БЕЛОРУССКИЙ ГОСУДАРСТВЕННЫЙ УНИВЕРСИТЕТ

И. А. Непомнящих

ENGLISH FOR INTERNATIONAL LAW

АНГЛИЙСКИЙ ЯЗЫК ДЛЯ МЕЖДУНАРОДНОГО ПРАВА

Рекомендовано
Учебно-методическим объединением
по гуманитарному образованию
в качестве учебно-методического пособия
для студентов учреждений высшего образования
по специальности «международное право»

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Представлены аутентичные тексты, сопровождающиеся комплексом упражнений для совершенствования лексико-грамматических навыков и развития умений чтения, говорения, письма и перевода. Приведены задания открытого типа, развивающие критическое мышление и креативность, а также задания, формирующие этико-правовую позицию студентов.

Предназначено для студентов учреждений высшего образования, обучающихся по специальности «международное право».

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СОДЕРЖАНИЕ

ПРЕДИСЛОВИЕ

Учебно-методическое пособие направлено на развитие иноязычной профессиональной коммуникативной компетенции студентов на основе изучения базовых категорий международного права, а также на формирование у будущих юристов-международников устойчивой системы сознательно-избирательных и ценностно-смысловых отношений в профессиональной деятельности к самому себе, другим, своей профессии, государству и миру.

Издание охватывает семь ключевых тем: «Unit 1. The nature of international law», «Unit 2. Sources of international law», «Unit 3. Subjects of international law», «Unit 4. Recognition in international law», «Unit 5. Territory in international law », «Unit 6. Population in international law», «Unit 7. State succession in international law».

Каждый *Unit* имеет однотипную структуру разделов, что обеспечивает последовательность и удобство в изучении материала.

В разделе *Objectives* определены цели и планируемые результаты изучения темы.

Раздел *Lead-In* предназначен для активизации знаний студентов посредством вовлечения их в обсуждение уже известного материала или актуальных событий в области международного права.

Раздел *Reading* направлен на формирование когнитивных компетенций и основ профессионального мировоззрения студентов и включает аутентичные профессионально ориентированные тексты по международному праву с заданиями на предтекстовом, текстовом и послетекстовом этапах. Предпочтительной технологией здесь является перевернутый класс.

Раздел *Language practice* ориентирован на совершенствование лексико-грамматических навыков и навыков перевода, содержит комплекс упражнений и интерактивных игровых заданий (интернет-ресурс quizlet.com) для изучения специальной терминологии в области права, тем самым позволяя расширить словарный запас студентов.

Основная цель раздела *Discussion* – повысить уровень иноязычной коммуникативной компетенции в профессиональном контексте. Представленные в этом разделе задания способствуют развитию системного мышления, умений аргументации и навыков публичного выступления. В процессе монологического, диалогического или

полилогического общения студенты выражают личностное отношение к обсуждаемым проблемам, обмениваются мнениями и расширяют кругозор. На этом этапе можно использовать такие виды деятельности, как ролевые игры, публичные выступления, групповые обсуждения, презентации результатов тематического исследования и др.

Раздел *Problem solving* поможет студентам приобрести навыки решения проблем юридического характера. Им предлагается в разных режимах работы (индивидуальный, парный, групповой) проанализировать реальную или гипотетическую ситуацию и определить применимую категорию или категории права. Внимательное изучение проблемы и использование соответствующих юридических и этических принципов развивает у студентов критическое мышление и помогает понять важность личной ответственности за принятые решения.

Раздел *Writing* направлен не только на развитие навыков креативного и академического письма, но и на формирование профессиональных взглядов и этико-правовой позиции как цели и результата их профессионального воспитания. Представлены задания различного жанра: эссе, небольшой рассказ, пост для социальной сети, заметка в газету на профессиональную тему. В некоторых из них сделан акцент на особенностях законодательства Республики Беларусь в отношении обсуждаемых вопросов международного права, что ведет к более глубокому пониманию ценностей страны, отраженных в законах, и формирует чувство патриотизма и гражданственности. Данные задания могут быть использованы для проведения внеаудиторных занятий.

В учебно-методическое пособие включены также тесты для самопроверки, вопросы для повторения изученного материала, темы рефератов для самостоятельной научной деятельности, краткая информация о наиболее выдающихся и известных юристах-международниках прошлого и современности.

Unit 1 THE NATURE OF INTERNATIONAL LAW

OBJECTIVES

In this unit you'll learn:

- the features of international law, its distinction from domestic law, basic legal terminology;
- the scope and challenges to the unity of international law;
- the main functions of international law;
- the key principles of the UN Charter and international law;
- the theories of relations between international law and municipal law.

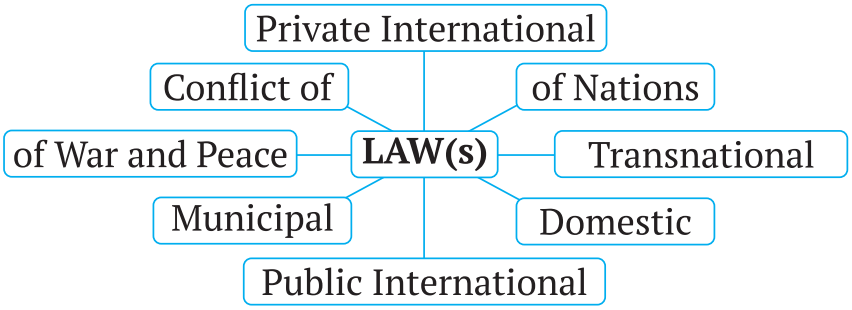
By the end of the unit, you'll be able to:

- critically assess the effectiveness and problems in regulating behaviour between states and dispute settlement;
- engage in discussions about the role, functions of international law;
- enhance your analytical and problem-solving skills;
- demonstrate your public speaking skills while presenting the research results using legal terms;
- solve a professional legal issue on the topic;
- write an essay.

LEAD-IN

Look at the title of the unit. What do you already know about the subject? What would you like to know?

What's the difference between the terms in the picture? Discuss with your partner.



Give your own definition of International Law.

READING 1

Study the vocabulary (https://quizlet.com/486484376/flashcards).

inimical
permissible/forbidden acts
consciousness of community
to pursue goals
adherence
coercive
to infringe regulations
to obtrude
validity
an adjunct
diplomatic asylum
international comity
courtesy
legally binding
territorial entities
reciprocity
an injured state
to raise an international claim
special remedies
to resort to 3rd party mediation
conciliation
arbitration
to appear before an international tribunal
to evict trespassers
to terminate a contract
refugee flows
state succession
heterogeneous entities
deep cleavages
unfettered rights
mutual benefit
proliferation
inconsistent with the Charter
prohibition of threat or use of force
territorial integrity
peaceful settlement of disputes
to intervene in matters within domestic jurisdiction
self-determination of peoples
sovereign equality of states
to fulfill obligations in good faith

Ex. 1. Read the text and make a list of specific characteristics of international law.

CHARACTERISTICS OF INTERNATIONAL LAW

In the long march of mankind from the cave to the computer a central role has always been played by the idea of law – the idea that order is necessary and **chaos inimical** to a just and stable existence. Every society, whether it be large or small, powerful or weak, has created for itself a framework of principles within which to develop. What can be done, what cannot be done, permissible acts, forbidden acts, have all been spelt out within the consciousness of that community. Progress, with its inexplicable leaps and bounds, has always been based upon the group as men and women combine to pursue commonly accepted goals, whether these be hunting animals, growing food or simply making money.

Law is that element which binds the members of the community together in their **adherence to recognized values** and standards. It is both permissive in allowing individuals to establish their own legal relations with rights and duties, as in the creation of contracts, and **coercive**, as it punishes those who **infringe** its regulations. Law consists of a series of rules regulating behaviour, and reflecting, to some extent, the ideas and preoccupations of the society within which it functions.

And so it is with what is termed international law, with the important difference that the principal subjects of international law are nations and states, not individual citizens. There are many contrasts between the law within a country (municipal law) and the law that operates outside and between states, international organizations and, in certain cases, individuals.

International law itself is divided into conflict of laws (or private international law as it is sometimes called) and public international law (usually just termed international law). The former deals with those cases, within particular legal systems, in which foreign elements **obtrude**, raising questions as to the application of foreign law or the role of foreign courts. For example, if two Englishmen make a contract in France to sell goods situated in Paris, an English court would apply French law as regards the validity of that contract. By contrast, public international law is not simply **an adjunct** of a legal order, but a separate system altogether, and it is this field that will be considered in this book.

Public international law covers relations between states in all their myriad forms, from war to satellites, and regulates the operations of the many international institutions. It maybe universal or general, in

which case the stipulated rules bind all the states (or practically all depending upon the nature of the rule), or regional, whereby a group of states linked geographically or ideologically may recognize special rules applying only to them, for example, the practice of **diplomatic asylum** that has developed to its greatest extent in Latin America. The rules of international law must be distinguished from what is called **international comity**, or practices such as saluting the flags of foreign warships at sea, which are implemented solely through **courtesy** and are not regarded as **legally binding**. Similarly, the mistake of confusing international law with international morality must be avoided. While they may meet at certain points, the former discipline is a legal one both as regards its content and its form, while the concept of international morality is a branch of ethics. This does not mean, however, that international law can be divorced from its values.

Without **a legislature, judiciary and executive**, it would seem that one cannot talk about a legal order. And international law does not fit this model. International law has no legislature. **The General Assembly** of the United Nations comprising delegates from all the member states exists, but its resolutions are not legally binding. There is no system of courts. **The International Court of Justice** does exist at the Hague but it can only decide cases when both sides agree and it cannot ensure that its decisions are **complied with**. Above all there is no executive or governing entity. **The Security Council of the United Nations**, which was intended to have such a role in a sense, has at times been effectively **constrained by the veto power** of the five **permanent members** (USA; USSR, now the Russian Federation; China; France; and the UK). Thus, if there is no identifiable institution either to establish rules, or to clarify them or see that those who break them are punished, how can what is called international law be law?

It will, of course, be realized that the basis for this line of argument is the comparison of domestic law with international law, and the assumption of an analogy between the national system and the international order. And this is at the heart of all discussions about the nature of international law.

Domestic law is addressed to a large number of governmental bodies and private individuals. International law, on the other hand, is primarily concerned with legal regulations of the **international intercourse** of states which are organized as **territorial entities**, an consider themselves, in spite of obvious factual differences in reality, in formal

terms “sovereign” and “equal”. Thus, *international law is a horizontal legal system*, lacking a supreme authority, the centralization of the use of force, and a differentiation in the three basic functions of law making, law determination and law enforcement typically entrusted to central organs. A horizontal system of law operates in a different manner from a centralized one and is based on principles of **reciprocity** and consensus rather than on command, obedience and enforcement. A system of law designed primarily for the external relations of states does not work like any internal legal system of a state.

Nevertheless, a state which violates an international obligation is responsible for the wrongful act towards **the injured state**, or, under certain circumstances, to the international community as a whole. The injured state can **raise an international claim** which it may pursue on the basis of **special remedies**, if available, or by resorting to **third-party mediation or conciliation, arbitration or judicial proceedings**. In the end, however, the role of self-help by states in cases of a violation of their rights is predominant in international law, as compared with the restricted admissibility of self-help of individuals in national legal systems.

If one state commits an illegal act against another state, and refuses to **make reparation** or to appear before **an international tribunal**, there is (or was until recently) only one sanction available to the injured state: self-help. Self-help exists as a sanction in all legal systems. In earlier primitive legal systems, most sanctions involved the use of self-help in one form or another. Even in modern legal systems an individual may defend himself against assault, retake property which has been stolen from him, **evict trespassers** from his land and **terminate a contract** if the other party has broken a major term of that contract. But in modern societies self-help has become the exception rather than the rule, whereas in international law it has remained the rule.

The scope of international law

The process of change in international law from a system of coordination of the international intercourse of mainly European states in limited areas, such as diplomatic relations and war, to a universal system of cooperation in numerous fields between quite different entities reflects the advances of natural sciences and technology, increasing global economic and political interdependence and the need to address problems which can no longer be properly dealt with within a national framework, such as in the fields of communications, international trade,

economics and finance, environment and development, or the massive problem of **refugee flows**.

International law now covers vast and complex areas of transnational concern, including traditional topics, such as the position of states, **state succession**, state responsibility, peace and security, the laws of war, the law of treaties, the law of the sea, the law of international watercourses, and the conduct of diplomatic relations, as well as new topics, such as international organizations, economy and development, nuclear energy, air law and outer space activities, the use of the resources of the deep sea, the environment, communications, and, last but not least, the international protection of human rights. This development has resulted in increasing specialization in both academia and legal professions in practice.

Universality and the challenge to the unity of international law

In the historical process of the transition from the classical system to the modern system, international law definitely lost its European character and was extended from a limited club of nations to a global system now covering some 193 states which are very **heterogeneous entities** in cultural, economic and political terms. The basic question ever since has been whether a truly universal system of law is possible at all under the conditions of a divided world with such **deep cleavages** in values, interests, and perceptions. Writers have frequently found that international law is in a "crisis", or has entered into "**decay**".

At least with respect to the basic normative framework, after 1945 international law entered into a new phase aiming at restricting the **unfettered right** of states to go to war and, in addition, transforming the previous mere coordination of sovereign states into a system of cooperation and **mutual benefit**.

There were other significant changes in the international legal system after 1945. The main feature mostly emphasized is the shift from coexistence to cooperation of states, not only to achieve international peace and security, but also to further social and economic goals. This is reflected in the **proliferation** of international organizations, both global and regional.

Another new development after 1945, as compared with classical international law, has been a stronger recognition of the position of the individual. While previously the individual was considered a mere "object" of international regulations adopted by sovereign states, more

room has been given to the thought of upgrading the status of human beings in international law. This is reflected in the development of rules on the international protection of refugees, the codification of human rights on the global and regional level following the Universal Declaration of Human Rights, proclaimed by the UN General Assembly in 1948.

Nevertheless, also from a legal perspective, there is no doubt that the question of the universal nature of international law has been reinforced not only by theoretical debate but also by the actual strong tendencies towards economic and political regionalism in the international system. The answer to this question is not easy and needs to take into account the content of contemporary international law in its various fields and the characteristics of the international law-making process. As a starting-point, however, it may be observed that there is at least universal agreement on some basic principles of international law, as laid down in the Friendly Relations Declaration, which after a long process of attempting to clarify the meaning of the United Nations Charter was adopted by all states by consensus in 1970.

These principles include:

1) the prohibition of the threat or use of force by states against the **territorial integrity** or political independence of any state, or in any other manner **inconsistent with** the purposes of the Charter;

2) the peaceful settlement of disputes between states in such a manner that international peace and security and justice are not endangered;

3) the duty not to **intervene in matters within the domestic jurisdiction** of any state, in accordance with the Charter;

4) the duty of states to cooperate with one another in accordance with the Charter;

5) the principle of equal rights and **self-determination** of peoples;

6) the principle of **sovereign equality** of states;

7) the principle that states shall **fulfill in good faith the obligations** assumed by them in accordance with the Charter.

Shaw M. N. International Law. 6th ed. Cambridge University Press, 2018;
Malanczuk P. Akehurst's Modern Introduction to International Law.
Seventh revised edition. Routledge, 1997

Ex. 2. Answer the questions.

1. What does the idea of law imply?

2. What is international law in your understanding?

3. What is international law divided into? Give examples. What are areas/branches of law?

4. What are the basic differences between international law and domestic law?

5. Compete with your partner giving as many specific features of international law as you can.

6. Why do some writers say that international law is in a crisis? Do you agree?

7. International law entered into a new phase after 1945. Prove it.

8. Where is the recognition of a stronger position of the individual reflected?

9. What principles can be found in the UN Charter?

Ex. 3. Say what the following words and word combinations refer to:

consciousness of that community
permissive and coercive
conflict of laws
international comity
a legislature, judiciary and executive
a horizontal system
principles of reciprocity
special remedies
self-help
state succession
heterogeneous entities
proliferation
the Charter

Ex. 4. Make a short summary of the text (about 10–12 sentences).

LANGUAGE PRACTICE

Ex. 5. Match the words with their definitions:

1) conciliation	a) the process of judging officially how an argument should be settled
2) arbitration	b) something that exists as a particular and discrete unit
3) inimical	c) a situation in which two people, groups, or countries give each other similar kinds of help or special rights
4) reciprocity	d) the process of trying to get people to stop arguing and agree
5) an entity	e) acting according to certain accepted standards
6) compliance	f) to violate

7) territorial integrity	g) relating to or using force or threats to persuade someone to do something
8) an adjunct	h) something added to another thing but not an essential part of it
9) state succession	i) a process in which a neutral third party helps to resolve a dispute between two parties by facilitating communication and negotiation
	j) hostile or harmful
10) a refugee	k) the principle under international law that a state's borders should not be violated
11) proliferation	l) to bring to an end
12) to infringe	m) a person who has fled their home country due to persecution, war, or violence, seeking safety in another country
13) mediation	n) the legal process by which a state assumes the rights and obligations of another state after a change in sovereignty
14) unfettered	o) not restricted or restrained
15) to terminate	p) the rapid increase or spread of something
16) coercive	

Ex. 6. Match the words in A with the words in B to make up possible word combinations. Create your own sentences with them:

A	B
1) territorial	a) reciprocity
2) infringe	b) members
3) peaceful	c) coexistence
4) principles of	d) regulations
5) refugee	e) entities
6) diplomatic	f) flows
7) legally	g) an international claim
8) permanent	h) a contract
9) heterogeneous	i) integrity
10) terminate	j) benefit
11) raise	k) jurisdiction
12) mutual	l) asylum
13) domestic	m) binding
14) fulfill	n) equality
15) sovereign	o) in good faith

Ex. 7. Fill in the gaps with prepositions where necessary.

1. Local authorities have to cope _____ the problems of homelessness. 2. Failure to comply _____ the regulations will result in prosecution. 3. They were evicted _____ their apartment. 4. They terminated _____ the contract because the other party had broken some terms of the contract. 5. Norms can't be imposed _____ a State _____ its consent. 6. The points of contract are binding _____ the parties. 7. This organization mediated two warring countries. 8. This action is inconsistent _____ the purposes of the Charter. 9. You can't intervene _____ matters _____ domestic jurisdiction of other states. 10. All states are obliged to fulfill _____ good faith the obligations under the UN Charter.

Ex. 8. Fill in the gaps with the following words. Change the forms if necessary.

implement • *compliance* • *entities* • *public* •
reciprocal • *terminate* • *binding* • *private*

1. _____ international law concerns the conduct of states and international organizations, while _____ international law focuses on the conduct of individuals, corporations and other _____ .
2. Treaties may be _____ or suspended by agreement of the parties.
3. Written contracts are not always more _____ than oral ones.
4. State continuously conclude and _____ bilateral treaties.
5. The fact that there is no overall authority to force _____ with the rules does not necessarily mean that there is no law.
6. Such treaties define the _____ rights and duties of each nation in furtherance of each nation's self-interest.

Ex. 9. Find the English equivalents.

Правопреемство государств, международное обычное право, средство правовой защиты, появление первых государств, многостороннее соглашение, в соответствии с обязательствами, неограниченные права, рост организаций, защита беженцев, вооруженный конфликт, запрет угрозы или использования силы, территориальная целостность, устав ООН, Совет Безопасности ООН, Международный Суд ООН, мирное урегулирование, международный мир и безопасность, вмешиваться, дела внутренней юрисдикции, самоопределение народов, суверенное равенство, добросовестно выполнять.

Ex. 10. Translate into English.

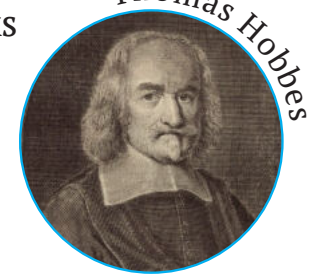
Международное право и национальное право отличаются по нескольким ключевым аспектам.

Во-первых, международное право регулирует отношения между государствами и международными организациями, тогда как национальное право касается внутренних дел конкретного государства и регулирует отношения между его гражданами.

Во-вторых, международное право имеет горизонтальную структуру: государства равны и действуют на основе согласия и принципа взаимности. Национальное право, напротив, имеет иерархическую структуру с разделением власти на законодательную, исполнительную и судебную.

Основные проблемы в международном праве включают неэффективность механизмов обеспечения соблюдения норм, что затрудняет разрешение конфликтов. Современные угрозы, такие как терроризм, кибератаки и изменение климата, требуют оперативных и скоординированных действий, но часто сталкиваются с отсутствием согласия между государствами. Кроме того, вопросы прав человека и гуманитарного права остаются острыми, особенно в условиях вооруженных конфликтов.

DISCUSSION


Thomas Hobbes

There is an old dispute going back to the early works of Hobbes and Pufendorf on the issue if international law may be properly called “law”.

The controversy has focused on the relevance of the lack of law-enforcement capacity in cases of violations of international legal norms. The second critical argument is the absence of legislative, executive and judicial bodies as in municipal systems.


Samuel Pufendorf

As a supporter of the idea that international law is “law” prepare some argument to overcome the critics. Present your persuasive speech in class.

PROBLEM SOLVING

Divide into teams, discuss the points, each point must be presented by one speaker from the group.

Group 1	Consider the main functions of international law. Take the following into consideration: maintenance of international peace and security, promoting respect for human rights, cooperation etc. Prepare a speech-presentation, include brief overview of the functions, give real examples.
Group 2	Consider the current challenges of international law today. Focus on: non-compliance of states with norms, cybersecurity, AI, climate change etc. Prepare a speech-presentation, include brief overview of the challenges, give real examples/events, suggest potential solutions.
Group 3	Consider the key principles of international law Focus on: sovereign equality, territorial integrity, non-intervention in domestic affairs, jus cogens etc. Prepare a speech-presentation, include brief overview of the principles, their role and importance.

Prepare questions for your groupmates to facilitate discussion after your presentation.

READING 2

Monism and dualism are two theories that explain the relationship between international law and municipal (or domestic) law. What do you know about them?

Study the vocabulary (https://quizlet.com/1057306763/learn).

to plead its own law as an excuse for non-compliance with international law
to invoke the provisions of its internal law
to perform obligations in good faith

to bring domestic law into conformity with obligations under IL
inalienable rights
breach of international obligations
an express act of adoption
be binding on the citizens
an international tribunal

Ex. 1. Read the text and highlight the differences in the theories.

INTERNATIONAL LAW AND MUNICIPAL LAW

"Municipal law" is the technical name given by international lawyers to the national or internal law of a state. Municipal law governs the domestic aspects of government and deals with issues between individuals, and between individuals and the administrative apparatus, while international law focuses primarily upon the relations between states. Nevertheless, there are many instances where problems can emerge and lead to difficulties between the two systems. The question of the relationship between international law and municipal law can give rise to many practical problems, especially if there is a conflict between the two. Which rule prevails in the case of conflict? How do rules of international law take effect in the internal law of states?

Dualist and monist theories

There are two basic theories, with a number of variations in the literature, on the relationship between international and domestic law.

The first doctrine, called **the monist** view, has a unitary perception of the "law" and understands both international and municipal law as forming part of one and the same legal order. The doctrine of monism represents the older of the two doctrines. Monism holds that both legal systems are part of a single legal structure. The earliest writers on international law tended to be theologians or civil lawyers who viewed international law as being founded upon **natural law principles**. It was inevitable that such writers should regard international law as part of a single system. Originally, the monist held that the prince and his municipal law was subordinate to a higher law of nations; the idea that the law of nations was a higher law, with legislative power delegated to the state, persisted within monist thought. Thus, the monist considers international law and municipal law to operate within a common field and to be concerned with the same subject matter; it is then argued that,

if there is a conflict between the two, then the rules of international law should prevail.

