

NATIONAL LAW UNIVERSITY, JODHPUR  
End Term Examination November -2024  
Semester: UG V Semester  
Subject: Public International Law

Time: Three Hours

Marks:100

**Instructions:**

1. Attempt any five questions out of six.

Q.1. The Austinian theory that international law is not true law, but a code of rules of conduct of moral force only, has been questioned in as much as it tried to shake the foundation of international law. The contemporary state practice and even the judicial practice over the years has substantiated the thesis that international law is true law. How far do you agree that such theory is relevant in Indian context? Explain the approach of Supreme Court of India in interpreting the international law. (Marks 20)

Q.2). Ralph Morley, a Brazilian national, was appointed as the mediator by the United Nations for mediating the dispute between Israel and Palestine. The mediation was to take place in Tel Aviv in Israel. After holding three sessions of mediation between the delegations of Israel and Palestine, Morley was assassinated by an anti-Palestine group consisting of Israeli nationals in Tel Aviv. The dependants of Morley urged the Brazilian government to bring a case against Israel at the International Court of Justice by invoking diplomatic protection. The Brazilian government declined to bring a case against Israel. The dependants of Morley approach you for legal advice, in this case, hoping to rope in the United Nations to file a claim on behalf of Morley against Israel. Is this possible? What would be the arguments you would raise for justifying the claim of the United Nations against Israel? (Marks 20)

Q.3). Gemstone is a secular, democratic republic. The President Mrs. Hakuna Jia was removed from the office by the army and judiciary after the protests against reservation in educational institutions turned violent and more than one thousand youths lost their lives. Subsequently, elections were held and President Mr. Kabali was elected. The Matahina community which is majoritarian community in Rockstones (neighbouring state) supports Mrs. Jia. This community which is in minority in Gemstone, disagrees with the removal of Mrs. Jia from office and with the outcome of the recent election. As a response, they have been demonstrating peacefully in front of the Embassy of Gemstone for 5 days. The police have been monitoring the demonstrations. However, at one point the crowd becomes more violent and few of the members of the crowd manage to enter the premises and cause substantial damage. They also make three nationals of Gemstones hostages The day after the Rockstones authorities decide to send extra forces to the Embassy to stop the violence and arrest the protesters. However,

annoyed by the threat to nationals and embassy, the authorities of the state of Gemstone encourages, instructs and directs the Scorpion (a non-state actors' group) to bomb the military camps of Rockstones and take the revenge.

At present, the dispute is submitted to the ICJ by the Rockstones. Can Gemstone be held responsible under international law? Argue with the help of applicable international law.  
(Marks 20)

Q.4). The European Court of Human Rights made the following statement in the Al-Jedda v, the United Kingdom case (2011):

*"... the Court considers that, in interpreting its resolutions [i.e. UN Security Council resolutions], there must be a presumption that the Security Council does not intend to impose any obligation on Member States to breach fundamental principles of human rights. In the event of any ambiguity in the terms of a Security Council Resolution, the Court must therefore choose the interpretation which is most in harmony with the requirements of the Convention [i.e. the European Convention on Human Rights] and which avoids any conflict of obligations. In the light of the United Nations' important role in promoting and encouraging respect for human rights, it is to be expected that clear and explicit language would be used were the Security Council to intend States to take particular measures which would conflict with their obligations under international human rights law."*

Discuss this statement in light of general principles of treaty interpretation, the UN Charter and the position of human rights treaties in international law.

(Marks 20)

Q.5). The effective control of a new government over the territory of state is an important guideline to the problem whether to extend recognition or not, providing such control appears well established and likely to continue. However, the recognition of government has no relevance to the establishment of new persons in international law. Critically evaluate the issue of recognition of Taliban government in Afghanistan with the help of varying state practice.

(Marks 20)

Q.6). In a dispute between two states A and B at the International Court of Justice, state A relies only on the General Principles of Law (GPL) as the source of international law. Considering yourself as the arguing counsel on behalf of the State A, prepare arguments supporting the use of GPL as the source of international law. Also, explain the two categories of GPL as stated by the International Law Commission.

(Marks 20)