Under-Secretary to the Government intimated that the entire leave period of petitioner i.e. from 25-10-2018 to 09-09-2019

is counted 'NIL' as she is not eligible for the maternity leave. She challenged this order on the ground of violation of her rights. Decide and give your opinion.

(Marks 10+10=20)

Q.4. It has been noted that the origin of public services is in a contract although once an employee enters service, he /she attains status. This original contractual character necessarily involves fulfilment of legal requirements which go to constitute an enforceable contract. Consideration being one of an essential ingredients of an enforceable contract, in case of public services it is remuneration payable to him/her. Discuss the meaning, rules and types of pay relating to public services.

(Marks 20)

Q.5. The service rules provide for initiation of disciplinary proceedings, the absence of such rules does not constitute bar to such initiation, since an employee has an inherent right to take disciplinary action against his employee. Discuss the stages involved in departmental proceeding ensuring principle of Natural Justice.

(Marks 20)

Q.6. Once the relationship between employer and employee is established it also comes to an end. There are various modes/ reasons which lead to end of such relationship. Discuss: -

- i. Termination by way of punishment for Misconduct.
- ii. Voluntary Retirement.
- iii. Resignation.

(Marks 7+6+7=20)