The second doctrine is called **the dualist** (or pluralist) view, and assumes that international law and municipal law are two separate legal systems which exist independently of each other. The central question then is whether one system is superior to the other. The doctrine of dualism is closely associated with the positivist approach to international law. From at least the beginning of the 18th century, the positivist asserted that the international community comprised a number of sovereign, independent and equal states who consented to a limited number of rules which governed relations within the international community. This analysis placed the individual state and its **will** at the centre of the argument. Whereas the monist might stress the importance of the individual and his **inalienable rights**, the positivist asserted that only the state constituted a legal person for the purposes of the Law of Nations. From this viewpoint, the dualist proceeded to argue that international law and municipal law were two separate systems. The former regulated the relations between states, while the latter was concerned with the relationship between the state and its citizens. The dualist then argued that, as they were two distinct systems, international law only operated in the municipal sphere to the extent that there had been a specific act of adoption by the sovereign state. In the event of a conflict between the two, it was argued that the municipal court should give effect to municipal law.

The general rule is that a state may not rely upon a provision of municipal law to excuse a **breach of international obligations**. In the context of treaties, this is made clear by Art 27 of the Vienna Convention on the Law of Treaties (1969) which reads, in part: "A party may not **invoke the provisions** of its internal law as justification for its **failure to perform a treaty**". In other words, all that international law says is that states cannot **invoke** their internal laws and procedures as a justification for **not complying with their international obligations**. States are required to perform their international obligations **in good faith**, but they are at liberty to decide on the modalities of such performance within their domestic legal systems. Similarly, there is a general duty for states **to bring domestic law into conformity with obligations under international law**. But international law leaves the method of achieving this result (described in the literature by varying concepts of "incorporation", "adoption", "transformation" or "reception") to the domestic jurisdiction of states.

The status and treatment of international law will differ from state to state. The starting point for any discussion will be the constitutional arrangements of the particular state. In most states, there will be a written constitution, often contained in a single document, and that fundamental text may well refer to how international law is to be treated by the courts of that state. It is important at this stage to say a little about the terms "incorporation" and "transformation". The doctrine of incorporation holds that a rule of international law will automatically become part of municipal law without any express **act of adoption**. It is asserted that adoption will operate unless there is some clear provision of statute or precedent that indicates otherwise. In such a situation, a treaty signed and ratified by state A would become **binding on the citizens** of that state A without any legislation being passed. In some states, the written constitution of the state will provide that rules of international law should automatically become part of municipal law.

In contrast, the doctrine of transformation holds that the rules of international law do not become part of municipal law unless and until there has been an express act of adoption. The rule of international law must be "transformed" into domestic law. To take an obvious example: if state A entered into a treaty, that instrument would not be given effect to in the courts of state A unless domestic legislation had been enacted to "transform" it into municipal law.

Malanczuk P. Akehurst's Modern Introduction to International Law. Seventh revised edition. Routledge, 1997

Ex. 2. Answer the questions.

1. What is the definition of "municipal law" in the context of international law, and what areas does it govern?
2. What problems can arise between international law and municipal law, particularly in cases of conflict?
3. What are the key differences between the monist and dualist theories regarding the relationship between international and municipal law?
4. What limitations does municipal law impose on states when it comes to fulfilling international obligations?
5. What is the difference between the doctrines of incorporation and transformation regarding how international law becomes part of municipal law?

Ex. 3. Make a short summary of the text (about 10–12 sentences).

LANGUAGE PRACTICE

Ex. 4. Match the words with their definitions:

1) inalienable	a) referring to rights or values that cannot be surrendered, transferred, or revoked
2) obligations	b) has full control over its territory and affairs, free from external interference
3) a will	c) specific clauses or stipulations within a legal document, contract, or law
4) conformity	d) a mental state or intention that expresses a person's desire or determination
5) to invoke	e) legal or moral duties
6) a sovereign	f) to call upon or cite a law, rule, or principle as a reason or justification for a particular action or decision
7) provisions	g) the act of complying with or adhering to established standards, rules, or laws

Ex. 5. Fill in the gaps with prepositions where necessary:

1) to adhere _____ smth;
2) to alter _____ will;
3) to depend _____ smth;
4) responsible _____ smth;
5) to comply _____ smth;
6) _____ good faith;
7) to be binding _____ states;
8) _____ liberty to decide;
8) to bring law _____ conformity _____ smth.

Ex. 6. Find the English equivalents.

Дуалистическая и монистическая теории соотношения международного и внутригосударственного права, добросовестно исполнять международные обязательства, иметь преимущественную силу, ссылаться на национальное право в качестве оправдания невыполнения обязательств, неотъемлемые права, теория естественного права, привести свое национальное право в соответствие с международным, позитивистская теория права, теория инкорпорации и трансформации, акт принятия, обязательный для граждан.

DISCUSSION

Comment on the following statements.

1. Countries that adopt monist approaches demonstrate a commitment to international norms, while those favouring dualism show their unwillingness to engage in global rules.
2. Monism undermines national sovereignty by allowing foreign laws to dictate domestic policy.

PROBLEM SOLVING

Study the Constitution of the Republic of Belarus and other legal acts to find out whether the country adheres to monist or dualist approach. Give proofs. What does the constitution say about incorporation or transformation of international legal norms into national legislation? In 2016, the Republic of Belarus signed the Paris Climate Agreement and pledged to reduce greenhouse gas emissions. Consider what actions must be taken by Belarus in order to comply with this international instrument.

Discuss Questions in working groups. Present your conclusions to the rest of the class.

How would the situation differ if Belarus had a monist legal system where international law automatically became part of domestic law?

WRITING

Write an essay titled "The Ethical Essence of International Law" or "The Mission of International Lawyers in Modern World".

An essay in English is a short composition in which you express your point of view on a given topic. Writing a quality essay in English requires a high level of language proficiency, a rich vocabulary, and the ability to clearly articulate your thoughts.

Structure of an Essay

An essay should contain the following elements.

1. **Introduction.** This section should indicate what the main body will discuss. The introduction should clarify the topic of the essay and your understanding of it, and it should be concise (occupying about 5–10 % of the total text).

An effective essay introduction serves several key purposes.

Hook: The introduction should begin with an engaging hook that captures the reader's attention. This could be a thought-provoking quote, a relevant statistic, or a compelling question related to the topic.

Importance of the Topic: Explain why the topic is significant. This can involve highlighting its relevance in contemporary discussions, its implications for international relations, or its impact on legal theory.

Thesis Statement: Finally, the introduction should culminate in a clear thesis statement. This statement presents the main argument or claim of the essay, outlining the writer's position on the topic and indicating how the argument will be developed in the subsequent sections. Your thesis should provide a roadmap for your essay.

2. **Main Body.** This is the main part of the essay, where the issue is explored and your opinion on it is presented according to the chosen type of exposition. Here, you provide arguments and examples, as well as other viewpoints on the topic.

The main part of an essay consists of multiple body paragraphs that develop and support the thesis statement. Each body paragraph should focus on a single idea or argument related to the thesis and follow a clear structure to ensure coherence and clarity. Body paragraphs usually include: a topic sentence (introduces the main idea of the paragraph), supporting evidence (include facts, statistics, quotes from experts), a concluding sentence (summarizes the main point and reinforces how it relates to the thesis statement). At the end of the main body, the text should smoothly lead the reader to the conclusion. This part of the essay occupies about 75–85 % of the total text.

3. **Conclusion.** At the end, you need to summarize all the thoughts expressed in the main body of the essay. A good conclusion is not just a dry listing of all the previously mentioned facts but a well-argued statement on the topic. It may echo the introduction or refer back to it, but in different wording. In the conclusion, you should avoid introducing completely new ideas. Be confident in your viewpoint and simply restate it. An acceptable length for the conclusion is about 10–15 %.

Tips

1. Draft an Outline. Sketch an outline and jot down your main ideas.
2. Stick to the Structure. Follow the general guidelines for structure and do not exceed the recommended lengths for each section.
3. Be Concise. Express your thoughts clearly and briefly, avoiding overly deep reflections.
4. Maintain a Formal Style. A formal writing style is the most appropriate for essays unless stated otherwise. Avoid using contractions, slang, and colloquial expressions.
5. Use Linking Words. Specific words will help you express your thoughts coherently, guide the reader to conclusions, and build a proper structure in the text.
6. Vary Your Vocabulary and Grammar. If appropriate, use synonyms. When it comes to grammar and complex sentences, use them only if you are confident in your knowledge. Otherwise, mistakes or incorrect tense usage may work against you.
7. Check for Errors.

Linking words

Addition	Contrast	Giving Examples	Cause and Effect
Furthermore Moreover In addition Additionally Also Besides	However On the other hand Conversely Nevertheless Although Whereas In contrast	For example For instance Such as Specifically To illustrate Including	Therefore Consequently As a result Thus Hence Because
Comparison	**Clarification**	**Concluding**	**Emphasis**
Similarly Likewise In the same way Just as Equally Correspondingly	In other words That is to say To clarify Namely Specifically	In conclusion To sum up Ultimately Finally In summary Overall	Indeed In fact Certainly Undoubtedly To emphasize

Unit 2 SOURCES OF INTERNATIONAL LAW

OBJECTIVES

In this unit you'll learn:

- the main sources of international law and relevant legal terminology;
- the types, stages of creating of treaties in international law-making;
- the concept of customary international law, its main aspects;
- the importance of jus cogens norms as fundamental principles that underpin the moral framework of international law;
- other possible sources of international law.

By the end of the unit, you'll be able to:

- give a summary of the various sources of international law using the target vocabulary;
- evaluate the role of treaties in shaping international law and the relationship between treaty obligations and customary law;
- critically assess the effectiveness of different sources of international law in resolving disputes and promoting cooperation among states;
- solve a professional legal issue on the topic;
- write an essay, blog post, or social media post on the moral base of jus *cogens*.

LEAD-IN

What sources of law are used in domestic jurisdiction? What are the sources used in common law families (Anglo-Saxon) and Romano-Germanic families of law?

What sources of international law are you familiar with?

Look at the background of the case. Decide what possible sources could be used by the International Court of Justice to solve the case. Share your ideas with the group.

The North Sea Continental Shelf case involved a dispute between Germany, Denmark, and the Netherlands regarding the delimitation of the continental shelf in the North Sea. The case was brought before the International Court of Justice (ICJ) in 1969, focusing on the legal principles governing the continental shelf and the rights of coastal states to exploit its resources.

READING 1

Study the vocabulary (https://quizlet.com/1012410905/flashcards).

contesting states
recognized by civilized nations publicists
hierarchy
subsidiary means/auxiliary
covenants
to bind themselves legally to
to be binding on/upon smb
to enhance
validity of older customary rules
customary law
ad hoc compromises
multilateral
bilateral
treaties (bilateral/multilateral/universal/regional/particular etc.)
mutual rights and obligations
to arrive at concordance of wills of subjects of IL
ratification
to deposit instruments of ratification
to vary
to prevail over smth
customary usage
ambassadors
representatives of Ministry of Foreign Affairs
opinio juris
nautical mile
outer space
to infer
(in) good faith
estoppel
jus cogens
peremptory norm

Ex. 1. Read the text and list the main sources of international law.

In any legal system there must be some accepted criteria by which "laws" are established. To put the matter another way, there must be clear sources of law. In the normal municipal system one might begin by studying the written constitution of the state. In most developed states it is usually possible to identify the legislative, executive and judicial branches and, having done so, one can then ascertain the precise sources of municipal law.

In international law, partly because of the horizontal nature of the subject, the position is less straightforward. However, in the last 50 years it has been accepted that Art 38 of the Statute of the International Court of Justice provides the most convenient summary of the sources of international law and reads as follows.

The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:

a) international conventions, whether general or particular, establishing rules expressly recognized by the ***contesting*** *States;*

b) international custom, as evidence of a general practice accepted as law;

c) the general principles of law recognized by civilized nations;

d) judicial decisions and the teachings of the most highly qualified ***publicists*** *of the various nations, as subsidiary means for the determination of rules of law.*

A problem arises as to whether the list of sources is exhaustive. The short answer is in the negative. There are also a number of sources that the Court has been prepared to consider that are not listed within Art 38. A related question has arisen as to whether the sources are hierarchical. The answer to this is in the negative. However, as a matter of general impression, while there is no expressly stated hierarchy of sources in the event of a direct conflict a treaty provision (unless it violated a rule of jus cogens) would prevail over a customary rule.

1. **Treaties.** The Statute of the International Court of Justice speaks of "international conventions, whether general or particular, establishing rules expressly recognized by the ***contesting states***". The word "convention" means a treaty, and that is the only meaning which the word possesses in international law, and in international relations generally. Treaties have played a significant role in the development of international law at least since the Peace of Westphalia (1648). Treaties are known by a variety of

differing names, ranging from Conventions, International Agreements, Pacts, General Acts, Charters, through to Statutes, Declarations and ***Covenants***. All these terms refer to a similar transaction, the creation of written agreements whereby the states participating ***bind themselves legally to*** act in a particular way or to set up particular relations between themselves.

The general trend, particularly after the Second World War, has been to ***enhance*** the role of treaties in international law-making, partly in response to increasing interdependence, partly as a solution to the controversies that exist between diverse groups of states as to the content and ***validity of older customary rules***. To some extent treaties have begun to replace customary law. Where there is agreement about rules of customary law, they are codified by treaty; where there is disagreement or uncertainty, states tend to settle disputes by *ad hoc compromises* – which also take the form of treaties.

All treaties contain obligations for the states that are parties to them. However, a distinction is often drawn between "law making" treaties and the "treaty contract". The "law making" treaty will purport to lay down general rules, will be ***multilateral*** in character and the observance of the rules will not dissolve other treaty obligations. "Treaty-contracts" on the other hand are not law-making instruments in themselves since they are between only small numbers of states and on a limited topic, but may provide evidence of customary rules.

Treaties may be ***bilateral*** or multilateral. A number of contemporary treaties, such as the Geneva Conventions (1949) and the Law of the Sea treaty (1982; formally the United Nations Convention on the Law of the Sea), have more than 150 parties to them, reflecting both their importance and the evolution of the treaty as a method of general legislation in international law.

As a source of international law *the treaty is a clearly expressed agreement between subjects of international law to create norms defining mutual rights and obligations they accept as legally binding*. Parties that do not sign and ratify the particular treaty in question are not bound by its terms.

This implies a clear distinction between two separate stages in the process of arriving at a ***concordance of wills*** of subjects of international law. The first stage is the process of arriving at a concordance of wills with regard to the text of a treaty. It is concluded when that text is adopted by

an international conference, an organ of an international organization, or simply through the consent of participating States. The second stage is a concordance of wills with regard to recognizing the rules recorded in the text as legally binding. It consists of such actions on the part of States as signing the treaty, its ratification, and depositing instruments of ratification.

While all legitimate treaties are equally binding on participating States, their role in international relations varies. Above all, their actual significance is determined by the issues to which they relate, and by their actual effectiveness. Beyond this, the number of participants in a treaty is generally important. From the legal point of view, the United Nations Charter prevails over other international treaties. Article 103 states: "In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail".

2. **Custom.** The second source of international law listed in the Statute of the International Court of Justice is "international custom, as evidence of a general practice accepted as law". In primitive society, rules of conduct evolve and are observed by force of social pressure. Such rules of conduct may be referred to as "usages" or "customs". A practical distinction can be made between a "usage" and a "custom". As a result of a repetition of certain actions by States a rule may emerge that they generally follow. Such a rule is not yet a norm of international law but simply ***a customary usage***. For example, a newly arrived ambassador in a country is met by a representative of the Ministry of Foreign Affairs. This is a rule, not a legal norm, but it is always followed by all States. International custom may remain just that and never become a norm of international law.

As confirmed by the ICJ in the Nicaragua case, custom is constituted by two elements, the objective one of "a general practice", and the subjective one "accepted as law", the so-called ***opinio juris***.

There must first be evidence of substantial uniformity of practice by a substantial number of States. In 1974, the ICJ found that a rule of custom (now superseded) that States had the exclusive right to fish within their own 12 ***nautical mile zone*** had emerged. State practice can be expressed in various ways, such as governmental actions in relation to other States, legislation, diplomatic notes, ministerial and other official statements,

government manuals (as on the law of armed conflict), certain ***unanimous*** or consensus resolutions of the UN General Assembly and, increasingly, in soft-law instruments. Evidence of customary law may sometimes also be found in the writings of international lawyers, and in judgments of national and international tribunals, which are mentioned as subsidiary means for the determination of rules of law.

But to amount to a new rule of custom, in addition to practice there must also be a general recognition by States that the practice is settled enough to amount to an obligation binding on States in international law. This is known as opinio juris. The opinio juris, or belief that a state activity is legally obligatory, is the factor which turns the usage into a custom and renders it part of the rules of international law. To put it slightly differently, states will behave a certain way because they are convinced it is binding upon them to do so.

Customary law has a built-in mechanism of change. If states agreed that a rule should be changed, a new rule of customary international law based on the new practice of states can emerge very quickly; thus the law on ***outer space*** developed very quickly after the first artificial satellite was launched.

3. **General principles of law recognized by "civilized" nations.** The third source of international law listed in the Statute of the international Court of Justice is "the general principles of law recognized by civilized nations". This phrase was inserted in the Statute of the International Court of Justice, in order to provide a solution in cases where treaties and custom provided no guidance; otherwise, it was feared, the Court might be unable to decide some cases because of gaps in treaty law and customary law. However, there is little agreement about the meaning of the phrase. Some say it means general principles of international law; others say it means general principles of national law. Actually, there is no reason why it should not mean both; the greater the number of meanings which the phrase possesses, the greater the chance of finding something to fill gaps in treaty law and customary law – which was the reason for listing general principles of law in the Statute of the Court in the first place.

According to the first definition (general principles of international law), general principles of law are not so much a source of law as a method of using existing sources – extending existing rules by analogy, inferring the existence of broad principles from more specific rules by means

of general principles of law inductive reasoning, and so on. According to the second definition of general principles of law (general principles of national law), gaps in international law may be filled by borrowing principles which are common to all or most national systems of law; specific rules of law usually vary from country to country, but the basic principles are often similar.

Not all general principles applied in international practice stem from domestic legal systems and have been transplanted to the international level by recognition. Some are based on "natural justice" common to all legal systems (such as the principles of ***good faith***, ***estoppel*** and proportionality), others simply apply logic familiar to lawyers (such as the rules *lex specialis derogat legi generali* (a special law nullifies a general law), *lex posterior derogat legi priori* (a later law nullifies an earlier one), *nemo plus juris transferre potest quam ipse habet* (no man can transfer to another more rights than he himself possesses), and another category is related to "the specific nature of the international community", as expressed in principles of ***jus cogens (a peremptory norm)***.

O'Brien J. International Law. Cavendish Publishing Limited, 2018;
Shaw M. N. International Law. 6th ed. Cambridge University Press, 2018;
Алонцева Н. В. Английский для студентов факультетов права и международных отношений. Минск. ТетраСистемс, 2009

Ex. 2. Answer the questions.

1. What is the source of international law (IL)?
2. What are the sources of IL? (main/subsidiary)
3. What is a treaty? What types of treaties do you know?
4. What are the stages of treaty creating?
5. What are the relations between the UN Charter and other treaties?
6. What is a custom? What are its aspects?
7. What's the difference between a custom and a customary usage? Provide examples.
8. What are the material sources of a custom?
9. Summarize the main features of a custom as a norm of IL.
10. Why were the general principles inserted in the Statute? What's their function?
11. Give examples of these principles.
12. Evaluate the relations between the main sources. Is there any hierarchy?

Ex. 3. Make a short summary of the text (about 10–12 sentences).

LANGUAGE PRACTICE

Ex. 4. Match the words with their definitions:

1) ad hoc	a) used to describe something that is done or felt by all or both people in a group
2) concordance	b) that cannot be legally avoided or stopped
3) validity	c) not planned, but arranged or done only when necessary
4) multilateral	d) the order of precedence among laws or legal sources
5) a nautical mile	e) a fundamental principle of international law considered binding on all states, from which no derogation is permitted. Examples include prohibitions against genocide, slavery, and torture
6) hierarchy	f) the state of being similar to something else
7) mutual	g) an expert on or writer in international law
8) binding	h) involving more than two groups or countries
9) jus cogens	i) the legitimacy or enforceability of a law, contract, or agreement
10) a publicist	j) a legal document
11) exhaustive	k) including all possible elements or aspects without omission
12) estoppel	l) a unit of measurement used in maritime and air navigation, equivalent to one minute of latitude. It is approximately equal to 1.852 kilometers
13) an instrument	m) a legal principle that prevents a person from arguing something contrary to a claim made or an act performed by them previously

Ex. 5. Fill in the gaps with prepositions where necessary:

1) a solution _____ the controversies;
2) to refer _____ smth;
3) to be legally binding _____ the parties _____ the treaty;
4) _____ accordance _____ smth;
5) to be subject _____ provisions of Article 59;

6) to vary _____ country _____ country;
7) to arrive _____ concordance of wills;
8) stem _____ domestic legal systems;
9) _____ regard _____ the text;
10) to prevail _____ smth.

Ex. 6. Find the English equivalents.

Иерархия, спорящие государства, Вестфальский мир, устав ООН, устав (Лиги Наций), увеличить роль договоров, многосторонний, двусторонний, взаимные права и обязательства, юридически обязательный, согласование воль субъектов МП, сдавать на хранение ратификационные грамоты, Международный Суд ООН, посол, Министерство иностранных дел, доказательство всеобщей практики, обыкновение, обычное право, зона в 12 морских миль, дипломатические ноты, единогласные резолюции, космическое пространство, искусственный спутник, принципы добросовестности, эстоппеля и пропорциональности, специальный закон отменяет общий закон, последующий закон отменяет предыдущий, императивная норма.

Ex. 7. Translate into English.

СТАТУТ
МЕЖДУНАРОДНОГО СУДА ООН

Статья 38

1. Суд, который обязан решать переданные ему споры на основании международного права, применяет:

международные конвенции, как общие, так и специальные, устанавливающие правила, определенно признанные спорящими государствами;

международный обычай как доказательство всеобщей практики, признанной в качестве правовой нормы;

общие принципы права, признанные цивилизованными нациями;

с оговоркой, указанной в статье 59, судебные решения и доктрины наиболее квалифицированных специалистов по публичному праву различных наций в качестве вспомогательного средства для определения правовых норм.

https://www.un.org/ru/icj/statut.shtml

READING 2

Ex. 1. Read the text and list the subsidiary sources of international law.

JUDICIAL DECISIONS

Article 38(1)(d) of the Statute of the International Court of Justice directs the Court to apply "judicial decisions... as ***subsidiary means*** for the determination of rules of law".

The decisions of the Court have no binding force except as between the parties and in respect of the case under consideration. While the doctrine of precedent as it is known in the common law, whereby the ***rulings of certain courts*** must be followed by other courts, does not exist in international law, one still finds that states in disputes and textbook writers quote judgments of the Permanent Court and the International Court of Justice as authoritative decisions.

The International Court of Justice itself will closely examine its previous decisions and will carefully distinguish those cases which it feels should not be applied to the problem being studied. But just as English judges, for example, create law in the process of interpreting it, so the judges of the International Court of Justice sometimes do a little more than merely "determine" it. One of the most outstanding instances of this occurred in the *Anglo-Norwegian Fisheries case*, with its statement of the criteria for the recognition of baselines from which to measure the ***territorial sea***, which was later ***enshrined*** in the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone.

The expression "judicial decisions" extends beyond the judgments of the International Court of Justice and extends to judicial determinations at national and regional level and also to arbitral awards such as those made by the Permanent Court of Arbitration.

O'Brien J. International Law. Cavendish Publishing Limited, 2018

TEACHINGS OF THE MOST HIGHLY QUALIFIED PUBLICISTS

Article 38(1)(d) also directs the Court to apply "the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law".

Originally, the views of writers and teachers played a significant role in the development of international law and tribunals would wish to be informed of the views of Grotius, Pufendorf and Vattel. However, in the 19th century this influence declined. Nevertheless, books are important as a way of arranging and putting into focus the structure and form of

international law. Academic writings also have a useful role to play in stimulating thought about the values and aims of international law as well as pointing out the ***defects*** that exist within the system, and making suggestions as to the future.

Generally speaking, in a multicultural world the problem of identifying those "teachings" of writers which are the most authoritative is no longer likely to lead to easy universal acceptance of certain propositions. This has become difficult also due to the large quantity of publications that are nowadays produced by writers on international law. While international arbitral tribunals frequently cite textbooks and authors, the International Court of Justice ***refrains from*** doing so in its decisions.

O'Brien J. International Law. Cavendish Publishing Limited, 2018

OTHER POSSIBLE SOURCES

Resolutions of international organizations. The exact status of resolutions of international organizations, in particular resolutions of the United Nations General Assembly, has long been an area of controversy. Certain resolutions of the Assembly are binding upon the organs and member states of the United Nations. Other resolutions, however, are not legally binding and are ***merely recommendatory***, putting forward opinions on various issues with varying degrees of majority support. It is sometimes argued more generally that particular non-binding instruments or documents or non-binding provisions in treaties form a special category that may be termed "soft law". This terminology is meant to indicate that the instrument or provision in question is not of itself "law", but its importance within the general framework of international legal development is such that particular attention requires to be paid to it. The Helsinki Final Act of 1975 is a prime example of this.

Regional organizations, for example, the European Union, the Council of Europe, the Organization of American States, and the African Union can, via their internal measures, demonstrate what they, as a regional group, consider to be the law.

Unilateral acts. In certain situations, the ***unilateral acts*** of states, including statements made by relevant state officials, may give rise to international legal obligations. Such acts might include recognition and protests, which are intended to have legal consequences. Unilateral acts, while not sources of international law as understood in article 38(1) of the Statute of the ICJ, may constitute sources of obligation.

National Legislation and Decisions of National Courts. The legislation of individual States and their court decisions are not, of course, sources of international law, i.e. they do not create norms that

are binding in interstate relations. It is true that legislation and court practice of individual States may and should be taken into consideration in characterizing their international legal position on particular issues. Beyond this, the existence of similar legislation and court practice in many States may serve, together with other forms of evidence, as an ***auxiliary*** means for establishing the existence of particular customary norms of international law. Also because national laws and court practice influence the international legal position of States, they can also influence the development of international law.

Алонцева Н. В. Английский для студентов факультетов права и международных отношений. Минск. ТетраСистемс, 2009

Ex. 2. Answer the questions.

1. What are some examples of subsidiary sources of international law, and how do they contribute to the development and interpretation of international legal norms?
2. In what ways do decisions of international courts and tribunals, including the International Court of Justice and regional human rights courts, serve as subsidiary sources of international law, and how do states and other actors implement and comply with these decisions?
3. How do soft law instruments, such as resolutions of international organizations or non-binding declarations, influence the development and implementation of international legal norms? What are some challenges associated with their implementation?
4. What role do academic writings, legal opinions, and legal scholarship play as subsidiary sources of international law, and how do they shape the interpretation and application of international legal principles? How are these sources taken into account by states and international legal practitioners in their decision-making and legal practice?

Ex. 3. Make a short summary of the text (about 7 sentences).

LANGUAGE PRACTICE

Ex. 4. Find the words in the puzzle the definitions of which are given below:

- providing supplementary or additional support; serving as a helper or assistant to a primary function or entity;
- involving only one party or side;

- not binding but intended to guide or advise action;
- not to do something;
- shortcomings, errors;
- the area of sea extending from a country's baseline out to a specified distance (commonly 12 nautical miles);
- formally establish or protect;
- official decisions or interpretations made by a court, tribunal;
- used to describe something less important than something else, with which it is connected.

Words are hidden → ↓ ↘.

d	o	j	g	j	w	r	e	f	r	a	i	n	c	t	h	l	e
p	w	t	j	g	l	w	h	p	h	h	g	a	d	b	s	k	l
z	z	k	e	n	s	h	r	i	n	e	r	b	i	w	q	a	i
k	e	c	s	b	d	h	i	k	z	g	x	u	x	r	g	p	a
o	y	n	u	n	i	l	a	t	e	r	a	l	l	j	u	h	n
z	m	k	n	z	h	h	t	x	d	h	r	k	l	i	p	l	l
d	s	u	b	s	i	d	i	a	r	y	r	i	d	b	n	g	h
r	e	c	o	m	m	e	n	d	a	t	o	r	y	j	d	g	l
d	e	f	e	c	t	s	t	z	r	z	x	a	y	w	a	u	s
t	e	r	r	i	t	o	r	i	a	l	s	e	a	r	o	f	w
p	j	u	j	m	i	a	f	a	u	x	i	l	i	a	r	y	q

Ex. 5. Translate into English.

1. От общих принципов права, признанных цивилизованными нациями, следует отличать основные (общепризнанные) принципы международного права (принципы суверенного равенства государств, неприменения силы и угрозы силой, невмешательства во внутренние дела государств, уважения прав и свобод человека и др.).

2. Некоторые авторы выделяют основные, производные и вспомогательные источники, что не вполне оправданно, поскольку так называемые производные и вспомогательные источники не соответствуют самой сущности понятия «источник международного права». Авторы, придерживающиеся данного подхода, к вспомогательным источникам относят, по сути, вспомогательные средства для определения правовых норм (решения судов, международно-правовую доктрину). Вместе с тем ни доктрина, ни решения судов не являются источниками международного права, т. е. не содержат в себе норм международного права.

3. Абсолютное большинство решений, принимаемых органами международных организаций, не носят юридически обязывающий характер.

4. Односторонние акты государств не являются источниками международного права, поскольку не приняты путем согласования позиций государств.

DISCUSSION

Review the case of *Nicaragua v. United States* (1986), focus on the key facts, the ICJ's findings, and the legal principles involved (https://www.icj-cij.org/case/70).

Background

The case arose from a conflict in the 1980s when the United States was accused of supporting Contra rebels fighting against the Nicaraguan government, which was led by the Sandinista National Liberation Front. Nicaragua brought a case against the United States to the International Court of Justice (ICJ) in 1984, claiming that the U.S. violated international law by using force against Nicaragua and supporting the Contras.

Nicaragua brought claims against the U.S. based on violations of the UN Charter, particularly concerning the principles of non-intervention and the prohibition of the use of force.

The U.S. contested the ICJ's jurisdiction by arguing that it had not formally consented to the Court's authority regarding issues arising under the UN Charter.

In small groups discuss the following.

On the basis of what norms can the International Court of Justice consider this case? Explain your position.

PROBLEM SOLVING

You are a legal advisor for a small country that is looking to establish its diplomatic relations with other nations and participate actively in the international community. Your task is to research and provide recommendations to the government on the sources of international

law that the country should consider when developing its diplomatic and legal framework.

Consider the following scenario and questions.

This country is concerned about the use of drones in its airspace by foreign governments without its consent. What sources of international law define rules on state sovereignty, territorial integrity, and the non-use of force that the country can rely on to protect its airspace?

Present your ideas in class.

WRITING

"Exploring the Moral Base of Jus Cogens"

Jus cogens embodies the idea that certain tights and values are inherent to all human beings. These norms have the highest level in the hierarchy of international norms. They are universally recognized and can't be overridden by other sources of international law.

You can choose to write an essay, a blog post, or a social media post.

Choose your format:

1) Essay: a formal piece (500–750 words) that presents a well-structured argument;

2) Blog Post: an engaging and informative article (300–500 words) aimed at a general audience;

3) Social Media Post: an impactful message (150–300 words) that captures the attention of the audience, you may use relevant hashtags or visuals.

Possible points to focus: definition of jus cogens, moral foundation (the value of human life, human rights, equality, no discrimination, protection and security, responsibility etc.).

Tailor your writing style to your chosen format. For essays, maintain a formal style; for blog posts, aim for an engaging style; and for social media, be impactful.

After completing your task, reflect on the following questions.

1. How did exploring the moral base of jus cogens influence your understanding of international law?

2. What challenges did you encounter while writing, and how did you address them?

Unit 3 SUBJECTS OF INTERNATIONAL LAW

OBJECTIVES

In this unit you'll learn:

- the concept of legal personality in international law and target vocabulary;
- the various entities that possess international legal personality;
- the criteria for statehood as defined by the Montevideo Convention.

By the end of the unit, you'll be able to:

- engage in team discussions about the reasons and consequences of recognizing legal personalities for various entities using legal terms;
- analyze the implications of granting legal personality to these entities;
- solve a professional legal issue on the topic;
- write a creative narrative.

LEAD-IN

Look at these statements. What is common for the words in bold? Are they actors or subjects of international law? What do you already know about subjects of international law? What would you like to know?

Greenpeace has played a crucial role in advocating for climate change treaties, including the Paris Agreement.

Since the creation of **the United Nations**, 80 former **colonies** have gained their independence.

The Holy See has played a role in advocating for peace and human rights in international treaties, including the arms trade treaty and climate agreements, emphasizing moral imperatives in global discussions.

The February 10–11 summit aims to put **France** and **Europe** on the AI map as they try to rival **the U.S.** and **China**, which have taken a lead on the energy-intensive technology.

It is clear that **multinational corporations** (MNCs) like Apple are not restricted by diplomatic relationships, and international supply chain decisions dominate the discussion in the political environment surrounding.

READING 1

Study the vocabulary (https://quizlet.com/1012410905/flashcards).

legal capacity
legal personality
independent entities
to be subordinated to smth
international intergovernmental organizations
state-like formations
an external will
predetermined
recognition
a prerequisite
immutable
nomads
a bar to statehood
the sea adjacent to the coast
to act autonomously
to cease to exist
inherent
self-determination
national liberation movements
independent of the wills and dispositions
insurgency

Ex. 1. Read the text and list sovereign subjects of international law.

In any legal system, certain entities, whether they be individuals or companies, will be regarded as possessing rights and duties enforceable at law. Thus an individual may prosecute or be prosecuted for assault and a company can sue for breach of contract. They are able to do this because

the law recognizes them as "legal persons" possessing the *capacity* to have and to maintain certain *rights*, and being subject to perform specific *duties*. Actors so constituted are said to enjoy **legal personality**. The degree of legal personality these actors possess varies considerably, with the state alone possessing full legal personality. In fact, some actors are merely objects of international law rather than subjects. As objects, actors can receive the effects of international law including both benefits and sanctions. Subjects have duties and rights including the capacity to appear before a panel of arbiters or an international court.

Subjects of international law may be defined as ***independent entities*** *that are not* ***subordinated*** *in their international relations to any political power, and that possess* ***a legal capacity*** *to carry out independently the rights and obligations defined by international law.*

The following possess international legal personality: 1) states; 2) nations and peoples struggling for independence and for the creation of independent States; 3) international intergovernmental organizations; 4) **specific state-like formations**. A more general classification of subjects of international law divides them into only two categories, namely, sovereign subjects (primary) and non-sovereign (secondary, derivative).

Sovereign subjects are states and also nations and peoples struggling for independence. The legal personality of states and of nations and peoples struggling for independence is not established by any **external will** and not **predetermined** by any international act or recognition.

International intergovernmental organizations and also specific state-like formations belong to the category of non-sovereign subjects. They have a specific legal nature: their independent international legal status is based not on their sovereignty, for they do not possess it, but on agreements by sovereign states. The basis and **prerequisite** of their legal personality is provided by an international agreement and/or international recognition.

States

States are sovereign subjects of international law. State sovereignty refers to the supremacy of a State over its territory and to its independence in the sphere of international relations. Respect for state sovereignty is an **immutable principle** of international law.

Since international law is primarily concerned with the rights and duties of states, it is necessary to have a clear idea of what a state is.

The 1933 Montevideo Convention on Rights and Duties of States provides in Article 1: *The State as a person of international law should possess the following qualifications:*

(a) a permanent population;

(b) a defined territory;

(c) government; and
(d) capacity to enter into relations with other States.

Population. The criterion of a "permanent population" is connected with that of territory and constitutes the physical basis for the existence of a state. For this reason alone, Antarctica, for example, cannot be regarded as a state. On the other hand, the fact that large numbers of **nomads** are moving in and out of the country, as in the case of Somalia, is in itself no **bar to statehood**, as long as there is a significant number of permanent inhabitants. While the absence of a permanent population is fatal there is no requirement as to a minimum number. Thus Nauru, which became an independent state in 1968, only had a population of 8,000 in its 1983 census.

There is no requirement that the population should have any common features so that differences of colour, culture, language, religion and ethnic origin are acceptable.

Defined territory. The control of territory is the essence of a state. This is the basis of the central notion of "territorial sovereignty", establishing the exclusive competence to take legal and factual measures within that territory and prohibiting foreign governments from exercising authority in the same area without consent.

It is important to note that the concept of territory is defined by geographical areas separated by borderlines from other areas and united under a common legal system. It includes the air space above the land and the earth beneath it, in theory, reaching to the centre of the globe. It also includes up to twelve miles of the territorial sea adjacent to the coast.

There is no rule that the land frontiers of a State must be fully delimited and defined, and often in various places and for long periods they are not. Thus, a state must control a recognizable area of territory; the fact that the precise borders may be in dispute is a question of boundaries not of status.

Effective control by a government. Effective control by a government over territory and population is the third core element which combines the other two into a state for the purposes of international law. There are two aspects following from this control by a government, one internal, the other external. Internally, the existence of a government implies the capacity to establish and maintain a legal order in the sense of constitutional autonomy. Externally, it means the ability **to act autonomously** on the international level without being legally dependent on other states within the international legal order.

The mere existence of a government, however, in itself does not suffice, if it does not have effective control. Thus, the "State of Palestine"

declared in 1988 by Palestinian organizations was not a state, due to lack of effective control over the claimed territory. The requirement of effective control over territory is not always strictly applied; a state does not **cease to exist** when it is temporarily deprived of an effective government as a result of civil war or similar upheavals.

The notion of effective government is interlinked with the idea of independence, often termed "state sovereignty".

Capacity to enter into relations with other states. The last criterion (d) in the Montevideo Convention suggested by the Latin American doctrine finds support in the literature but is not generally accepted as necessary. It is, however, arguable whether this is a distinct criterion. If the government has internal control then capacity to conduct external relations is a consequence not a criterion of statehood. If it does not have internal control then it will lack the capacity to give effect to international obligations. The essence of such capacity is independence. It is a formal statement that the state is subject to no other sovereignty and is unaffected either by factual dependence upon other states or by submission to the rules of international law.

In the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations it is stated that "each State enjoys the rights **inherent** in full sovereignty". The International Law Commission at its first session in 1949 worked out the Draft Declaration on Rights and Duties of States.

The following basic rights and duties of States are especially important:

1) the right to exercise jurisdiction over its territory and over all persons and things therein;

2) the right to equality in law with every other State;

3) the right of individual or collective self-defence against armed attack;

4) the duty to settle its disputes with other States by peaceful means;

5) the duty to refrain from intervention in the internal or external affairs of any other State;

6) the duty to treat all persons under its jurisdiction with respect for human rights and fundamental freedoms;

7) the duty to carry out in good faith its obligations arising from treaties and other sources of international law;

8) the duty to refrain from resorting to war as an instrument of national policy.

The basic rights and obligations of States are determined by the basic principles of international law.

Nations struggling for their independence

The international legal personality of nations and peoples struggling for their independence is a new phenomenon in international law that emerged during the process of decolonization. The UN Charter, in Article 1(2), first enshrined the principle of equality and self-determination of peoples as a tool for maintaining international peace and security.

The international legal personality of nations and peoples struggling for their independence is quite limited; it is granted specifically for the purpose of realizing self-determination. Thus, their representatives have the right to participate in international relations, to exercise the right to self-determination, attend UN General Assembly meetings as observers, and become parties to international treaties.

With the development of the law relating to non-self-governing territories and the principle of **self-determination**, certain movements – now usually referred to as **national liberation movements** (NLMs) – may be in the process of acquiring the status of a subject of international law.

As they struggle for liberation from colonialists nations and peoples, realizing their right to self-determination, appear as independent participants in international relations. The nature of their international legal personality is close to that of States for, like the latter, it is independent of the wills and dispositions of other subjects and of their recognition. Antonio Cassese identifies a National Liberation Movement (NLM) as a special case of **insurgency**. NLMs are implicitly interested in gaining territory, but are mostly interested in pursuing international acceptance and legitimacy based on what they see as a rightful claim to self-determination. Legally, self-determination applies to a people wanting to be free of (1) colonial rule, (2) a racist regime, or (3) an alien occupation.

An objective prerequisite for an independent international status of nations and peoples is their struggle against colonial regimes in asserting that independence. Such struggling nations and peoples are not only protected by international law but also exercise their international rights and obligations through their own actions.

In the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the United Nations General Assembly on 14 December 1960 it is stressed that peoples play a decisive role in achieving their independence and that through their right to self-determination they establish their political status in accordance with their freely expressed will.

In the course of its struggle for independence a nation enters into legal relations with such subjects as States, and international organizations. These relations largely concern issues bearing on the formation of a sovereign State. Accordingly the basic rights of a struggling nation or people follow directly from the principle of self-determination. They include the following rights:

1) to enter into relations with States and international organizations;

2) to send official representatives to engage in negotiations with States and participate in the work of international organizations and international conferences;

3) to participate in the creation of international legal norms and to implement operating norms independently;

4) to receive international legal protection in the course of its struggle, as well as needed assistance from States, international organizations and other struggling nations and peoples.

O'Brien J. International Law Cavendish Publishing Limited, 2018;
Malanczuk P. Akehurst's Modern Introduction to International Law. Seventh revised edition. Routledge, 1997;
Алонцева Н. В. Английский для студентов факультетов права и международных отношений. Минск. ТетраСистемс, 2009

Ex. 2. Answer the questions.

1. What is a subject of international law?
2. What subjects of international law can you name?
3. What's the difference between primary (sovereign) and secondary (non-sovereign) subjects?
4. According to Montevideo Convention what are the criteria of statehood?
5. What are the types of states according to the form of government? Give characteristics and examples.
6. What are the basic rights of States?
7. What is special about the international personality of nations as subjects of international law?

Ex. 3. Complete the following sentences using the required information from the above text.

1. Subjects of international law may be defined as … .
2. Sovereign subjects are … .
3. The basic rights and obligations of States are determined by … .

4. The basic rights of a struggling nation or people follow directly from the principle of … .

5. International intergovernmental organizations and also specific state-like formations belong to the category of … .

6. All States possess identical basic rights and obligations irrespective of … .

7. The legal personality of States and of nations and peoples struggling for independence is not established by any external … .

Ex. 4. Make a short summary of the text (about 12 sentences).

LANGUAGE PRACTICE

Ex. 5. Match the words with their definitions:

1) negotiations	a) unchanging over time or unable to be changed
2) immutable	b) a requirement or condition that must be met before something else can occur or be done
3) inherent	c) existing as a natural or essential part of something
4) insurgency	d) people who move from place to place rather than settling permanently in one location
5) a prerequisite	e) political and social movements aimed at achieving independence or autonomy for a nation or group
6) nomads	f) an organized movement aimed at the overthrow of a government or authority, typically through armed conflict or rebellion
7) self-determination	g) the right of a people or nation to determine its own political status and pursue its own economic, social, and cultural development without external interference
8) national liberation movements	h) discussions aimed at reaching an agreement or resolving a conflict

Ex. 6. Fill in the gaps with prepositions where necessary, then make sentences using the phrases:

1) not subordinated ___ their international relations ___ any political power;
2) to carry ____ independently the rights and obligations;
3) to divide them ____ two categories;
4) nations and peoples struggling ____ independence;
5) the supremacy of a State ____ its territory;
6) a bar ____ statehood;
7) the air space ____ the land;
8) adjacent ____ the coast;
9) to act autonomously ____ the international level;
10) legally dependent ____ other states;
11) temporarily deprived ____ an effective government;
12) the rights inherent ____ full sovereignty;
13) to engage _____ diplomatic and consular relations/negotiations with States;
14) independent ____ the wills and dispositions of other subjects;
15 mostly interested ____ pursuing international acceptance.

Ex. 7. Give English equivalents. Create your own sentences.

Иметь правосубъектность, выступать перед панелью арбитров или международным судом, обладать правоспособностью, подчинены в своих международных отношениях любой политической власти, государственно-подобные образования, предопределенные каким-либо международным актом, предпосылка, неизменный принцип, кочевники, территориальное море, прилежащее к побережью, границы, поддерживать правопорядок, действовать автономно, зависимые от других государств, прекратить существование, вести внешние отношения, права, присущие полной суверенности, вступать в отношения с другими государствами, заключать договоры, самоопределение, национально-освободительные движения.

READING 2

Decipher the abbreviations of these international organizations. Identify if they are intergovernmental or non-governmental.

	Full name	Int.intergov.org	NGO
WTO			
NATO			
Amnesty International			
IMF			
UNICEF			
Doctors without borders			
CIS			
UNESCO			
OPEC			
SCO			
EAEU			
WHO			
World Wide Fund for Nature			
IAEA			
Oxfam International			
Charity: water			

Study the vocabulary (https://quizlet.com/1057306776/flashcards).

assigned duties and rights
proliferation
derivative subjects
indispensable elements
to be a party to an issue
to set up
concordance of the wills
to take precedence over
immunities
Crusades
headquarters
to maintain diplomatic relations
the Sovereign Order of Malta
the Holy See and the Vatican city
a party to many international treaties
concordats
to ratify treaties
International Convention on Trade in Endangered Species
Amnesty International
Convention against Torture
through wholly owned subsidiaries
ethically based codes of conduct
endowed with legal personality
to acquire territory
to have belligerent rights
war crimes
crimes against humanity
humanitarian law
international tribunals
International Criminal Court at the Hague in the Netherlands
ad hoc
Covenant on Civil and Political Rights
Human Rights Committee
the European Court of Human Rights
to confer international rights on individuals
to refrain from

INTERNATIONAL ORGANIZATIONS

In the nineteenth century states were the only legal persons in international law. While states have remained the predominant actors in international law, the position has changed in the last century, and international organizations, individuals and companies have also acquired some degree of international legal personality.

Legal personality can be unlimited, in the sense that, in principle, all international rights and obligations can be accorded to a subject. This is so only in the case of states, the original, primary and universal subjects of international law. States have exclusive jurisdiction with respect to their territory and personal jurisdiction over their nationals. Other subjects of international law, such as international organizations created by states, have legal personality only with respect to certain international rights and obligations.

The term "international organization" is usually used to describe an organization set up by agreement between two or more states. It is different from the term "non-governmental organization" (NGO), which is ***set up*** by individuals or groups of individuals (such as Amnesty International or Greenpeace). Approximately 500 IGOs exist in the world and have a measure of legal personality which is determined by the exact set of duties and rights ***assigned*** to each organization by its member-states through the treaties that create these organizations. This ***proliferation*** reflects the need for increasing cooperation between states to solve problems of a transnational nature. They can be classified under various criteria – for example, according to whether their membership is global or regional or according to their functions and tasks. IGOs exist at the global level, examples being the World Trade Organization (WTO) and the World Health Organization (WHO), but more IGOs operate at the regional level, to name a few, the Organization of American States (OAS), the African Union (AU), the Commonwealth of States, the Association of South East Asian Nations (ASEAN), the Council of Europe (COE), and the League of Arab States (AL).

The specific character of international legal personality of IGOs.

International organizations are secondary, derivative subjects of international law. A specific feature of international organizations as subjects of international law derives above all from the fact that they do not possess sovereignty. In terms of their legal nature the rights of international organizations and the powers enjoyed by their supreme organs differ from the sovereign rights of States and their supreme organs: they stem from treaties and are the result of a ***concordance of the wills*** of the sovereign States that have created the international organization.

Another specific feature of international organizations as subjects of international law is that they need not possess territory and a population and, hence, exercise territorial supremacy. Yet for sovereign States, these are ***indispensable*** elements without which they cannot exist.

The specific character of international organizations as subjects of international law is also expressed in the nature of their international rights. In particular, an international organization cannot be a party to an issue laid before the UN International Court of Justice.

As subjects of international law, international organizations possess their will. It is a result of the concordance of wills of the member-states, exists in parallel with their wills (but does not ***take precedence*** over them), and manifests itself in particular actions by the corresponding organs of the international organization that implement its will. The direction and basic contents of the will of an international organization are always conditioned by the contents of the wills of the member-states.

International organizations and their officers possess privileges and ***immunities*** that are of a functional nature.

Thus, the criteria of legal personality in organizations may be summarized as follows:

1) a permanent association of states, with lawful objects, equipped with organs;

2) a distinction, in terms of legal powers and purposes, between the organization and its member states;

3) the existence of legal powers exercisable on the international plane and not solely within the national system of one or more states.

The broad spectrum of international organizations has led to duplication in many areas, especially in the social and economic fields, raising problems of coordination, costs and efficiency. However, there is no doubt that the future development of the international legal system will not only rest on the activities of states, but also increasingly on the international organizations they have created themselves to overcome the limits of the capacity of national governments to deal effectively with transnational problems.

SPECIAL CASES

The Sovereign Order of Malta. This Order, established during the ***Crusades*** as a military and medical association, ruled Rhodes from 1309 to 1522 and was given Malta by treaty with Charles V in 1530 as a fief of the Kingdom of Sicily. This sovereignty was lost in 1798, and in

1834 the Order established its ***headquarters*** in Rome as a humanitarian organization.

The Order already had international personality at the time of its taking control of Malta and even when it had to leave the island it continued to exchange diplomatic legations with most European countries. The Italian Court of Cassation in 1935 recognized the international personality of the Order. It is to be noted, for example, that the Order ***maintains diplomatic relations*** with over forty states.

The Holy See and the Vatican City. In 1870, the conquest of the Papal states by Italian forces ended their existence as sovereign states. The question therefore arose as to the status in international law of the Holy See, deprived, as it then was, of normal territorial sovereignty. In 1929 the Lateran Treaty was signed with Italy which recognized the state of the Vatican City and the sovereignty of the Holy See in the field of international relations.

It is a party to many international treaties and is a member of the Universal Postal Union and the International Telecommunications Union. The Holy See continued after 1870 to engage in diplomatic relations and enter into international agreements and ***concordats***.

NGOs

Even if (like Amnesty or Greenpeace) they operate internationally, nongovernmental organizations (NGOs) are bodies established under domestic law.

Obviously, NGOs cannot participate directly in law-making in the sense of signing and ***ratifying treaties***, but they do sometimes voice an original idea that becomes widely accepted. Two other good examples of NGO input on treaty formation are the roles of the World Wildlife Fund (WWF), promoting the 1973 International Convention on Trade in Endangered Species, and Amnesty International, proposing the 1980 Declaration against Torture, which later was converted into the 1984 Convention against Torture.

Although they have proliferated enormously since the end of the Second World War, and been very active, and sometimes influential, on the international scene, they are not subjects of international law.

CORPORATIONS

One of the features of the modern industrial age has been the accumulation of capital by large corporate enterprises. A corporation may be based in state A but might operate in many other states either

directly or through wholly owned ***subsidiaries***. Such enterprises are described as transnational or multinational enterprises. Most are highly reputable organizations whose technical skills have made a considerable contribution to improving standards of living. They are business enterprises with ownership, management, production, and sales activities located in several or more countries. As in the case of BMW, the ***headquarters*** is in Bavaria, Germany, manufacturing takes place in Austria, Germany, and the United States, and sales occur in 100 other countries.

Most regulation of MNCs has come from their home countries where they are headquartered and are usually treated under law as legal persons, or "citizens". Efforts at international regulation, described earlier, were attempts to treat the MNC as an "object" of ***ethically based codes of conduct***. In essence, a public company does not enjoy international legal personality as such but in some cases it may wield greater economic power than many states. Rather, such transnational companies are important international actors even if they do not enjoy full personality.

INDIVIDUALS

In the 17th century, when the Law of Nations was seen as founded on natural law principles, it was logical to view individuals as ***endowed with*** legal personality. However, the rise of positivism in the 18th century placed the state at the centre of international law; only the state was endowed with legal personality and the subject itself was concerned with the rights and duties of states.

An individual, for example, cannot acquire territory, he cannot make treaties, and he cannot have ***belligerent rights***. But he can commit ***war crimes***, and piracy, and ***crimes against humanity*** and foreign sovereigns and he can own property which international law protects, and he can have claims to compensation.

The evolving subject of international individual criminal responsibility marks the coming together of elements of traditional international law with human rights law and humanitarian law, and involves consideration of domestic as well as international enforcement mechanisms. As far as obligations are concerned, international law has imposed direct responsibility upon individuals in certain specified matters. In the cases of piracy and slavery, offenders are guilty of a crime against international society and can thus be punished by international tribunals or by any state at all. In 1998, many states took the bold step of creating a permanent

International Criminal Court at The Hague in the Netherlands that can try individuals for a range of serious crimes, a significant institutional improvement over ***ad hoc***, or temporary, ***tribunals***.

In addition to punishing individuals for war and humanitarian crimes, the status of the individual in international law took a strong, positive turn when a number of international instruments in the sphere of human rights were adopted (Universal Declaration of Human Rights. Covenant on Civil and Political Rights) and such institutions as Human Rights Committee, the European Court of Human Rights were set up.

In Western countries writers and governments are usually prepared to admit that individuals and companies have some degree of international legal personality; but the personality is usually seen as something limited – much more limited than the legal personality of international organizations. Individuals and companies may have various rights under special treaties, for instance, but it has never been suggested that they can imitate states by acquiring territory, appointing ambassadors, or declaring war.

Consequently, when some states say that individuals are subjects of international law, and when other states disagree, both sides may be right; if states in the first group confer international rights on individuals, then individuals are subjects of international law as far as those states are concerned; states in the second group can, for practical purposes, prevent individuals from acquiring international personality, by **refraining from** giving them any rights which are valid under international law.

Malanczuk P. Akehurst's Modern Introduction to International Law. Seventh revised edition. Routledge, 1997;
Henderson C. W. Understanding International Law. A John Wiley & Sons, Ltd., 2010;
Shaw M. N. International Law. 6th ed. Cambridge University Press, 2018;
O'Brien J. International Law. Cavendish Publishing Limited, 2018

Ex. 2. Answer the questions.

1. How has the position of international organizations changed in the last century regarding international legal personality?
2. What distinguishes international organizations (IGOs) from non-governmental organizations (NGOs)?
3. What are the characteristics that define the legal personality of international organizations?

4. What specific rights do international organizations possess as subjects of international law?

5. What is the legal status of the Sovereign Order of Malta and the Holy See?

6. In what ways have NGOs contributed to the formation of international treaties, despite not having legal personality?

7. Why might transnational corporations be considered important international actors?

8. What is the legal status of individuals in international law?

Ex. 3. Are these statements True or False?

1. Agreed borders are a precondition for statehood.

2. Territory can be considered open space or water.

3. Nomads that move through the territory with a permanent population are a bar to statehood.

4. The minimum size of population is not required.

5. The population needs to be homogeneous culturally, racially and linguistically.

6. The state may stipulate its own conditions for citizenship.

7. The existence of state may be terminated by a civil war – or by political instability, frequent revolutions.

8. The government should be sovereign in that it is not dependent on the instructions of another state.

9. Montevideo Convention constitutes a declarative theory of statehood.

10. Individuals are secondary subjects of IL.

11. Transnational corporations are derivative subjects of IL.

12. All international organizations belong to the category of secondary subjects of IL.

13. Up until 1970 the principle of self-determination could be applicable simply in colonial situations.

14. The basic prerequisite of the legal personality of secondary subjects is provided by an international agreement and/or international recognition.

Ex. 4. Make a short summary of the texts in this unit in a table.

Actors in IR	Subjects	Legal personality	Peculiarities	Rights and obligations
States	Primary			
Nations struggling for their independence				
Int.Intergov. Organizations				
State-like formations				
NGO	Not			
Individuals				
Corporations				

LANGUAGE PRACTICE

Ex. 5. Match the words and their definitions:

1) indispensable	a) created or done for a specific purpose as necessary
2) headquarters	b) a series of religious wars, particularly during the medieval period
3) immunities	c) a party that is actively involved in hostilities or acts of war
4) belligerent	d) the central or main office or location
5) Crusades	e) protections or exemptions from legal obligations, duties, or penalties, often granted to certain individuals or entities
6) concordats	f) essential or crucial
7) ad hoc	g) formal agreements or treaties between the Vatican and sovereign states

Ex. 6. Fill in the gaps with prepositions where necessary.

1) rights assigned ____ each organization;
2) classified ____ various criteria;
3) to stem ____ treaties;

4) to be a party ____ an issue laid ____ the court;
5) to take precedence ____ them;
6) to be endowed ____ legal personality;
7) to be guilty ____ a crime;
8) to confer international rights ____ individuals.

Ex. 7. Translate into English.

ПОНЯТИЕ И ВИДЫ СУБЪЕКТОВ МЕЖДУНАРОДНОГО ПРАВА

Субъект международного права – это участник правоотношений, регулируемых международно-правовыми нормами, который обладает необходимыми для этого правами и обязанностями. К субъектам международного права, как правило, относят: государство, международные межправительственные организации, нации и народы, борющиеся за независимость, государственно-подобные образования. Традиционно выделяют две основные категории субъектов международного права: первичные и производные. Первичные субъекты международного права – это государства, нации и народы, борющиеся за независимость. Они являются таковыми в силу факта своего существования. Производный субъект международного права – это субъект международного права, который образовывается первичным субъектом международного права; основой его правосубъектности является учредительный договор. Международная правосубъектность – это совокупность прав и обязанностей субъектов международного права, предусмотренных нормами международного права.

Международная правосубьекность государств. Государство как основной субъект международного права обладает тремя основными признаками, такими как территория, население, суверенитет и способность вступать в международные отношения. Основные права государства: право на суверенное равенство, право на самоопределение, право на участие в международных организациях, право на создание норм международного права. Основная обязанность государства: уважение суверенитета других государств.

Международная правосубъектность наций и народов, борющихся за независимость, носит объективный характер. Нации и народы, борющиеся за независимость, обладают правом на защиту со стороны международного права, вправе применять меры принуждения в отношении субъектов, препятствующих обретению народом независимости, вправе участвовать в международных организациях и заключать международные соглашения.

Международная правосубъектность международных межправительственных организаций. Учредительным документом международной межправительственной организации, как правило, является устав, который устанавливает определенную организационную структуру, определяет цели, задачи, компетенцию.

https://humanlaw.ru/

DISCUSSION

Ex. 7. Divide into teams, discuss the reasons and consequences for recognizing legal personalities for various entities.

Multinational Corporation	Consider arguments for granting multinational corporations full legal personality. Discuss how legal personality could enhance corporate responsibility, compliance with international standards. Analyse potential consequences, including, for example, the ability to sue states. Consider ethical issues, such as the potential for corporations to prioritize profits over human rights and environmental concerns.
NGO	Consider arguments for granting NGOs legal personality. Discuss how legal personality could enhance their roles in advocacy, humanitarian efforts. Examine the potential influence of NGOs on policy-making at national and international levels. Consider ethical issues, such as the challenges of representing diverse interests and potential conflicts of interest.
Individuals	Consider arguments for recognizing individuals as subjects of international law. Discuss how legal personality of individuals could enhance their engagement in international legal process as raising claims against states and organizations. Consider ethical issues, such as the balance between individual rights and collective interests, and the potential for misuse of individual claims in international courts.

Present the main reasons for recognizing your entity as a subject of IL.

PROBLEM SOLVING

The Union State of Russia and Belarus is a political and economic union established in the late 1990s, aimed at fostering cooperation between the two countries. Although they maintain separate governments, the Union State seeks closer integration in various areas, including defense, economy, and social policy. Analyze the legal status of the Union State in the context of international law. Consider whether it can be considered a distinct entity with legal personality or if it is merely an extension of the existing states.

What are the arguments for and against recognizing the Union State of Russia and Belarus as a distinct legal entity under international law?

WRITING

Write a small narrative (500–700 words) "Future Actors on the Global Stage". Set your story in the year 2145, where digitalization and technological advancements have transformed global interactions. Consider how these changes affect various actors on the world stage, such as states, international intergovernmental organizations, state-like formations, corporations, individuals and new entities that emerge due to technological innovations. Describe a world transformed by digitalization. Consider the following points: the role of virtual reality in diplomacy and international relations; the influence of AI and ethical issues it can arise.

Unit 4 RECOGNITION IN INTERNATIONAL LAW

OBJECTIVES

In this unit you'll learn:

- the concept of recognition in international law and its significance in establishing the statehood of new entities and the relevant legal vocabulary;
- the theories and types of recognition;
- the recognition of governments.

By the end of the unit, you'll be able to:

- discuss the complexity of recognition for international relations using the target vocabulary;
- create a mind map that illustrates the topic of recognition;
- evaluate the different forms of recognition, such as de facto and de jure recognition;
- solve a professional legal issue on the topic;
- engage in critical discussions about the challenges and political considerations surrounding recognition;
- write a short narrative.

LEAD-IN

Look at the following entities.

A territory within a recognized state declares itself a republic and seeks to establish diplomatic relations with other countries.

A region that was part of a larger country declares independence after a civil war and seeks recognition.

A government is formed after a military coup in a recognized state.

What factors influence whether this entity is recognized by other states? What are the potential consequences of recognition of them?

What do you know about the recognition in international law? What would you like to know?

READING 1

Study the vocabulary (https://quizlet.com/1057415914/flashcards).

to acknowledge the existence
territorial claims
belligerency or insurgents
national liberation movements
international personality
a declaratory theory/an evidentiary theory
a constitutive theory
a unilateral act
the political discretion
politically compatible
Tobar Doctrine
to pledge
Estrada Doctrine
explicit and formal acts
de facto recognition
de jure recognition
an interim step
irrevocable

Ex. 1. Read the text and make notes on the entities that can be recognized and the forms of recognition.

It has already been seen that an important requirement of statehood is the capacity to enter into international legal relationships. This inevitably concerns the attitude of other states and in particular raises the question of recognition. Do other states recognize the new entity as a state? What are the implications if they do recognize it? What are the implications if they do not?

Some mechanism has to exist whereby states and governments ***acknowledge the existence*** of other states and governments. That mechanism is provided by the process of recognition. *Recognition is a statement by one international legal person acknowledging the existence of another entity as a legal subject.*

Recognition is one of the most difficult topics in international law. It is a confusing mixture of politics, international law and municipal law. Another reason why recognition is a difficult subject is because it deals with a wide variety of factual situations; in addition to recognition of states and governments, there can also be recognition of ***territorial claims***, the recognition of ***belligerency or of insurgents***, the recognition of national liberation movements, such as the Palestine Liberation Organization, or the recognition of foreign legislative and administrative acts.

Recognition of states. As is so often the case with international law, discussion of recognition has led to the development of two competing theories. The principal question which the two theories attempt to answer is whether recognition is a necessary requirement for or merely a consequence of international personality. So these two competing theories of recognition are: either recognition is no more than a formal acceptance of the existing facts (declaratory theory), or it is the act of recognition that creates the new State as an international legal person (constitutive theory).

The constitutive theory developed in the 19th century and was closely allied to a positivist view of international law. According to that view the obligation to obey international law derives from the consent of individual states. The creation of a new state would create new legal obligations and existing states would need to consent to those new obligations. Therefore the acceptance of the new state by existing states was essential.

A further argument prevalent during the late 19th century was based on the view of international law as existing between "civilized nations". New states could not automatically become members of the international community, it was recognition which created their membership. This had the further consequence that entities not recognized as states were not bound by international law, nor were the "civilized nations".

Recognition is therefore seen as a requirement of international personality. A major criticism of this theory is that it leads to confusion where a new state is recognized by some states but not others (the Turkish Republic of Northern Cyprus, Abkhazia, South Ossetia, Transdniestria, Nagorno-Karabakh, Kosovo etc.).

The second theory is the declaratory or evidentiary theory which holds that statehood exists prior to the act of recognition and that the act of recognition is simply a formal acknowledgment of existing facts. An

early example of the declaratory theory is to be found in two provisions of the Montevideo Convention. For the adherents to the declaratory theory the formation of a new state is a matter of fact, not law. Recognition is a political act by which the recognizing state indicates a willingness to initiate international relations with the recognized state and the question of international personality is independent of recognition.

The declaratory theory is more widely supported by writers on international law today and it accords more readily with state practice, as is illustrated by the fact that non-recognized "states" are quite commonly the object of international claims by the very states which are refusing recognition, for example Arab states have continued to maintain that Israel is bound by international law although few of them, until recently, have recognized Israel.

The declaratory theory leaves unresolved the difficulty of who ultimately determines whether an entity meets the objective test of statehood or not. Granting formal recognition to another state is a ***unilateral act*** which is in fact left to the political discretion of states.

Recognition of governments. Even though a State and its territory are often seen as synonymous, a State is basically a legal concept; it therefore acts through its government. One must not confuse recognition of States with that of governments. In itself, a change of government does not affect the State. Even when the change has been brought about by unconstitutional or violent means, the legal personality of the State is unaffected. The problem of recognition of governments will arise when a new regime has taken power: (a) unconstitutionally; (b) by violent means; or (c) with foreign help, in a state whose previous and legitimate government was recognized by other states.

However, where a regime has taken office unconstitutionally two approaches are possible. A state may ask whether certain objective criteria have been established by evidence; for example, does the administration possess effective control over the territory. Alternatively, the state might ask itself whether the regime is politically ***compatible*** or can be relied upon to behave in a certain manner, for example, respect basic human rights.

In the early part of the previous century, five Central American Republics agreed by treaty in 1907 and 1923 to follow what became known as the ***Tobar Doctrine***; under these treaty arrangements, the states ***pledged*** that recognition would be denied to a government taking power by revolutionary action which did not thereafter seek constitutional legitimacy.

Such an approach may have been unrealistic in the light of the political instability in the region and produced a reaction in the form of the ***Estrada Doctrine***. Senor Estrada, the Foreign Minister of Mexico, urged in 1930 that emphasis should be placed not on the act of recognition but on the maintenance of diplomatic relations. This Estrada Doctrine, as it came to be known, denies the need for ***explicit and formal acts*** of recognition; all that needs to be determined is whether the new regime has in fact established itself as the effective government of the country. Although slow at first to catch on, the Estrada Doctrine has come to be followed by an increasing number of states. In 1977, the United States announced that it would no longer issue formal declarations of recognition, the only question in future would be whether diplomatic relations continued with the new regime or not.

Forms of recognition. The subject of recognition embraces not only recognition of states and governments but is complicated further by distinctions between *de facto* recognition and *de jure* recognition.

Recognition of an entity as the de facto government can be seen as an ***interim step*** taken where there is some doubt as to the legitimacy of the new government or as to its long term prospects of survival. Recognition de jure was the superior level of recognition; it indicated that there were no doubts about the status of the government or its prospects. It is sometimes asserted that a grant of de jure recognition is ***irrevocable***. In contrast de facto recognition was accorded when a government had effective control over territory but there was some evidence that justified caution as to the long term prospects. To an extent de facto recognition represents a reserving of judgment until the position is clearer.

A grant of de facto recognition does not normally extend to the exchange of diplomatic relations. Likewise where a state enjoys de jure recognition action may be taken to preserve property rights in the recognizing state.

For example, the UK recognized the Soviet government *de facto* in 1921 and *de jure* in 1924. In some situations, particularly where there is a civil war, both a *de facto* and a *de jure* government may be recognized, as for example during the Spanish Civil War when the Republican government continued to be recognized as the *de jure* government, but as the Nationalist forces under General Franco took increasingly effective control of Spain, *de facto* recognition was accorded to the Nationalist government. Eventually the Nationalist government obtained full *de jure* recognition.

Hillier T. Sourcebook on Public International Law. Cavendish Publishing Limited, 1998; Shaw M. N. International Law. 6th ed. Cambridge University Press, 2018

Ex. 2. Answer the questions.

1. Why is recognition one of the most difficult topics in IL?
2. What entities can raise a question of their recognition?
3. What are two approaches to recognition of states? What are the differences?
4. When does a question of recognition of governments emerge? What is Tobar Doctrine? What is Estrada Doctrine?
5. What forms of recognition are there? Give peculiarities of each of it.

Ex. 3. Mark the statements as True or False.

1. The constitutive theory developed in the 18th century.
2. The constitutive theory was closely allied to the positivist view of IL.
3. Recognition in the constitutive theory is seen as a requirement of international personality.
4. The major criticism of the constitutive theory is the confusion when a new state is partly recognized.
5. The states have a legal duty to recognize when all requirement of statehood are satisfied.
6. An early example of declaratory theory can be found in the Covenant of the League of Nations.
7. According to declaratory theory the formation of a new state is a matter of law, not fact.
8. The declaratory theory is more widely supported by publicists today.

Ex. 4. Make a short summary of the text (about 12 sentences).

LANGUAGE PRACTICE

Ex. 5. Match the words with their definitions:

1) belligerency	a) actions or decisions taken by one party or state independently, without the agreement or cooperation of others
2) unilateral	b) the status of a state or entity engaged in warfare or conflict
3) irrevocable	c) the freedom or authority to make choices or decisions

4) statehood	d) a solemn promise or commitment to do or refrain from doing something
5) recognition	e) not able to be changed; final and permanent in nature
6) discretion	f) temporary or provisional
7) interim	g) the condition or status of being recognized as a sovereign state
8) to pledge	h) the formal acknowledgment by one state of the existence and sovereignty of another state or government

Ex. 6. Fill in the gaps with prepositions where necessary:

1) to enter ____ international legal relationships;
2) statehood exists prior ____ the act of recognition;
3) the adherents ____ the declaratory theory;
4) to be independent ____ recognition;
5) to possess effective control ____ the territory;
6) to be relied ____;
7) ____ these treaty arrangements.

Ex. 7. Translate into English.

С проблемой международной правосубъектности тесно связаны вопросы признания. На современном этапе развития международного права следует отметить, что институт признания не кодифицирован: его образует группа международно-правовых норм (главным образом обычных), которые регулируют все стадии признания новых государств и правительств, включая юридические последствия признания.

В теории международного права выделяют две теории международно-правового признания:

1) *конститутивная* – суть этой теории выражается в том, что субъекта международного права не существует до момента выражения международно-правового признания другими субъектами международного права;

2) *декларативная* – суть этой теории заключается в том, что международно-правовое признание не придает адресату соответствующего качества международной правосубъектности, а лишь констатирует факт его появления и является средством осуществления с ним контактов.

Помимо теорий признания, международное право выделяет и его формы, использующиеся при признании государств и правительств: юридическое и фактическое признание. Основное различие между ними составляет объем правовых последствий, наступающих после выражения признания той или иной формы, для взаимоотношений признающего и признаваемого. Фактическое признание (де-факто) является выражением сомнения, неуверенности в долгосрочном существовании государства или правительства. Как правило, признание де-факто осуществляется путем заключения международных договоров, установления консульских отношений и т. д. Юридическое признание (де-юре) – окончательное. Эта форма признания является полной, отзыву не подлежит. Осуществляется путем установления дипломатических отношений.

Признание ad hoc – это временное или разовое признание; признание для данного случая, данной цели.

Признание правительств обычно имеет место в тех случаях, когда к власти неконституционным путем приходит новое правительство. При его признании другие государства учитывают, как правило, насколько эффективно фактически контролирует новое правительство территорию и власть в стране, какова степень поддержки нового правительства населением страны, готовность и способность нового правительства выполнять свои международные обязательства.

DISCUSSION

Create a mind map that illustrates the topic of recognition of states, focusing on the following key areas: definition of recognition, entities that can be recognized in international law, theories of recognition, forms of recognition, historical examples.

Design the Mind Map. You may use https://www.mindmeister.com or any other source. Start with “Recognition of States” as the central node. Branch out into the key areas listed above, using sub-branches for specific details and examples. Use colors, symbols, and images to enhance the visual appeal and clarity of your mind map.

Prepare to present your mind map to the class, explaining the connections and insights you’ve made in your research.

PROBLEM SOLVING

Divide into groups, explore and analyze the problems and challenges (political, economic, social, territorial, international) faced by partially recognized states.

Kosovo	Declared independence from Serbia in 2008 and recognized by over 100 countries, but not by Serbia, Russia, and several other nations.
Palestine	Recognized by over 130 countries and a non-member observer state at the UN, but not universally recognized as an independent state, particularly by Israel and the United States.
Taiwan	Operates as a separate entity with its own government, but claims sovereignty by the PRC, which does not recognize its independence.

Present your findings to the entire class, find what common challenges these entities have. Think of possible solutions for the governments of these entities.

WRITING

Imagine yourself a citizen of an unrecognized or partly recognized state. Write a short narrative (200–400 words) from the first-person perspective. Highlight the main challenges and problems that make your life hard, unpredictable, uncertain (access to medical care, education, employment opportunities etc.). Reflect on the impact of political decisions from recognized states on your life.

Unit 5 TERRITORY IN INTERNATIONAL LAW

OBJECTIVES

In this unit you'll learn:

- the concept of territory as a requirement of statehood and types of territories in international law, relevant legal terminology;
- the fundamental principles regarding territorial integrity and sovereignty in international law;
- the different modes of acquiring territory.

By the end of the unit, you'll be able to:

- discuss the distinction between terra nullius and res communis, common heritage of mankind using target vocabulary;
- evaluate the principles of delimitation and demarcation in relation to state boundaries;
- critically discuss the legality of different modes of acquiring territory;
- solve a professional legal issue on the topic;
- write an essay.

Without territory a legal person cannot be a state.
Malcolm N. Shaw

LEAD-IN

Do you agree with the statement above. Why?

How does the Montevideo Convention define the criteria for statehood, and what role does territory play in establishing a state's legal status in international law?

Think of 3 problems connected to the issues of the territory in international law. Share your opinion with the group.

Can you remember any territorial dispute cases in the history of international relations?

What do you know about the concept of territory in international law? What would you like to know?

READING 1

Study the vocabulary (https://quizlet.com/359168698/flashcards).

a tangible attribute
to exercise sovereignty
sub-soil
the requirement of statehood
the territorial integrity
"common heritage of mankind"
a title to territory
terra nullius
res communis
high seas
outer space
to be vested in
exploitation
delimitation
demarcation
the continental shelf

Ex. 1. Read the text and make a list of the main concepts.

Territory is a ***tangible attribute of statehood*** and within that particular geographical area which it occupies a state enjoys and exercises sovereignty. Territorial sovereignty may be defined as the right to exercise therein, to the exclusion of any other state, the functions of a state. A state's territorial sovereignty extends over the designated land mass, ***sub-soil***, the water enclosed therein, the land under that water, ***the territorial sea*** and the airspace over the land mass and territorial sea. Territory is undoubtedly a basic requirement of statehood.

The fundamental nature of territory and sovereignty over territory can be appreciated when an attempt is made to identify the causes of wars and international disputes throughout history – 99 per cent of them could be classified ultimately as territorial disputes. As Philip Allott has written:

> Endless international and internal conflicts, costing the lives of countless human beings, have centred on the desire of this or that state-society to control this or that area of the earth's surface to the exclusion of this or that state-society.

Rights and duties with respect to territory have therefore had a central place in the development of international law, and the principle of respect for t***he territorial integrity*** of states has been one of the most fundamental principles of international law. It should be pointed out, however, there is a growing body of international law which operates outside concepts of exclusive territorial rights. As the need for interdependence has grown and as technology has presented increasing problems as well as benefits so international law has responded by developing concepts such as the ***"common heritage of mankind"*** and rules regional and global protection of human rights and environmental rights. It is also important to note that ***title to territory*** in international law is more often relative rather than absolute. Thus, resolving a territorial dispute is a question of deciding who has the better claim rather than accepting one claim and dismissing another.

Basic concepts. Apart from territory actually under the sovereignty of a state, international law also recognizes territory over which there is no sovereign. Such territory is known as ***terra nullius***. Terra nullius (sometimes res nullius) consists of territory which is capable of being acquired by a single state but which is not yet under territorial sovereignty.

In addition, there is a category of territory called ***res communis*** which is (in contrast to terra nullius) generally not capable of being reduced to sovereign control. The prime instance of this is ***the high seas***, which belong to no-one and may be used by all. Another example would be ***outer space***.

"The common heritage of mankind". ***The proclamation*** of certain areas as the common heritage of mankind has raised the question as to whether a new form of territorial regime has been, or is, in process of being. In 1970, the UN General Assembly adopted a Declaration of Principles Governing ***the Seabed and Ocean Floor*** in which it was noted that the area in question and its resources were the common heritage of mankind. The rights in the resources are vested in "mankind as a whole, on whose behalf the [International Sea-Bed] authority shall act".

Article XI of the 1979 ***Moon Treaty*** emphasizes that the moon and its natural resources are the common heritage of mankind, and thus incapable of ***national appropriation*** and subject to a ***particular regime of exploitation***. The concept of the common heritage is controversial and has not yet been used in other contexts.

Delimitation and demarcation. These terms are often confused, even in treaties. Delimitation is the process of determining the land or ***maritime boundaries*** of a State, including that of any continental

shelf or ***exclusive economic zone***, and is generally done by means of geographical coordinates of ***latitude and longitude***. The resulting lines are then usually drawn on a map or chart. The process is naturally done for ***adjacent*** States, although unilateral delimitation may be necessary for the maritime limits of an isolated territory. The determination of a boundary may be embodied in a treaty or in the judgment of an international court or tribunal. Demarcation is the further and separate procedure of marking a line of delimitation (usually only on land) with physical objects, such as ***concrete*** posts, stone cairns, etc.

Hillier T. Sourcebook on Public International Law. Cavendish Publishing Limited, 1998; Shaw M. N. International Law. 6th ed. Cambridge University Press, 2018

Ex. 2. Answer the questions.

1. How can the term territory be defined?
2. What is territorial sovereignty? What does it extend over?
3. What principles of international law can be mentioned with regard to the concept of territory? Explain your point of view.
4. What is *terra nullius and res communis?*
5. What does the concept "common heritage of mankind" comprise?
6. What's the difference between delimitation and demarcation?

Ex. 3. Make a short summary of the text (about 7 sentences).

LANGUAGE PRACTICE

Ex. 4. Match the words with their definitions:

1) high seas	a) something that can be touched or physically perceived
2) tangible	b) a concept that refers to resources or areas that are considered the shared inheritance of all humanity
3) seabed	c) the legal right or claim
4) delimitation	d) the parts of the ocean that are not under the jurisdiction of any country
5) a title	e) an official announcement or declaration
6) common heritage of mankind	f) the vast, seemingly infinite expanse beyond Earth's atmosphere, which is not owned by any nation

7) exploitation	g) the bottom of the ocean
8) proclamation	h) the act of utilizing resources
9) outer space	i) a sea zone extending up to 200 nautical miles from a coastal state's baseline
10) an exclusive economic zone	j) the physical marking of boundaries on the ground or in the water
11) demarcation	k) the process of establishing the boundaries of a territory or maritime zone, typically defined by geographical coordinates

Ex. 5. Fill in the gaps with prepositions where necessary:

1) sovereignty ____ territory;
2) to extend ____ the designated land mass;
3) rights and duties ____ respect ____ territory;
4) respect ____ the territorial integrity;
5) a title ____ territory;
6) to be capable ____ acquiring;
7) in contrast ____ other means;
8) a subject ____ a particular regime;
9) to be vested ____ it;
10) to be embodied ____ a treaty.

Ex. 6. Fill in the gaps with the following words.

vested • territorial integrity • continental shelf • title • exploitation • demarcation

1. They are working to control the _____ of the rain forests.
2. Moreover, in 1914 the Empire had no urgent territorial claims and there was no direct threat to her _____ .
3. Who holds the _____ to the land?
4. It was more efficient because decision making was _____ in the director.
5. The government has announced the opening of the first tender for exploration on its _____ .
6. It is likely to be a considerable time before arrangements for any border _____ can be completed.

Ex. 7. Find the English equivalents.

Недра, взаимозависимость, защита прав человека, отклонять требования, открытое море, космическое пространство, официальное объявление, Генеральная Ассамблея ООН, национальное присвоение, особый режим эксплуатации, водные границы, граничащие (соседские) государства, односторонняя делимитация, решение международного суда или трибунала.

Ex. 8. Translate into English.

1. *Международные территории* – это географические пространства, на которые не распространяется *суверенитет* ни одного государства и чей *правовой статус* определяется *договорным и обычным международным правом*. Такие территории находятся в общем пользовании человечества, и они доступны для использования всеми государствами на равноправной основе (*космическое пространство*, *Луна и другие небесные тела*, *открытое море* и *воздушное пространство над ним*, *международный район морского дна*, *Антарктика*).

2. Особый правовой режим некоторых *международных пространств* получил название *общего наследия человечества*.

3. Исторически выделялись так называемые *ничейные территории*, на которые может распространяться суверенитет какого-либо государства.

4. Первым этапом установления государственных границ является их *делимитация*, вторым этапом установления государственных границ служит *демаркация*.

READING 2

Study the vocabulary, check the pronunciation (https://quizlet.com/1057415907/learn).

occupation of *terra nullius*
prescription
conquest
cession
accretion /əˈkriːʃən/
mutually exclusive
peaceful means
to cede /siːd/
a successor to
to bar the claim

acquiescence /ˌækwiˈesəns/
a rival claimant
to be estopped
censure /ˈsenʃə/
to validate the title
annexation
belligerent occupation
ousted /aʊstid/ sovereign
peaceful settlement
to refrain
null and void
a treaty of cession
a derivative title
amicably /ˈæmɪkəbli/
to purport /pɜːˈpɔːt/
avulsion
navigable
adjudication
continuity
contiguity /ˌkɒntəˈgjuːəti/

Ex. 1. Read the text and identify the peculiarities of different ways of acquisition of the territory.

THE ACQUISITION OF TERRITORY IN INTERNATIONAL LAW

Traditionally, writers have referred to five means by which territory and title to territory may be acquired:

1) occupation of terra nullius;
2) prescription;
3) conquest;
4) cession;
5) accretion.

It should be noted that the methods are not mutually exclusive and a particular dispute may give rise to problems in more than one category.

Occupation of terra nullius. In international law the concept of "occupation" has a narrow and clearly defined meaning. In essence, occupation is an original method of acquiring title over territory which is not subject to any sovereign power (that is, *terra nullius*). There is an overlap with prescription because, in many cases, it will be difficult to demonstrate the absence of a sovereign power. However, occupation is a distinct method of acquisition with its own criteria. In principle, a claim based on occupation must demonstrate:

1) that prior to the acts of occupation the territory was *terra nullius* [territory inhabited by peoples with a social or political organization is not terra nullius];
2) that the occupation was for and on behalf of a state rather than individuals;
3) that there must have been an effective taking of possession;

4) that there must have been an intention to occupy as sovereign.

Occupation is thus a peaceful means of acquiring territory.

The exact nature of effective occupation and title to territory was considered in the *Island of Palmas* case. Under the Treaty of Paris 1898, which brought to an end the Spanish-American War of 1898, Spain ceded the Philippines to the United States. The United States based its claim, as successor to Spain, principally on discovery. There was evidence that Spain had discovered the island in the 17th century, but there was no evidence of any actual exercise of sovereignty over the island by Spain.

Prescription and acquiescence. In contrast, prescription is the acquisition of territory that is not terra nullius, but was obtained by means that may have been of doubtful legality, or patently illegal. Although international law is not keen to legalize unlawful conduct, the aim of international law is always stability and certainty. Thus, provided territory has been under the effective control of a State, and that has been uninterrupted and uncontested for a long time, international law will accept that reality. But timely protests by the "former" sovereign will usually bar the claim. How long effective control must last depends entirely on the circumstances of each case.

In respect of the criteria for a claim based on prescription there are four elements that arise for consideration:

1) display of sovereign authority;

2) the absence of recognition of sovereignty in another state;

3) peaceful and uninterrupted possession;

4) the absence of objection.

In respect of the first element, it is simply a question of examining the relevant evidence of governmental acts. The second element is a question of fact, but the absence of recognition of another may be powerful evidence. The third and fourth elements are related in that there cannot be peaceful possession unless there is an absence of objection.

In judging whether a territorial claim is good, especially one based on prescription, protests by the former sovereign or, in contrast, its acquiescence would obviously be important. A rival claimant may also be estopped by its previous conduct. Recognition by third States, or the former sovereign, of a claim will also be important. In the instance of the invasion of Goa by India in December 1961, even though the conduct was a breach of the United Nations Charter the subsequent acquiescence and recognition by the international community and the absence of censure by the Security Council had the effect of validating the title.

Conquest (annexation). In the past, conquest (sometimes called subjugation), followed by annexation, was a means of acquiring a valid title to territory. Today conquest, the act of defeating an opponent and occupying all or part of its territory, does not of itself constitute a basis of title to the land. It does give the victor certain rights under international law as regards the territory, the rights of belligerent occupation, but the territory remains the legal possession of the ousted sovereign. This method of the acquisition of territory has been described as being only of academic interest today.

The loss of human life in World War I prompted a change in the attitude to conflict. The Covenant of the League of Nations (1919) contained detailed provisions both to deter the use of force and to promote the peaceful settlement of disputes. The loss of human life and the economic disruption caused by conflict meant that the price of war was simply too high for any rational state.

This general theme was continued in the Kellogg-Briand Pact of 1928 in which war was outlawed as an instrument of national policy. The post-war settlement set out in the United Nations Charter (1945) contained express provisions against the use of force. Such prohibition is impliedly stated in the Preamble and Art 1(1) of the Charter and the matter is expressly dealt with in the clear words of Art 2(4) which reads:

> "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any manner inconsistent with the Purposes of the United Nations".

In Security Council resolution 662 (1990) adopted unanimously the Council decided that the declared Iraqi annexation of Kuwait "under any form and whatever pretext has no legal validity and is considered null and void". All states and institutions were called upon not to recognize the annexation and to refrain from actions which might be interpreted as indirect recognition. Acquisition of territory following an armed conflict would require further action of an international nature in addition to domestic legislation to annex. Such further necessary action would be in the form either of a treaty of cession by the former sovereign or of international recognition.

Cession. Cession involves the transfer of territory from one state to another; this is normally accomplished by treaty. Cession is therefore an example of derivative title. Territory may be ceded amicably.

Traditionally there was no bar on the extent to which one state could cede territory to another, although today, a treaty which purported to provide for the cession of territory in conflict with principles of self-

determination would violate *jus cogens* and therefore be invalid. It should be noted that the principle *nemo dat quod non habet* applies in international law just as in municipal law: it is not possible for a state to cede what it does not possess.

Cession need not only arise in cases of transfer of territory from losing to victorious state following a war. In the past, land has been ceded in an exchange agreement, for example Britain and Germany exchanged Heligoland and Zanzibar by a treaty made in 1890, and in 1867 Russia ceded Alaska to the United States in exchange for payment. Cession will include all aspects of territorial sovereignty, including airspace and territorial sea, and sovereign rights over the continental shelf and certain rights and jurisdiction over the exclusive economic zone.

Accretion. It is possible for states to gain or lose territory as a result of physical change. Such changes are referred to as "accretion" and "avulsion". Accretion involves the gradual increase in territory through the operation of nature, for example, the creation of islands in a river delta. Avulsion refers to sudden or violent changes, such as those caused by the eruption of a volcano.

Although accretion and avulsion are both examples of the operation of nature, the distinction is important when considering the position of rivers that serve as boundaries between states. Where a river is not navigable, then the boundary will be the mid line of the river. Where the river is navigable, then the boundary will be the mid line of the "thalweg" or principal navigation channel. Where a boundary river undergoes a sudden change of course (avulsion) then the boundary will continue to be the mid line of the former main channel. However, where the physical change is gradual (accretion) then the boundary will reflect the physical changed. Thus, the distinction between accretion and avulsion is of significance in the context of disputes over river boundaries.

Other possible modes of acquisition. As has already been stated, issues of title to territory are complex and will usually involve the application of a number of principles. In practice, cases rarely fall neatly into one of the five categories mentioned, and claims to territory will be based on a combination of factors. In addition to the five modes of acquisition that have been discussed, a number of others have been suggested from time to time. Among those that can be clearly identified are "adjudication", "disposition by joint decision" and "continuity and contiguity".

Hillier T. Sourcebook on Public International Law. Cavendish Publishing Limited, 1998; Shaw M. N. International Law. 6th ed. Cambridge University Press, 2018

Ex. 2. Answer the questions.

1. What are the means of acquiring territory? Which of them are peaceful?
2. What are the criteria of occupation as a valid means of acquiring territory?
3. What's the difference between occupation and prescription?
4. What are the criteria for a claim based on prescription?
5. What factors are important in judging whether a territorial claim is good, especially one based on prescription?
6. Today conquest does not of itself constitute a basis of title to the land, does it? What certain rights are given to a victor?
7. What documents contain detailed provisions to deter the use of force?
8. What is cession? When is it invalid?
9. What's the difference between accretion and avulsion? When is this distinction significant?
10. What are other possible modes of acquisition?

Ex. 3. Make a short summary of the text (about 12 sentences).

LANGUAGE PRACTICE

Ex. 4. Match the words with their definitions:

1) acquiescence	a) a situation in which an army or group of people moves into and takes control of a place
2) cession	b) the act of accepting or agreeing to something
3) accretion	c) to take possession of an area of land or a country and add it to a larger area, usually by force
4) annexation	d) to force someone to leave a job or important position
5) to oust	e) a gradual process by which new things are added and something gradually changes or gets bigger
6) amicably	f) friendly
7) to refrain	g) the uninterrupted existence of rights, claims, or conditions

8) continuity	h) an occasion when one person or country officially gives land or property to another
9) occupation	i) to avoid doing or stop yourself from doing something
10) adjudication	j) the process or act of making an official decision about something, especially about who is right in a disagreement

Ex. 5. Fill in the gaps with prepositions where necessary:

1) a title ____ territory;
2) a subject ____ any sovereign power;
3) ____ the Treaty of Paris 1898;
4) a successor ____ Spain;
5) to exercise of sovereignty ____ the island;
6) ____ respect ____ the criteria ____ a claim;
7) a settlement set ____ the United Nations Charter;
8) to refrain ____ the threat or use of force;
9) to be called ____ not to recognize;
10) a state could cede territory _____ another;
11) jurisdiction _____ the exclusive economic zone.

Ex. 6. Fill in the gaps with the following words.

bar • navigable • title to • adjudicates • validated • cession • ousted • successor states • acquiescence • annexation • belligerent • void

1. Who holds the _____ the property?
2. The _____ countries are having difficulties funding the war.
3. Russia, Georgia and Ukraine are three of the _____ to the Soviet Union.
4. The government voted to _____ the import of exotic birds.
5. The World Court _____ boundary disputes and commercial claims.
6. I was surprised by his _____ to their demands.
7. The Senate rejected the Hawaiian reciprocity treaty, the purchase of the Virgin Islands from Denmark, the _____ of Santo Domingo and Samoa.

8. The rebels _____ the dictator from power.

9. The original version of her will was declared _____.

10. That conflict ended with the humiliating _____ of more than half the nation's territory to the United States

11. That stretch of river is too shallow to be _____.

12. The Supreme Court has _____ the lower court's interpretation of the law.

Ex. 7. Find the English equivalents.

Оккупация ничейной территории, цессия, аккреция, адъюдикация, правомерность титула, мирные средства, уступать (территорию), преемник, давность владения (приобретательная давность), вынужденное согласие, аннексия территории, военная оккупация, свергнутый правитель, сдерживать применение силы и содействовать мирному урегулированию споров, экономический спад, прямое постановление, принятая единогласно, не имеющий юридической силы, договор передачи территории, исключительная экономическая зона, производный титул, авульсия (отрыв территории), извержение вулкана, судоходный, линия максимальных глубин.

Ex. 8. Translate into English.

1. Сегодня под *эффективной оккупацией* понимают *способ приобретения территории*, основанный на нотификации заинтересованных государств и непрерывном, мирном, фактическом осуществлении власти от имени государства.

2. Каждое государство должно *воздерживаться от угрозы или применения силы* против *территориальной целостности* и независимости других государств.

3. *Цессия* – это передача части территории одного государства другому, которая обычно *закрепляется международным договором*.

4. Изменение территории государства, особенно в бассейнах пограничных рек, возникает в силу *аккреции* и *авульсии*.

5. Наиболее важными являются судоходные международные реки, имеющие выход к морю.

DISCUSSION

Role-play

Student A. You are a student tasked to analyze the legal status of Antarctica. You feel puzzled by the complexities of the Antarctic Treaty system (issues of sovereignty, resource management, and environmental protection). Your goal is to clearly articulate your questions and concerns to the expert so that you can come away with a better understanding. Prepare possible questions for the expert.

Student B. You are an expert in IL with a focus on You are an expert in international law with a focus on the legal status of Antarctica. Your role is to guide the student through the complexities of the topic, providing clear explanations and addressing their concerns.

Explain the basics of the Antarctic Treaty. The Antarctic Treaty, signed in 1959 and entered into force in 1961, establishes Antarctica as a zone for peaceful scientific research. It is a cornerstone of international law regarding the continent. Key Provisions of the Antarctic Treaty:

1. Demilitarization: Military activities are prohibited, and nuclear testing and waste disposal are banned.

2. Scientific Cooperation: Promotes international collaboration in scientific research, ensuring that results are shared freely.

3. Sovereignty: The treaty does not recognize or dispute territorial claims; rather, it freezes such claims during its duration, meaning no new claims can be made while the treaty is in effect. Emphasize the principle of res communis.

PROBLEM SOLVING

You are a member of an international advisory board tasked with addressing a complex situation involving the acquisition of territory following a recent conflict. Country A has claimed sovereignty over a disputed region that Country B has occupied for decades. The region is rich in natural resources and has strategic importance for both nations. The local population has mixed feelings, with some supporting Country A and others favoring Country B.

1. Investigate relevant international laws, treaties, and precedents regarding territorial acquisition and disputes. (United Nations Charter (1945), International Covenant on Civil and Political Rights (ICCPR) (1966), International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966), Montevideo Convention on the Rights and Duties of States (1933)). List possible ways of acquisition of territory.

2. Analyze the ethical implications of different outcomes for both countries and the local population. Consider the potential long-term effects of your recommendation.

3. Write a detailed recommendation for the advisory board addressing the ethical dilemma. Include: a clear position on the territorial claims; justification for your position based on ethical principles and current international law;

proposed measures to address the concerns of the local population and ensure their rights are respected.

4. Prepare a brief presentation summarizing your findings and recommendations to share with the advisory board. Be ready to address questions and defend your position.

WRITING

Writean essay (800 words) on the topic “Res communis and outer space”.

Clearly define res communis and its implications for the outer space. Provide specific examples of advancement made by private companies and their influence on space exploration and accessibility of space travel (SpaceX (https://www.spacex.com) and Blue Origin (https://www.blueorigin.com)). Provide your opinion on the need for balance between commercial interests and collective responsibility of protecting celestial bodies. Highlight the necessity of ethical frameworks that will guide future space exploration.

Unit 6 POPULATION IN INTERNATIONAL LAW

OBJECTIVES

In this unit you'll learn:

- the concepts of nationality and citizenship and relevant legal terminology;
- the distinctions between the ways of getting citizenship;
- the notion of statelessness;
- the procedures of naturalization and concept of dual nationality;
- the status of aliens, refugees, asylum seekers and internally displaced people.

By the end of the unit, you'll be able to:

- discuss the legal issues governing nationality, including the principles of jus soli and jus sanguinis using target vocabulary;
- evaluate the complexities concerning alien status, asylum, and refugee definitions;
- engage in critical discussions about the implications of statelessness, the challenges faced by refugees and internally displaced people;
- solve a professional legal issue on the topic;
- write a social media post.

LEAD-IN

Look at the facts about the population in the world. Which do you find surprising/shocking/threatening etc.? What do you know about the population in international law? What would you like to know?

More than half of the world's population – over 55 % – now lives in urban areas. This trend is expected to rise, with projections suggesting that by 2050, about 68 % of people will reside in cities.

As of 2023, the world population is estimated to be over 8 billion. It took roughly 12 years to grow from 7 billion (reached in 2011) to 8 billion, reflecting a significant growth rate, although it is slowing down in many regions.

The population is not evenly distributed across the globe. About 60 % of the world's population lives in Asia, with China and India being the two most populous countries, each with over a billion residents.

READING 1

Study the vocabulary (https://quizlet.com/505919006/flashcards).

to owe allegiance /əˈliːdʒəns/
jus soli
jus sanguinis
an offspring
"immigrant-magnet" states
to emigrate
brain-draining
to by-pass
"perpetual" or "indelible allegiance" /ɪnˈdeləbəl/
expatriated
an act of repression
a refugee
stateless persons
uprooted by war
to flee
dual nationality
hostility
conscripted into two different armies
child custody
active/dormant nationality
Universal Declaration of Human Rights
International Covenant on Civil and Political Rights
International Covenant on Economic, Social, Cultural Rights
Montevideo Convention on the Nationality of Women
Convention on the Nationality of Married Women

Ex. 1. Read the text and highlight the basic concepts.

Jurisdictional matters are not just about places but involve people, their interests, and their actions. Not only is the landed territory of the world appropriated to about 200 states, but so are the over eight billion people who live under the jurisdiction of one state or another.

People, with rare exception, possess a **nationality**, which is the legal identification of a person with a state, based on **owing allegiance** and performing duties in exchange for the enjoyment of rights and privileges of citizenship plus the diplomatic protection of a state.

Some countries distinguish between *citizens* and *nationals*. Citizens enjoy a full set of rights while nationals may have only obligations of allegiance. Nationals usually lived in colonies and overseas territories, but the historical shift away from these dependencies has eroded the need for the status of national. Although each state can define nationality in its municipal laws, the 1948 *Universal Declaration of Human Rights* insists in Article 15 that every person is to have a nationality, and the 1966 *International Covenant on Civil and Political Rights* asserts in Article 24 that every child has a legal right to a nationality. Movement across borders, whether as a tourist, the representative of an NGO, a business person, an exchange student, or even a diplomat, usually requires that a person possess a nationality and a passport to prove it.

The nationality of a person is determined either by **jus soli** (law of the soil) **or jus sanguinis** (law of blood). Some of the Western Hemispheric countries, including the United States and Mexico, apply the *jus soli*, or "birthright citizenship", rule meaning that any person born in a country can be a citizen. Exceptions are often made for children born to diplomats, parents temporarily in another country, or parents stationed abroad in the military service. The trend among states is moving away from *jus soli*. While a constitutional issue, some members of Congress have wanted to depart this approach because newborns of illegal immigrants automatically become citizens. Other states use the *jus sanguinis* rule, with the nationality of the parents passing to their children regardless of where births occur. If a child is born to parents of differing nationalities, many states have accorded the nationality of the father to the **offspring**, a practice women's groups have understandably opposed. For the large majority of people, the distinction between *jus soli* and *jus sanguinis* is not important because they are usually born on the territory where both parents are citizens.

Most people readily meet both criteria. Individuals can change nationality and millions have. Some countries, including Australia, Canada, the United States, as well as Western European countries, are "immigrant-magnet" states because millions around the world wish to emigrate from their countries to the more desirable ones. This situation allows the magnet states to be picky about who becomes a citizen. These countries are often accused of "brain-draining" the best and brightest

for their own purposes when Third World states need these people at home. A challenging law-enforcement problem for the much sought after countries, however, is the arrival of thousands of illegal migrants all too willing to by-pass legal processes.

A variety of interesting problems have arisen over **naturalization**, the legal process of changing from one nationality to another. Traditionally, a naturalized citizen is expected to **swear allegiance** to the new state and **renounce** ties to the old one. This process can be discriminatory. In the past, women were not allowed, in many instances, to naturalize on their own but had to follow their husband's nationality.

For some states, reform came through the 1933 *Montevideo Convention on the Nationality of Women* and the 1957 *Convention on the Nationality of Married Women*. Under these conventions, women can freely choose their nationality. Ethnic and racial preferences have also affected immigration and citizenship. In the past and sometimes even today, a few states have followed a policy of "perpetual" or "**indelible allegiance**", meaning a country will not allow its citizens to take up nationality elsewhere. One historical case helped cause a war. The war of 1812 was largely caused by Great Britain's naval officers boarding American ships and forcing thousands of seamen from these ships to serve in the British Royal Navy.

Britain claimed these men were Britons and "deserters" instead of "new Americans" who had properly immigrated to the United States. No doubt the British Navy scooped up native-born Americans as well. Basically, the British Admiralty needed manpower and pressed anyone available into service. Some individuals have had the opposite problem by being **expatriated**, or relieved of their citizenship, by their governments. In 1974, the Soviet Union expelled famous novelist and critic Alexander Solzhenitsyn, winner of the 1970 Nobel Prize for Literature. The Soviet government charged him with treason and **stripped him of his citizenship** in a very questionable manner so far as human rights are concerned.

This radical step was, in fact, an act of repression designed to silence critics of the Soviet government. The 1966 *International Covenant on Civil and Political Rights* is not explicit on this point, but it does refer to a right to leave and return to one's country in Article 12. After the fall of communism, Solzhenitsyn's citizenship was restored, and he was able to return to Russia in 1994 to celebrity status in his homeland. He died there in 2008. On occasion, individuals have denaturalized themselves by renouncing their citizenship before acquiring a new nationality or, through no fault of their own, by becoming **refugees**. In either case, they are **stateless persons**. Such individuals often do not have documentation

for international travel and nor do they enjoy the diplomatic protection of a state's diplomatic service. Stateless persons can easily find themselves held in detention by the customs officials of one country or another. Chess Champion Bobby Fischer renounced US citizenship in 2004 and spent a year in a Japanese customs detention center until Iceland granted him citizenship and travel documents. Additionally, millions of people become refugees, uprooted by war and revolution, forced to flee, sometimes with only the clothes on their backs, to refugee camps located in other countries. As many as 25 million people are currently refugees.

Dual nationality. International law has traditionally assumed that people would have a single national identity, nationality being taken very seriously by governments. Nationality was not an identity to be shed easily if it posed an inconvenience. The often-cited *Nottebohn* case before the ICJ in the 1950s illustrates this strong view of citizenship, calling for a "genuine link" between persons and their countries, a view that lasted until the latter part of the twentieth century. By this time, a clear trend toward accepting, if reluctantly, **dual nationality** was underway. Basically, dual nationality means a person is a citizen of two countries at the same time. Hostility toward such a status died a slow death, however. Dual nationality status typically originates from being born in a *jus soli* country to parents who have emigrated from a *jus sanguinis* state. An individual has a citizenship because of where he or she is born and a second through the bloodline of parents. **Conscripted into** two different armies, double-taxation, accusation of disloyalty in time of war, transnational fights over child custody, and eased travel by criminals and terrorists are some of the concerns that have arisen over dual nationality. Serious problems can occur but countries are learning how to manage these. Stefan Oeter recommends that international law place more emphasis on habitual residency in cases of conflicting nationalities. One nationality, he suggests, would be the *active nationality* while the other would be regarded as the *dormant nationality*.

Aust A. Handbook of International Law. Cambridge University Press, 2010;
Henderson C. W. Understanding International Law. A John Wiley & Sons, Ltd., 2010

Ex. 2. Answer the questions.

1. What is nationality?
2. What's the difference between citizens and nationals?
3. What legal instruments regulate the sphere of nationality?

4. How can the nationality of a person be determined by birth? Explain the differences, give examples.

5. What is naturalization?

6. What is expatriation?

7. What is dual nationality? What are the problems connected with dual personality?

Ex. 3. Make a short summary of the text (about 10–12 sentences).

LANGUAGE PRACTICE

Ex. 4. Match the words with their definitions:

1) allegiance	a) the principle that nationality or citizenship is granted to individuals born within a country's territory
2) stateless persons	b) loyalty or commitment to a state or sovereign
3) a refugee	c) a legally recognized member of a state or nation, entitled to rights and privileges
4) a citizen	d) the principle that nationality or citizenship is determined by the nationality of one's parents
5) naturalization	e) a person's children or descendant
6) jus soli	f) the legal process by which a non-citizen acquires citizenship in a state
7) jus sanguinis	g) a person who is forced to flee their country due to persecution, war, or violence
8) an offspring	h) individuals who do not possess nationality or citizenship

Ex. 5. Fill in the gaps with the words from ex. 4.

1. Citizens are often required to pledge _____ to their country during ceremonies.

2. As a _____ of the United States, she has the right to vote and participate in government.

3. Under the principle of _____, any child born on U.S. soil automatically acquires American citizenship.

4. After several years of residing in Canada, he completed the _____ process and became a Canadian citizen.

5. The international community rallied to support the _____ families fleeing the conflict in their home country.

6. _____ often face significant challenges, as they lack legal recognition and the rights that come with citizenship in any nation.

Ex. 6. Fill in the gaps with prepositions where necessary:

1) a legal right ____ a nationality;
2) children born ____ diplomats;
3) to be accused ____ "brain-draining";
4) to swear allegiance ____ the new state;
5) ____ these conventions;
6) to take ____ nationality ;
7) to charge him ____ treason;
8) to strip him ____ his citizenship;
9) to place more emphasis ____ habitual residency.

Ex. 7. Find the English equivalents.

Верноподданство, неправительственная организация, Всеобщая декларация прав человека ООН, Международный пакт о гражданских и политических правах, страны западного полушария, нелегальные иммигранты, статус беженца, потомок, «утечка мозгов», лица без гражданства, двойное гражданство, политическое убежище, «право крови», «право почвы», натурализация, экспатриация, иностранцы, пожизненное и неотъемлемое верноподданство, обвинить в измене (государственной), лишить гражданства, враждебность, призывать на военную службу, двойное налогообложение, опека над детьми, неактивное гражданство.

DISCUSSION

Who is entitled to obtain citizenship of the Republic of Belarus? Discuss with your partner.

A person who was born in Turkey in 2006 to a citizen of the Republic of Belarus and a citizen of Turkey.

A newborn child found on the territory of the Republic of Belarus, but looks like a Chinese.

A child of an ambassador of the Republic of Belarus born in Zimbabwe.

READING 2

Study the vocabulary (https://quizlet.com/1057527809/learn).

an alien
sojourn /ˈsɒdʒ.ən/
a permanent residency status
carefully scrutinized
expulsion
a deportation
internment (temporary detention) status
an adoptive country
displaced persons
inviolability of its diplomatic mission
asylum-seekers
internally displaced persons
refoulement /rəˈfuːlmɒ̃/
repatriated
the grant of asylum
(or political asylum)
the UN High Commissioner for Refugees
ICJ
POWs (prisoner of war)

Ex. 1. Read the text and identify different categories of people in international law.

Alien Status

States not only exercise their prerogative in rule-making and enforcement over their native-born and naturalized citizens, but also expect anyone on their soil to be mindful of their laws. A non-citizen located on the territory of a state is an **alien**.

Most countries are easy to enter for business, tourism, education, family visit, or other reasons. Presenting a passport and checking through customs may be all that is necessary. While the sojourn of most aliens is temporary, some countries will grant **permanent residency status** to an alien. However, a few countries can be very restrictive about who enters their jurisdiction as is the case for isolated, communist North Korea. Even countries with relatively open doors may put considerable emphasis on the country from which a visitor originates. Receiving states can require of aliens from at least some countries a *visa stamp* on a passport, a proof of prior approval for the visit. The United States screens aliens from Islamic countries, for instance, far more carefully than it does Canadians, who traditionally have been able to cross the US border by showing a driver's

license as they embarked on a day of shopping. Since the 9/11 attack, Canadian–US border crossings are now more **carefully scrutinized.**

Any state can remove an alien or an entire group of aliens as an act of **expulsion** if the government of that state determines security, health, or public order justifies such a step. Sometimes expulsion is abused and turned into a serious human rights matter. Idi Amin, dictator of Uganda in the early 1970s, forced thousands of Indians out of Uganda with only 24 hours notice and gave permission for each person to take only one or two suitcases with them. The **deportation** of aliens can occur whether they are in the immigration process or have completed the naturalization process. Grounds for deportation often include lying about their past identity or activities, as well as involvement in criminal behavior in their **adoptive country**. If a state goes to war, its government can place aliens from an enemy state in **internment** (temporary detention) status and use their property for the duration of the war. The laws of war require humane conditions for internees but serious violations have sometimes occurred. During the Second World War, Japan's horrid treatment of European and American colonial administrators, captured in the Asian and the Pacific regions, was exceeded only by Japanese barbarity toward allied POWs.

Asylum

A State can let an alien enter and remain in its territory even if his own State objects. This is more correctly called the grant of asylum (or political asylum), and is conferred by States in their discretion. Aliens have no "right" of asylum, it is merely the right of a State to grant or refuse it. The practice of asylum predates by centuries the Refugees Convention. The concept is wider than *refugee status* in that it can be granted when the person has no fear of persecution. Persons fleeing from famine or floods and given shelter in a foreign State may often be misdescribed as "refugees" because they seek refuge, but they are more accurately described **as displaced persons** who have been given asylum, often only for a temporary period. In the same way, persons genuinely seeking refuge from persecution are often confusingly referred to as **asylum-seekers**.

Diplomatic asylum must be clearly distinguished from asylum as just described. Diplomatic asylum is the giving of protection by a diplomatic mission to a person fleeing from the authorities of the host State (not just from a person or a crowd). The person fleeing can be a local national, a national of the sending State or a national of a third State. Except as between some Latin America States, this practice is not favoured since it

amounts to the sending State abusing the **inviolability of its diplomatic mission** by acting in a manner which conflicts with its duty to respect the local laws, and indeed the sovereignty, of the host State. Nevertheless, from time to time persons will enter a mission and claim diplomatic asylum. It may be either physically difficult to eject them (although the mission can authorize the local police to do so) or politically awkward. The intruders may have good grounds for believing that they will be treated severely by the local authorities, and there will be the inevitable media attention. If there is a genuine humanitarian case, it will need all the diplomatic skills of the head of the mission, and his foreign minister, to balance their legal duty to the receiving State and their moral duty. That a person wants refuge in the sending State is not a valid reason for protecting him, although the sending State will be in a stronger position, politically and legally, if there are grounds for believing that, if ejected, he would be subjected to "summary justice", or otherwise dealt with arbitrarily or treated inhumanly.

Refugees

The relevant treaty is the Convention relating to the Status of Refugees 1951, as amended by the 1967 Protocol extending the Convention to cover all refugees, past, present and future. The two instruments are referred to collectively as "*the Refugees Convention"*. Article 1A (2) defines "refugee" as a person who:

> "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country".

The definition applies also to a stateless person who is outside the country of his "habitual residence" and is unable or, owing to such fear is unwilling, to return to it.

Some important misunderstandings are caused by misuse or misapplication of basic terms. Refugees must be clearly distinguished from other persons with whom they are constantly confused. Because of war or natural disaster, people have long sought safety in foreign countries, and the last quarter of the twentieth century saw a substantial rise in their numbers. It is therefore important to distinguish from refugees such **displaced persons seeking asylum** (see above), since persons seeking protection as refugees are frequently referred to as "**asylum-seekers'**. The same period also saw a large increase in economic

migrants whose sole purpose in leaving their State is to seek a better life. Then there are **internally displaced persons** (IDPs) who have had to leave their homes for various reasons, but who are still in their own State.

The Office of the UN High Commissioner for Refugees (UNHCR) has only a limited mandate for IDPs. It does not have a mandate for the other groups mentioned in this paragraph or for other "persons of concern", such as former refugees who have been **repatriated**, stateless persons or persons who have been displaced by war or generalized violence where there is no element of persecution per se. So, this section does not deal with those categories.

Not all States are parties to the Convention (and the 1967 Protocol). But there are 144, and its basic principles, in particular the definition of a refugee and the prohibition on **refoulement**, are now part of customary international law. Unlike asylum, refugee status is a legal right. Once the criteria have been satisfied, States have an obligation to treat the person as a refugee; there is no discretion. However, States have to use their domestic legislation and procedures in dealing with claims to refugee status. One has therefore to consider each refugee application, not only on its own particular facts, but also in the light of the law of the State concerned.

Shaw M. N. International Law. 6th ed. Cambridge University Press, 2018; unhcr.org

Ex. 2. Answer the questions.

1. Who is an alien?
2. When can deportation take place?
3. Do aliens have a right to asylum?
4. What's the difference between a refugee and an asylum-seeker?
5. Who are internally displaced persons? What is their legal status?

Ex. 3. Make a short summary of the text (about 10 sentences).

LANGUAGE PRACTICE

Ex. 4. Match the words with their definitions:

1) deportation	a) belonging to another country or race = foreign
2) repatriation	b) a person that travels to a different country or place, often in order to find work
3) a refugee	c) to use force or law to remove someone from their own country
4) an alien	d) a person who has escaped from their own country for political, religious, or economic reasons or because of a war
5) an asylum seeker	e) someone who leaves their own country because they are in danger, especially for political reasons, and who asks the government of another country to allow them to live there
6) a migrant	f) the process of returning a person to their home country
7) to expatriate	g) to force someone to leave a country, especially someone who has no legal right to be there or who has broken the law

Ex. 5. Fill in the gaps with the words from ex. 4.

1. The government announced the _____ of individuals who were found to be living in the country without proper documentation.
2. After years of living abroad, he was thrilled at the prospect of _____ to his home country.
3. As an _____ in a foreign land, she had to navigate the complexities of the immigration system to secure her residency.
4. Many _____ workers travel long distances to find employment opportunities in agriculture and construction.

Ex. 6. Fill in the gaps with prepositions where necessary:

1) to put considerable emphasis ____ the country;
2) grounds ____ deportation;
3) persons fleeing ____ famine or floods;
4) seeking refuge ____ persecution;

5) to distinguish ____ refugees such displaced persons;
6) to be parties ____ the Convention.

Ex. 7. Match the words with their synonyms:

1) shelter	a) barbarity
2) loyalty	b) bypass
3) right	c) allegiance
4) evict	d) discretion
5) hunger	e) prerogative
6) avoid	f) hostility
7) strip	g) deprive
8) unfriendliness	h) eject
9) cruelty	i) famine
10) right to choose	j) asylum

Ex. 8. Find the English equivalents.

Вид на жительство, тщательно контролировать, депортация, статус временно задержанных, военнопленный, претендент на получение статуса беженца, неприкосновенность дипмиссий, принудительное возвращение беженцев, верховный комиссар ООН по делам беженцев, внутренне перемещенные лица.

Ex. 9. Translate into English.

1. Под термином *«гражданство»* в науке международного и конституционного права понимается устойчивая связь между *физическим лицом и государством*, *влекущая за собой их взаимные права и обязанности*.

2. *Помимо национального законодательства* по вопросам гражданства существуют *двусторонние и многосторонние соглашения государств*.

3. Приобретение гражданства может основываться на так называемом *праве крови* или *праве почвы*, а также в результате натурализации.

4. Закон Республики Беларусь о гражданстве допускает, чтобы гражданин Республики Беларусь имел *два гражданства*.

5. Под *иностранцами* обычно понимают как иностранных граждан, так и *лиц без гражданства*.

6. Следует отметить, что большинство стран мира не признает *дипломатического убежища* и расценивает его как *вмешательство во внутренние дела государства*.

7. В настоящее время в сфере деятельности *УВКБ ООН, помимо беженцев*, находятся несколько категорий: *лица, перемещенные внутри страны, лица без гражданства, возвращающиеся добровольно в страну происхождения*.

8. *Беженцем* не может признаваться любое лицо, совершившее *преступление против мира, человечности или другое умышленное преступление*.

Additional Videos on the Subject

Who is an Internally Displaced Person?
(https://www.youtube.com/watch?v=DCzpVQkencw)
Who is a Refugee?
(https://www.youtube.com/watch?v=GvzZGplGbL8)
Who is an Asylum Seeker?
(https://www.youtube.com/watch?v=E1E_tiagn8Q)
Who is a Migrant?
(https://www.youtube.com/watch?v=yRPfM5Oj-QA)
Who are stateless people?
(https://www.youtube.com/watch?v=NJVU-fjPrzY&t=5s)

DISCUSSION

Role play

Student A. An international lawyer.

You are an experienced international lawyer specializing in immigration and asylum law. Your primary goal is to provide legal advice and support to individuals seeking refugee status and to clarify their rights under international law. You have an appointment with a client from Syria who is seeking to receive a refugee status in Belarus. Clarify the differences between asylum seekers, refugees. Outline the steps your client needs to take to apply for refugee status in Belarus.

Student B. An asylum seeker from Syria.

You are an asylum seeker fleeing conflict and persecution in Syria, seeking refuge in Belarus. You are anxious about your application process

and need legal guidance to navigate the complexities of international law. Explain your reasons for leaving Syria, including the specific threats or persecution you faced. Inquire about the legal process for applying for refugee status and what documentation is required. Request the information on your rights as an asylum seeker.

PROBLEM SOLVING

As the BBC states (https://www.bbc.com/news/articles/c983g6zpz28o), the US is one of about 30 countries – mostly in the Americas – that grant automatic citizenship to anyone born within their borders.

In contrast, many countries in Asia, Europe, and parts of Africa adhere to the jus sanguinis (right of blood) principle, where children inherit their nationality from their parents, regardless of their birthplace.

Other countries have a combination of both principles, also granting citizenship to children of permanent residents.

For nearly 160 years, the 14th Amendment of the US Constitution has established the principle that anyone born in the country is a US citizen.

But as part of his crackdown on migrant numbers, Trump is seeking to deny citizenship to children of migrants who are either in the country illegally or on temporary visas.

Consider the reasons that American government has for bringing these changes. What are the potential implications of this decision for the country and for immigrants? Present your argument to support or criticize the policy.

WRITING

Choose one of the following issues.

1. The challenges faced by refugees and asylum seekers in obtaining legal status.

2. The benefits and complexities of dual nationality.

Create a social media post in the form of a tween, Telegram post, or any other network. Use visuals and hashtags. What impact do you hope your post will have on public awareness toward citizenship issues?

Unit 7

STATE SUCCESSION IN INTERNATIONAL LAW

OBJECTIVES

In this unit you'll learn:

- the concepts of state succession and relevant legal terminology;
- the challenges faced by states and people during transitions of sovereignty;
- complexities of state succession to treaties, membership in international organizations, debts, archives etc.

By the end of the unit, you'll be able to:

- critically assess the historical examples of state succession and discuss ethical issues connected to this using the target vocabulary;
- evaluate the role of treaties concerning state succession;
- solve a professional legal issue on the topic;
- write a newspaper abstract.

LEAD-IN

State succession refers to the legal transition of rights and obligations from one state to another, often occurring due to events like decolonization, secession, or dissolution of states.

What happens when states change?

What do you know about state succession in international law? What would you like to know?

Work in small groups, study briefly a different historical example of state succession. In your groups discuss the following questions.

1. What led to the state succession in your example?
2. How did international law address the transition?
3. What were the consequences for the populations involved?
4. Did the succession lead to any new legal obligations or rights for the successor states?

Group A. The Breakup of Yugoslavia (1990s).

The breakup of Yugoslavia was a complex process that began in the early 1990s, resulting in the emergence of several independent states. Following the death of President Josip Broz Tito in 1980, ethnic tensions rose among the diverse groups within Yugoslavia. In 1991, Slovenia and Croatia declared independence, leading to violent conflicts known as the Yugoslav Wars. The dissolution of Yugoslavia was marked by significant international involvement, including recognition by the European Community and later the United Nations. The conflicts resulted in significant human suffering, including ethnic cleansing, displacement, and loss of life. Millions were affected, with substantial refugee flows and humanitarian crises. The successor states inherited certain obligations from the former Yugoslavia, including treaties and international agreements. They also had the right to negotiate new treaties, establish their own legal frameworks, and participate in international organizations.

Group B. The Dissolution of the Soviet Union (1991).

The Soviet Union officially dissolved on December 26, 1991, following a series of political upheavals and independence movements within its republics. The fall of the Berlin Wall in 1989 and the subsequent weakening of communist control led to declarations of independence by several republics, including Ukraine, Belarus, and the Baltic states. The dissolution resulted in the emergence of 15 independent states, each inheriting certain rights and obligations from the USSR. This transition involved complex negotiations regarding nuclear arsenals, economic agreements, and the division of assets. International law facilitated the recognition of the new states, with many countries quickly acknowledging their independence. The CIS (Commonwealth of Independent States) was established to manage the transition and coordinate cooperation among the former Soviet republics. The dissolution also raised questions about the status of citizens and national minorities in the newly formed states. The new states gained the right to self-determination and independence, allowing them to create their own legal systems and international agreements.

Group C. Independence of African Nations (mid-20th century).

The mid-20th century saw a wave of decolonization across Africa, as many countries gained independence from European colonial powers. This period was marked by significant political and social changes, with new nations emerging and borders often redrawn. For example, Ghana became the first sub-Saharan African country to gain independence from Britain in 1957, inspiring others to follow. The Organization of African Unity (now the African Union) was established to promote unity and cooperation among African nations post-independence. International law, particularly the principles outlined in the United Nations Charter, supported the rights of peoples to self-determination. The United Nations played a crucial role in the decolonization process, providing platforms for discussions and resolutions that encouraged independence. Newly independent states gained rights to sovereignty and self-governance, allowing them to enter into international treaties and organizations. They were also expected to adhere to international human rights standards and promote regional cooperation.

READING

Study the vocabulary (https://quizlet.com/1057527803/flashcards).

immutable
mergers
secessions
a predecessor
from the significant to the mundane
an indispensable norm
servitudes
the multilateral treaty
absorption
to cease to exist
dismemberment
a trite law
domicile
agenda

Ex. 1. Read the text and make notes on what a state can succeed to.

Political entities are not immutable. They are subject to change. New states appear and old states disappear. Federations, mergers, dissolutions and secessions take place. International law has to incorporate such events into its general framework with the minimum of disruption and

instability. Such changes have come to the fore since the end of the Second World War and the establishment of over 100 new, independent countries.

Difficulties may result from the change in the political sovereignty over a particular territorial entity for the purposes of international law and the world community. For instance, how far is a new state bound by the treaties and contracts entered into by the previous sovereign of the territory? Does nationality automatically devolve upon the inhabitants to replace that of the predecessor? What happens to the public property of the previous sovereign and to what extent is the new authority liable for the debts of the old?

The international aspects of succession are governed through the rules of customary international law. There are two relevant Conventions, the Vienna Convention on Succession of States in Respect of Treaties, 1978, which entered into force in 1996, and the Vienna Convention on Succession of States in Respect of State Property, Archives and Debts, 1983, which is not yet in force. However, many of the provisions contained in these Conventions reflect existing international law.

State succession itself may be briefly defined as the replacement of one state by another in the responsibility for the international relations of territory.

The purpose of this chapter is to outline the principles pertaining to the area of "state succession" which as a subject should be distinguished from the related topic of "succession of governments".

A State may change its name, constitution or government constitutionally or by a revolution, but will retain its international legal personality and so remain bound by its international obligations. If some of its territory becomes a new State, it has to be determined which rights and obligations of the (predecessor) State are inherited by the new (successor) State. Succession to treaties, to State property, archives and debts, and to membership of international organizations, are the main topics discussed below.

Succession to treaties

The importance of treaties within the international legal system requires no repetition. They constitute the means by which a variety of legal obligations are imposed or rights conferred upon states in a wide range of matters from the significant to the mundane. Treaties are founded upon the pre-existing and indispensable norm of pacta sunt servanda or the acceptance of treaty commitments as binding.

Treaties concerned with rights over property. The general rule is that where a treaty is concerned with rights over property then there will be a succession to rights and obligations. A treaty of this category (sometimes known as a "dispositive treaty") may relate to boundaries or to servitudes. Thus, if a boundary treaty is made between state A and state B and then the territory of state A falls under state C then that state will bound by the terms of the boundary treaty. The rule of succession in this instance is based on the need for order and stability in international relations. This principle of territorial integrity may be traced back to the dissolution of the Spanish Empire in South America early in the 19th century; in that instance the newly independent states were obliged to follow the prior administrative of the Spanish authorities. Since that date the general principle has been that where a state succeeds to territory then in principle it succeeds to the boundaries of that territory. This has been justified on the general equitable principle that "he who takes the benefit must also bear the burden".

Political treaties. It seems to be generally accepted that where the agreement is no more than a treaty of friendship or alliance, or neutrality and where the agreement is with a particular regime then such a treaty will not bind a subsequent government or a succeeding state.

In cases where the multilateral treaty simply declares rules of customary international law as with parts of the United Nations Convention on the Law of the Sea (1982) then the successor state will be bound on the same principles as any other state.

Absorption and merger. Where State A is absorbed by State B and no new state is created then the former ceases to exist and the latter continues in a somewhat larger form. Such was the situation in 1990 where the Länder that comprised East Germany acceded to the Federal Republic. In this situation, the general principle is that the treaties of state B will apply to the enlarged territory but the treaties of state A of a political nature will perish with the state. This will not be the case with treaties of a territorial nature. Thus, the treaties of the predecessor state will cease to apply while the treaties of the successor state will apply unless there has been an agreement to the contrary. This phenomenon is sometimes described as that of "moving treaty boundaries".

Where territory is ceded from one state to another. Where territory formerly part of state A becomes part of state B then the general rule in customary international law is that the treaties of state A shall cease to apply while the treaties of state B will extend to the newly acquired territory. This example of the "moving frontiers rule"

is evidenced by Art 15 of the Vienna Convention on the Succession of States to Treaties which provides for the application of the treaties of the successor state save where "it appears from the treaty or is otherwise established that the application of the treaty to the territory would be incompatible with the object and purpose of the treaty or would radically change the conditions for its operation".

Dissolution of states. When a state ceases to exist as a legal person and is replaced by other states then it is generally accepted that political or personal treaties will terminate but that treaties of pertaining to territory will continue to have effect. History affords many examples of the dismemberment of prior unions such as Norway/Sweden in 1905, the United Arab Republic in 1960 the Federation of Mali in 1960, the Federation of Rhodesia and Nyasaland in 1963 and more recently the Czech Republic and the Slovak Republic in 1992.

State succession and nationality

It is a matter of trite law that it is for each state to determine its rules of nationality. Thus, much will depend on the precise terms of the municipal law of the predecessor and the successor states. It has however to be admitted that on the question of nationality there is much that remains unclear.

However, in many cases the predecessor state may make arrangements by treaty or municipal law for citizens in the former territory to retain their citizenship. Although this will only be relevant if the predecessor or parent state continues in existence. Similarly, the successor state may be prepared to grant citizenship although this may be on the basis of birth, residence or domicile. In some instances, when there has been a change of sovereignty, the state parties may allow inhabitants an option to select citizenship of either within a limited period of time. In matters of such detail, it is clearly wise to resolve such problems not by reference to general propositions but by municipal law or specific treaty provision. In cases where there has been no express agreement, then there is a degree agreement that the annexing state takes both the territory and the population and is obliged to grant its nationality to the inhabitants of the territory who were citizens of the ceding state.

Thus, actual practice is varied but it is germane to observe that the Universal Declaration of Human Rights (1948) asserts that "everyone has the right to a nationality" and the 1961 Convention on the Reduction of Statelessness provides that states involved in the cession of territory should ensure that no one becomes stateless as a result of a change in

sovereignty. However, the uncertainty of the general position caused the International Law Commission to put the matter of nationality in cases of state succession on the agenda for detailed study. The working group that reported in 1995 held that statelessness was the most serious consequence of state succession and all states engaged in transfers of territory were under a duty to prevent it arising.

State succession and international organizations

A new State will not succeed to membership of the United Nations or other international organizations if the predecessor State still exists. In 1947, India (an original Member of the United Nations in 1945) was partitioned into India and Pakistan. Since India was regarded by the General Assembly to be the continuation of India, the new State of Pakistan had to apply for membership. If, however, a new State is the result of the union of two States, at least one of which was a UN. Member before the union, the new State will usually be accepted as a Member under its new name, and without having to apply for membership.

In principle, questions of applications for membership, of status and cessation are matters that fall to be determined by the terms of the constitution of the international organization in question.

A number of points emerge from the past history. First, international organizations operate best when states are participating members so there is a natural reluctance to create unnecessary difficulties. Secondly, if state A loses part of its territory that is no obstacle for state A to remain a member of an international organization.

Thirdly, any entity that has acquired recognition as a state must in principle apply for membership of an international organization in accordance with the constitutional procedures of the organization. Fourthly, given the many different problems that can arise in respect of state succession the general view is that each case should be determined on its own specific facts.

State succession and public property rights

The principles of state succession in respect of property are those developed in customary international law. The 1983 *Vienna Convention on the Succession of States in Respect of Property*, *Archives and Debts* is not in force and is unlikely to be so in the immediate future. Having regard to the complex property issues that can arise, the basic principle is that the predecessor state and the successor state should endeavour to reach agreement on property questions. Thus, in the context of Yugoslavia

Opinion No 14 of the Arbitration Commission stressed that "the first principle applicable to state succession is that the successor states should consult with each other and agree a settlement of all questions relating to the relating to the succession".

The broad principle is that ***public property*** of the predecessor state will pass to the successor state. This raises questions as to the meaning of public property because the extent of state involvement in an economy may vary. In general, such property will be that under the ownership directly or indirectly of the executive, legislative or judicial branch of government. To determine this question, the relevant law will be the internal law of the predecessor state; such law will determine whether the property is within public ownership.

A particular type of property that gives rise to difficulty is that of ***archives***. Archive material represents the history and cultural heritage of a particular community and may also be of considerable economic value. The archive may comprise prints, films coins documents exhibits and many may be particularly attached to buildings or personalities within a particular territory. In these circumstances, UNESCO has taken a close interest in disputes about archives and tends to the view that such material should be located in the state of origin or creation. It is normal when dealing with cession of territory to include a specific provision about archive material. The matter is dealt with under the terms of the 1983 Vienna Convention; Art 20 provides a definition of a "state archive" and Arts 21 and 22 stipulate that the archive of the predecessor state shall pass on the date of succession; it is further provided that in the absence of agreement the archive shall pass without compensation. In cases where there has been a transfer of part of territory then that part of the archive which relates "exclusively or principally" to the territory to which the succession of States relates, shall pass to the successor State In cases of merger, Art 29 of the 1983 Vienna Convention provides that the archives of the former states shall pass to the successor state. Further, in cases of secession Art 30(1) provides for the passing to the successor state of the archive material that relates to that territory. In cases of dissolution Art 31 stipulates that the archive relating to normal administration will pass to the successor, but all other archive material shall pass to the various successor states in an equitable manner having regard to all relevant circumstances.

An area of particular sensitivity in matters of state succession to property is that of ***public debt***. First, the sums involved tend to be large and the debt is in essence monies owed by the predecessor state to third

parties. Often such parties are reluctant to see a transfer of the debt; thus, it is normally necessary for the successor state to assume full liability.

It is usual to divide public debt into the national debt itself being the monies owed by central government and local debts which may have been incurred by subordinate government bodies. In respect of the former, it is normal to make specific provision although in customary international law in the absence of such provision if the predecessor state continues to exist after succession then it is probable that the predecessor state remains liable. Some writers hold that, in some circumstances, the successor state should bear liability either on the basis that having acquired the territory it should also bear the burden or in those cases where the loan has been employed in permanent improvements on the territory. It would seem that localized debts being connected to the specific territory probably pass to the successor state.

Thus, the sensible conclusion must be that while practice is far from uniform it is reasonable to assume that a successor state will succeed to a proportion of the public debt if contracted for and on behalf of the former territory.

Shaw M. N. International Law. 6th ed. Cambridge University Press, 2018;
Hillier T. Sourcebook on Public International Law. Cavendish Publishing Limited, 1998

Ex. 2. Answer the questions.

1. What is state succession? How is it regulated in IL?
2. What can a state succeed to?
3. Which treaties are subjects to succession and which are not?
4. How is the issue of nationality regulated within the framework of state succession?
5. How can a state succeed to membership in international organizations?
6. What is the practice of dealing with succession to public property, archives, debts?

Ex. 3. Mark the statements as True or False. Explain your choice.

1. The international aspects of succession are governed through the rules of customary international law.
2. The Vienna Convention on Succession of States in Respect of State Property, Archives and Debts entered into force in 1983.
3. The general rule is that where a treaty is concerned with rights over property then there will be a succession to rights and obligations.

4. If a state succeeds to territory then it succeeds to the boundaries of that territory.

5. If the agreement is a treaty of friendship or alliance, such a treaty will also bind a subsequent government or a succeeding state.

6. The treaties of an absorbed state of a political nature will perish with the state.

7. When a state ceases to exist as a legal person and is replaced by other states then it is generally accepted that political or personal treaties will terminate but that treaties of pertaining to territory will continue to have effect.

8. The citizens in the former territory may retain their citizenship if the predecessor or parent state continues in existence.

9. The annexing state takes both the territory and the population and is not obliged to grant its nationality to the inhabitants of the territory who were citizens of the ceding state.

10. A new State will automatically succeed to membership of the United Nations or other international organizations under its new name if the predecessor State still exists.

11. The broad principle is that public property of the predecessor state will pass to the successor state.

12. In these circumstances, UNESCO has taken a close interest in disputes about archives and tends to the view that such material should be located in the state of origin or creation.

LANGUAGE PRACTICE

Ex. 4. Match the words and their definitions:

1) an archive	a) never change or cannot be changed
2) immutable	b) something that comes before another thing in time or in a series
3) secession	c) so important or useful that it is impossible to manage without them
4) a predecessor	d) the place where you live
5) indispensable	e) the combining of two or more companies or organizations into one
6) integrity	f) the state of being united as one complete thing

7) dismemberment	g) a collection of documents and records that contain historical information
8) domicile	h) a list of the items that have to be discussed at a meeting
9) agenda	i) the breaking up into smaller parts of a country or organization
10) merger	j) when a country or state officially stops being part of another country and becomes independent

Ex. 5. Fill in the gaps with prepositions where necessary:

1) to be a subject ____ change;
2) to incorporate smth ____ smth;
3) to be liable ____ the debts;
4) succession ____ treaties;
5) rights conferred ____ states;
6) ____ the agenda;
7) to reach agreement ____ property questions;
8) ____ the ownership of government.

Ex. 6. Translate into English.

Институт правопреемства кодифицирован. Генеральная Ассамблея ООН включила тему правопреемства в свою повестку. Основные виды фактических ситуаций изменения статуса субъекта права: передача части территории по соглашению между государствами; возникновение нового независимого государства на бывшей зависимой территории в результате деколонизации; объединение (слияние) государств; присоединение; разделение государств (распад); отделение части/частей территории. В современном международном праве кодифицированы лишь отдельные сферы правопреемства государств (международные договоры, государственная собственность, государственные долги, государственные архивы).

DISCUSSION

Discuss with your partner the following the statements.

1. To what extent does state succession depend on the factual situation of changing sovereignty (merger, absorption etc.)?
2. What are possible problems if the successor state may not achieve the status of statehood?

PROBLEM SOLVING

The USSR was a signatory to the Non-Proliferation of Nuclear Weapons (NPT) (1968), which aims to prevent the spread of nuclear weapons. After the dissolution of the USSR, Belarus inherited nuclear weapons on its territory.

As a successor state, Belarus must decide how to navigate its obligations under the NPT while addressing its security concerns and international relations. Discuss the implications of state succession on nuclear weapons, particularly how international law addresses the transfer of obligations from the USSR to Belarus. Propose your solution to the problem.

WRITING

Write a newspaper abstract focusing on Belarus's journey and challenges regarding its membership in international organizations following the dissolution of the USSR. The size is 150–200 words. Highlight Belarus's position as a successor state and its aspirations to navigate membership in international organizations, particularly the UN.

TESTS FOR SELF-CHECK

Unit 1

1. Choose the correct answer.

1. What are the two main divisions of international law?
   A. Municipal law and constitutional law.
   B. Public international law and private international law.
   C. Criminal law and civil law.
   D. National law and international treaties.

2. What does public international law cover?
   A. Relations between individuals.
   B. Relations between states.
   C. Criminal activities within a country.
   D. Internal regulations of organizations.

3. What type of law is characterized as a horizontal legal system?
   A. Domestic law.
   B. International law.
   C. Criminal law.
   D. Civil law.

4. What is one major difference between domestic law and international law?
   A. International law has a judiciary.
   B. Domestic law is more flexible.
   C. International law lacks a supreme authority.
   D. Domestic law applies to states only.

5. What is "self-help" in the context of international law?
   A. Individuals taking legal action.
   B. Diplomatic negotiations.
   C. International organizations intervening.
   D. States taking action to remedy violations.

6. Which of the following is NOT a characteristic of international law?
   A. It has a centralized enforcement mechanism.
   B. It operates on principles of reciprocity.
   C. It lacks a formal legislative body.
   D. It governs relations between states.

7. What does “international comity” refer to?
   A. Legally binding agreements between states.
   B. Courtesy practices between states.
   C. Military alliances.
   D. Economic treaties.
8. How does international law differ from international morality?
   A. They are the same.
   B. International law is legally binding while international morality is ethical.
   C. International morality is more formal.
   D. International law is less important.

2. Are these statements True or False?

1. The International Court of Justice can enforce its decisions without consent from both parties.
2. States can use self-help as a sanction in international law.
3. International law has a centralized enforcement mechanism similar to domestic law (The Security Council of the UN).
4. The use of force against another state is generally permitted under international law.
5. States are considered equal under international law, regardless of their power.

3. Answer the questions.

1. What are the main characteristics of International law?
2. What are the differences between national and international law?
3. What are the approaches to understanding their relations?
4. What are the branches of international law?
5. What are the main functions of international law?

Unit 2

1. Choose the correct answer.

1. According to Art. 38 of the Statute of the International Court of Justice, what is NOT listed as a source of international law?
   A. International conventions.
   B. International custom.

C. National legislation.
D. General principles of law.

2. Which of the following is considered a "law-making" treaty?
A. Bilateral treaties.
B. Treaty-contracts.
C. Multilateral treaties establishing general rules.
D. Ad hoc compromises.

3. What is the term for the belief that a state activity is legally obligatory?
A. Opinio juris.
B. Usus.
C. Lex specialis.
D. Jus cogens.

4. Which source of international law is described as "the teachings of the most highly qualified publicists"?
A. Judicial decisions.
B. Treaties.
C. Customary law.
D. Academic writings.

5. What does the term "soft law" refer to?
A. Legally binding treaties.
B. Non-binding resolutions and instruments.
C. Customary international law.
D. International court rulings.

6. What is the role of customary law in international law?
A. It creates binding treaties.
B. It is a source of law recognized by the ICJ.
C. It has no influence on international law.
D. It only refers to bilateral agreements.

7. In the context of international law, what does "jus cogens" refer to?
A. Binding treaties.
B. Peremptory norms from which no derogation is permitted.
C. Customary law.
D. National legal principles.

8. What is the main function of the International Court of Justice (ICJ)?
A. To create new treaties.
B. To decide disputes in accordance with international law.
C. To enforce international law.
D. To draft constitutions for member states.

2. Are these statements True or False?

1. Treaties can only be bilateral agreements.
2. Customary international law requires both a general practice and the belief that such practice is legally binding.
3. The UN Charter is subordinate to all other international treaties.
4. The teachings of publicists are considered a primary source of international law.
5. Judicial decisions made by the ICJ are binding on all member states of the UN.
6. National legislation is a recognized source of international law.

3. Answer the questions.

1. What are the sources of international law? Classifications. What is Jus cogens?
2. What is a treaty? What are the types of treaties?
3. What are the two stages of creation of treaties?
4. What elements does a custom have as a source of international law?
5. What are the general principles of law recognized by civilized nations?
6. What is the role of judicial decisions and writings of famous publicists in international law?

Unit 3

1. Choose the correct answer.

1. Which of the following possesses full legal personality?
   A. Companies.
   B. States.
   C. Non-governmental organizations (NGOs).
   D. Individuals.

2. Which document outlines the qualifications for a state as a person of international law?
   A. United Nations Charter.
   B. Vienna Convention.
   C. Montevideo Convention.
   D. Treaty of Versailles.

3. What is NOT a qualification of a state according to the Montevideo Convention?

A. Permanent population.
B. National language.
C. Defined territory.
D. Government.

4. Which of the following is an essential element of statehood?

A. Effective control by a government.
B. International recognition.
C. A large military.
D. A written constitution.

5. Which of the following groups is considered a non-sovereign subject of international law?

A. States.
B. National liberation movements.
C. International governmental organizations.
D. Individuals.

6. What are the National Liberation Movements (NLM) primarily concerned with?

A. Establishing trade agreements.
B. Gaining territory.
C. Achieving independence.
D. Forming alliances with states.

7. How is the Holy See defined?

A. A state with full sovereignty.
B. A non-sovereign territory.
C. An international organization.
D. A special case with international personality.

8. What are considered transnational corporations?

A. Subjects of international law.
B. Objects of international law.
C. Limited in legal personality.
D. Sovereign entities.

2. Are these statements True or False?

1. Legal personality is only conferred to states.
2. All states have equal rights under international law.

3. The Montevideo Convention specifies four qualifications for statehood.

4. NGOs have the same legal personality as states.

5. Transnational corporations are treated as full subjects of international law.

6. Individuals can be prosecuted for war crimes under international law.

7. The rights of international organizations stem from the agreements made by their member states.

3. Answer the questions.

1. What is a subject of international law? What are the classifications of the subjects?

2. What are the criteria for statehood?

3. What are the rights of states as subjects of international law?

4. What is an objective prerequisite for independent international status of nations and peoples?

5. What does international personality of intergovernmental international organizations derive from?

6. What are the rights of international intergovernmental organizations?

7. What state-like formations do you know? What are their peculiarities?

Unit 4

1. Choose the correct answer.

1. How can recognition be defined?
   A. A legal obligation to respect another state.
   B. A statement acknowledging the existence of another entity as a legal subject.
   C. A treaty between two states.
   D. A method of enforcing international law.

2. Which theory states that recognition is a necessary requirement for international personality?
   A. Declaratory theory.
   B. Constitutive theory.
   C. Positivist theory.
   D. Natural law theory.

3. According to the declaratory theory what does statehood depend on?
   A. Recognition by existing states.
   B. It is created by the act of recognition.
   C. It exists prior to the act of recognition.
   D. It is solely a political matter.

4. What does the Tobar Doctrine emphasize?
   A. Immediate recognition of all governments.
   B. Diplomatic relations without formal recognition.
   C. Automatic recognition of all governments.
   D. Denial of recognition to governments that come to power through revolutionary means.

5. Which doctrine shifted focus from formal recognition to maintaining diplomatic relations?
   A. Declaratory theory.
   B. Estrada Doctrine.
   C. Tobar Doctrine.
   D. Constitutive theory.

6. What does de facto recognition indicate?
   A. Full and unconditional acceptance of a government.
   B. A temporary acknowledgment of a government's control.
   C. Non-recognition of any government.
   D. Permanent recognition.

7. Which type of recognition is deemed superior?
   A. De facto recognition.
   B. Implicit recognition.
   C. De jure recognition.
   D. Conditional recognition.

8. What can the concept of recognition apply to?
   A. Only states.
   B. States and governments.
   C. Only governments.
   D. Private entities.

2. Are these statements True or False?

1. The constitutive theory holds that recognition is unnecessary for statehood.
2. A change of government always affects the state's legal personality.

3. The Estrada Doctrine emphasizes maintaining diplomatic relations over formal recognition.

4. De facto recognition is a permanent acknowledgment of a government.

5. A government can be recognized de facto without establishing diplomatic relations.

6. International law requires the recognition of all new states.

3. Answer the questions.

1. What are the two approaches to state recognition?(theories)
2. What are the forms of recognition?
3. What's the difference between state and government recognition?

Unit 5

1. Choose the correct answer.

1. What term describes territory that has no sovereign?
   A. Res communis.
   B. Terra nullius.
   C. Sovereign territory.
   D. Ceded territory.

2. Which of the following is an example of res communis?
   A. An unclaimed island.
   B. High seas.
   C. A disputed land border.
   D. A national park.

3. In relation to what was the concept "common heritage of mankind" established?
   A. National sovereignty.
   B. Environmental rights.
   C. The seabed and ocean floor.
   D. Territorial disputes.

4. What is the process of determining land or maritime boundaries called?
   A. Demarcation.
   B. Delimitation.
   C. Allocation.
   D. Designation.

5. Which method of acquiring territory involves taking possession of terra nullius?

A. Cession.
B. Prescription.
C. Conquest.
D. Occupation.

6. What does the concept of prescription involve?

A. Acquiring territory through conquest.
B. Long-term possession of territory not legally owned.
C. Formal agreements between states.
D. Immediate recognition of territory.

7. By what through does cession typically occur?

A. Treaty.
B. War.
C. Force.
D. Unilateral declaration.

8. Which term describes the sudden physical change of territory, such as a volcanic eruption?

A. Accretion.
B. Avulsion.
C. Demarcation.
D. Delimitation.

9. How is the boundary of a river that serves as a state border determined?

A. The river's navigability.
B. The terrain surrounding it.
C. The population on either side.
D. Historical treaties.

2. Are these statements True or False?

1. Territory is a basic requirement of statehood.
2. Territorial sovereignty allows a state to exercise control over its territory without interference.
3. The common heritage of mankind concept applies to all natural resources.
4. Delimitation involves marking the boundaries with physical objects.
5. Cession can only occur after a state loses a war.
6. A state can cede territory it does not possess through a treaty.

3. Answer the questions.

1. How can the term "territory" be defined?
2. What's the difference between delimitation and demarcation?
3. What do the concepts "common heritage of mankind", terra nullius and res communis comprise?
4. What are the means of acquiring territory? Which of them are peaceful?
5. What's the difference between occupation and prescription?
6. What are the criteria for a claim based on prescription?
7. What is cession? When is it invalid?
8. What's the difference between accretion and avulsion? When is this distinction significant?

Unit 6

1. Choose the correct answer.

1. What is the legal identification of a person with a state called?
   A. Citizenship.
   B. Nationality.
   C. Residency.
   D. Allegiance.
2. Which principle refers to citizenship based on the place of birth?
   A. Jus sanguinis.
   B. Jus soli.
   C. Naturalization.
   D. Expatriation.
3. What does jus sanguinis refer to?
   A. Citizenship by descent from parents.
   B. Citizenship by birth on the territory.
   C. Citizenship through naturalization.
   D. Statelessness.
4. What is the process of changing from one citizenship to another called?
   A. Expatriation.
   B. Naturalization.
   C. Denationalization.
   D. Immigration.

5. What does the term “brain drain” refer to?
   A. Emigration of skilled individuals from developing countries.
   B. The process of naturalization.
   C. The influx of immigrants into a country.
   D. The loss of citizenship.

6. Which of the following is a reason for which a state might expel an alien?
   A. Failure to learn the local language.
   B. Involvement in criminal behavior.
   C. Political dissent.
   D. Lack of employment.

7. What does asylum refer to in international law?
   A. A right to citizenship.
   B. The protection granted to an alien by a state.
   C. A legal obligation to accept all refugees.
   D. A temporary residency permit.

8. Who does the Refugees Convention of 1951 define as a refugee?
   A. Any person fleeing their home country.
   B. An internally displaced person.
   C. An economic migrant.
   D. A person with a well-founded fear of persecution.

9. Who is considered as a stateless persons in international law?
   A. Someone who has multiple nationalities.
   B. Someone who lacks nationality and legal documentation.
   C. Refugees.
   D. Expatriates.

10. What does dual nationality mean?
   A. A person is stateless.
   B. A person must choose one nationality.
   C. A person can only reside in one country at a time.
   D. A person can hold multiple citizenships simultaneously.

2. Are these statements True or False?

1. Nationality is the same as citizenship.
2. The Universal Declaration of Human Rights guarantees everyone a nationality.

3. Jus soli allows nationality based on the nationality of the parents.

4. A naturalized citizen is required to renounce their old nationality in all countries.

5. Stateless persons have the same rights as citizens of a country.

6. Internally displaced persons (IDPs) are the same as refugees.

3. Answer the questions.

1. What is nationality?

2. How can the nationality of a person be determined? Explain the differences, give examples.

3. What is dual nationality? What are the problems connected with dual nationality?

4. What's the difference between a refugee and an asylum-seeker?

Unit 7

1. Choose the correct answer.

1. What is state succession?
   A. The process of one state taking over another's government
   B. The replacement of one state by another in responsibility for international relations of a territory.
   C. The dissolution of a state.
   D. The establishment of new laws.

2. Which convention governs state succession in respect to treaties?
   A. Vienna Convention on the Law of the Sea.
   B. Vienna Convention on Succession of States in Respect of Treaties.
   C. United Nations Charter.
   D. Treaty of Versailles.

3. In cases of absorption, what happens to the treaties of the absorbed state?
   A. They remain in force.
   B. They are invalidated.
   C. They are replaced by the treaties of the absorbing state.
   D. They are subject to international arbitration.

4. The general principle of “moving frontiers” applies to which situation?

A. Dissolution of states.
B. Cession of territory.
C. Formation of a federation.
D. Change of government.

5. What happens to the nationality of inhabitants when a state changes sovereignty?

A. They automatically lose their nationality.
B. They retain their predecessor state’s nationality.
C. They must apply for a new nationality.
D. They gain dual nationality.

6. When a state ceases to exist, what typically happens to its political treaties?

A. They remain valid.
B. They automatically transfer to the successor states.
C. They terminate.
D. They are renegotiated.

7. What is the general view about public property of the predecessor state?

A. It is inherited by private citizens.
B. It is auctioned off .
C. It passes to the successor state.
D. It remains with the international community.

8. Which of the following is NOT typically included in the concept of state succession?

A. National debts.
B. International treaties.
C. Personal property of citizens.
D. Public property.

9. What is the main concern regarding state succession and nationality according to the International Law Commission?

A. Increased trade barriers.
B. Statelessness.
C. Military conflict.
D. Economic sanctions.

2. Are these statements True or False?

1. A new state is automatically bound by the treaties of the predecessor state.
2. The Vienna Convention on Succession of States in Respect of State Property is currently in force.
3. Customary international law governs the rules of state succession.
4. Individuals have a right to nationality according to international law.
5. The successor state is liable for the debts of the predecessor state.
6. States can choose to grant nationality based on birth, residence, or domicile.
7. Public property generally passes to the successor state after state succession.

3. Answer the questions.

1. What is state succession? How is it regulated in IL?
2. What can a state succeed to?
3. Which treaties are subjects to succession and which are not?
4. How is the issue of nationality regulated within the framework of state succession?
5. How can a state succeed to membership in international organizations?
6. What is the practice of dealing with succession to public property, archives, debts?

Answers

Unit 1		Unit 2		Unit 3		Unit 4		Unit 5		Unit 6		Unit 7	
1	**2**	**1**	**2**	**1**	**2**	**1**	**2**	**1**	**2**	**1**	**2**	**1**	**2**
1. b 2. b 3. b 4. c 5. d 6. a 7. b 8. b	1. f 2. t 3. f 4. f 5. t	1. c 2. c 3. a 4. d 5. b 6. b 7. b 8. b	1. f 2. t 3. f 4. f 5. f 6. f	1. b 2. c 3. b 4. a 5. c 6. c 7. d 8. b	1. f 2. t 3. f 4. f 5. t 6. t 7.t	1. b 2. b 3. c 4. d 5. b 6. b 7. c 8. b	1. f 2. f 3. t 4.f 5. t 6. f	1. b 2. b 3. c 4. b 5. d 6. b 7. a 8. b 9. a	1. t 2. t 3. f 4. f 5. f 6. f	1. a 2. b 3. a 4. b 5. a 6. b 7. b 8. d 9. b 10. d	1. f 2. t 3. f 4. f 5. f 6. f	1. b 2. b 3. c 4. b 5. b 6. c 7. c 8. c 9. b	1. f 2. f 3. t 4. t 5. t 6. t 7. t

QUESTIONS FOR REVISION

1. What are the main characteristics of International law?
2. What are the differences between national and international law? What are the approaches to understanding their relations?
3. What are the branches of international law?
4. What are the main functions of international law?
5. What are the main principles of international law?
6. What are the sources of international law? Classifications. What is Jus cogens?
7. What is a treaty? What are the types of treaties?
8. What are the two stages of creation of treaties?
9. What elements does a custom have as a source of international law?
10. Name general principles of international law recognized by civilized nations.
11. What is the role of judicial decisions and writings of famous publicists in international law?
12. What is a subject of international law? What are the classifications of the subjects?
13. What are the criteria for statehood?
14. What are the rights of states as subjects of international law?
15. What are the two approaches to state recognition? Theories.
16. What are the forms of recognition?
17. What's the difference between state and government recognition?
18. Give examples of partially recognized states. What are the challenges they face?
19. What is an objective prerequisite for independent international status of nations and peoples?
20. What does international personality of intergovernmental international organizations derive from?
21. What are the rights of international intergovernmental organizations?
22. What state-like formations do you know? What are their peculiarities?
23. What is private and public international law? Differences.
24. Give examples of conflict of laws of different systems of law in different countries?
25. How can the term "territory" be defined?
26. What's the difference between delimitation and demarcation?

27. What do the concepts “common heritage of mankind”, terra nullius and res communis comprise?

28. What are the means of acquiring territory? Which of them are peaceful?

29. What’s the difference between occupation and prescription?

30. What are the criteria for a claim based on prescription?

31. What is cession? When is it invalid?

32. What’s the difference between accretion and avulsion? When is this distinction significant?

33. What is nationality?

34. How can the nationality of a person be determined? Explain the differences, give examples?

35. What is dual nationality? What are the problems connected with dual nationality?

36. What’s the difference between a refugee and an asylum-seeker?

37. What is state succession? How is it regulated in IL?

38. What can a state succeed to?

39. Which treaties are subjects to succession and which are not?

40. How is the issue of nationality regulated within the framework of state succession?

41. How can a state succeed to membership in international organizations?

42. What is the practice of dealing with succession to public property, archives, debts?

ISSUES FOR RESEARCH PAPERS

1. The origins of international law.
2. Theories of relations between national and international law and their reflection in the legislation of the Republic of Belarus.
3. General principles of international law and their reflection in the legislation of the Republic of Belarus.
4. Peremptory norms (jus cogens) in international law: creation and status.
5. International customary norms: creation, implementation, enforcement.
6. Territorial disputes settlement (the practice of the UN ICJ).
7. State-like formations as subjects of international law: historical perspective and contemporary examples.
8. The status of individuals in contemporary international law.
9. The status of corporations in contemporary international law.
10. The international legal status of the Polar Regions.
11. The legal status of partly recognized and not recognized states.
12. The legal status of stateless people.
13. The institute of asylum in international law.
14. The concept of "common heritage of humankind" in modern international law.
15. The concept of dual citizenship in international law.
16. International public law, international private law and transnational law.
17. The impact of digitalization on international law.

FAMOUS INTERNATIONAL LAWYERS

Hugo Grotius (1583–1645)

A Dutch jurist and scholar. *"On the Law of War and Peace"* is considered one of the greatest contributions to the development of international law. Also a statesman and diplomat, Grotius has been called the "father of international law." he believed that natural law – the most important tool to restrain and regulate wars in Europe – must be independent of religion, applying to all people regardless of their religious beliefs. He realized, however, that the goal of restraining and regulating war could not be achieved by secular law alone. Grotius emphasized the freedom of the high seas, a notion that rapidly gained acceptance among the northern European powers that were embarking upon extensive missions of exploration and colonization around the world.

Sir Hersch Leuterpracht (1897–1960)

A prominent Polish-British international lawyer and judge at the International Court of Justice, one of the leading international lawyers of the twentieth century. Three well-known books: An International Bill of the Rights of Man, Recognition in International Law, International Law and Human Rights. In 1953 and 1954 he was elected to the International Law Commission, where he became Special Rapporteur on Treaties, before being elected as a judge of the International Court of Justice in 1954. He assisted with the Nuremburg war crimes trials, preparing first drafts of the opening and closing speeches of the chief prosecutor, Sir Hartley Shawcross. Most crucially, he crafted the language of Article 6 of the Nuremburg charter, enshrining crimes against humanity, war crimes and the crime of aggression into modern international law.

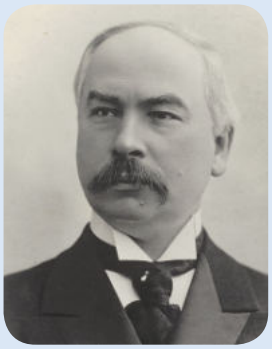
Raphael Lemkin (1900–1959)

Born in Bezwodne (Безводное), a village in the Volkovyssky Uyezd of the Grodno Governorate of the Russian Empire (present-day Belarus). He coined the term **genocide** and was the initiator of the UN Genocide Convention of 1948 The concept of "genocide" was defined by Lemkin to refer to the various extermination campaigns launched by Nazi Germany to wipe out entire racial groups, including European Jews in the Holocaust.

Philip Caryl Jessup (1897–1986)

A 20th-century American diplomat, scholar, and jurist notable for his accomplishments in the field of international law. Jessup In 1960, Jessup was elected to become a member of the International Court of Justice at the Hague, where from 1961 to 1970 he served as a judge An international law moot court competition, the Philip C. Jessup International Law Moot Court Competition, is named in Jessup's honor. It is held annually in Washington D. C. and is attended by law students from around the world.

Friedrich Fromhold Martens (also known as Fyodor Fyodorovich Martens) (1845–1909)



Russian lawyer and diplomat, corresponding member of St. Petersburg Academy of Science, professor of St. Petersburg University, delegate of Russia at the international conferences of 1874–1907 on the issues of military and international law and helped to settle the first cases of international arbitration, member of the Russian Ministry of Foreign Affairs' Council, vice-president of the European Institute of the International Law, member of the Permanent Court of Arbitration in Hague, author of the "Modern International Law of the Civilized Nations", the fundamental work in the field of the international law. For his merits in the field of humanitarian law and his services of mediator in the international conflicts Martens was repeatedly nominated for the Noble Peace Prize.

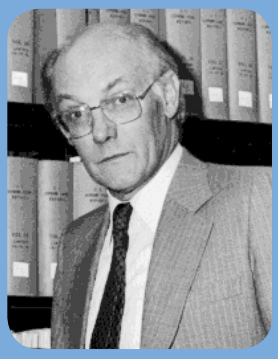
Manfred Lachs (1914–1993)

A Polish writer, educator, diplomat, and jurist who profoundly influenced the post-World War II development of international law. Lachs became a judge on the International Court of Justice, and eventually became one of the longest-serving judges there, working from 1967 until 1993, and presiding it from 1973 to 1976. He wrote The Law of Outer Space: An Experience in Contemporary Law Making in 1972, and the Teacher in International Law . After his death, the Manfred Lachs Space Law Moot Competition was named in his honour by the International Institute of Space Law.

Antonio Cassese (1937–2011)

An Italian jurist who specialized in public international law. He was the first President of the International Criminal Tribunal for the former Yugoslavia and the first President of the Special Tribunal for Lebanon which he presided over until his resignation on health grounds on 1 October 2011.

Willem Cornelis Vis (1924–1993)



An expert in international commercial transactions and dispute settlement procedures. In 1968, he moved to the United Nations Secretariat in New York, where he became senior legal officer, then chief of the International Trade Law Branch of the UN Office of Legal Affairs, and secretary of the UN Commission on International Trade Law (UNCITRAL). Vis served as executive secretary of the Vienna Diplomatic Conference that created the UN Convention on Contracts for the International Sale of Goods (CISG). He helped craft the UNCITRAL Arbitration Rules, and was Representative of the Netherlands to the UNCITRAL and served as chair of its Working Group on International Payments. The Willem C. Vis International Commercial Arbitration Moot is a competition for law students to foster the study and practice of international commercial sales law and arbitration.

Jean Simon Pictet (1914–2002)

A Swiss citizen, jurist, legal practitioner working in international humanitarian law. First as a secretary-jurist, and then as a senior executive and Vice-President of the International Committee of the Red Cross (ICRC), Pictet was instrumental in drafting the 1949 Geneva Conventions for the protection of victims of war, their Commentaries, and negotiating the 1977 Additional Protocols (Protocol I and Protocol II) The bilingual, international Jean-Pictet Competition, which focuses on international humanitarian law, was named after him.

Benjamin Berell Ferencz (1920–2023)

An American lawyer. Born in Transylvania, he and his family emigrated to Hell's Kitchen, New York City, when he was ten months old. He was an investigator of Nazi war crimes after World War II and the chief prosecutor. Later he became an advocate of international rule of law and for the establishment of an International Criminal Court.

Monroe Edwin Price (born 1938)

Professor Price was founding director of the Program in Comparative Media Law and Policy (PCMLP) at the University of Oxford. In honor of his role, PCMLP created an International Media Media Law Moot Court competition after him, the annual Price Media Law Moot Court.

Malcolm Shaw KC (born 1947)

As a practising Barrister Professor Malcolm Shaw has developed an international reputation for advising on territorial disputes; law of the sea; state succession; state immunity; recognition of foreign governments and states; human rights; self-determination, international arbitration and international organisations. Senior Fellow at the Lauterpacht Centre for International Law, University of Cambridge.

Amal Clooney (born 1978)

A British-Lebanese international human rights lawyer. She has represented several high-profile clients. In 2024, Clooney was the recipient of a Legal 500 lawyer of the year award in recognition of her outstanding work and contributions in the field of international law. Clooney also worked as a Prosecutor atThe Special Tribunal for Lebanon. She prosecuted the case against five people, who were members of Hezbollah, accused of assassinating former Lebanese Prime Minister Hariri and others in 2005. Clooney represents victims of mass atrocities, including genocide and sexual violence.

Yuri Brovka (1936–2019)

A Belarusian legal scholar, Doctor of Law, professor, and one of the founders of the Belarusian school of international law. As part of the delegation of the Belarusian Soviet Socialist Republic, he participated in the UN Conferences on State Succession in Relation to Treaties (Vienna, 1977) and on the Law of the Sea (Geneva – New York, 1979).

Alena Douhan (born 1979)

A professor of International Law, the Director of the Peace Research Center at the Belarusian State University (Belarus) and Associated member of the Institute for International Law of Peace and Armed Conflict at Ruhr University Bochum. Her teaching and research interests are in the fields of international law, sanctions and human rights law, international security law, law of international organizations, international dispute settlement, and international environmental law. She has authored over 150 books and articles on various aspects of international law.

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