

**Ministry of Higher Education
and Scientific Research
Al-Muthanna University
Collage of Law**

Series of lectures in

**"THE PUBLIC
INTERNATIONAL
LAW"**

For the Students of the collage of law

The third stage

by

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The first lecture

"Introduction"

A : Conception of international law:

International law is a body of rules which they are governing between sovereign states, and between the states and international organizations, or between international organizations themselves regulating primarily the intercourse of states and organizations with one another to establish international political, cultural, social, legal relations. Then each state or organization as a member of the international community is at the same time a formal and substantial subject of international law .

When these legal rules are binding upon all sovereign states or international organizations in their intercourse with each other without (exception), these legal rules constitute what is called (general principles of international law) .

B : Basis of the obligation:

At the first instance law can only exist in a society, that means that with the existence of the international society we can think about the emergence of the principles of the international law, which are binding upon all the parties to international relations, or subjects of international law as the sovereign states, and international organizations or

other subjects of international law as described by jurists and writers .

Important terms:

- 1- sovereign states
- 2- international organizations
- 3- obligation

دول مستقلة
منظمات دولية
إلتزام

The Public International Law

The second lecture

"The relation of International Law to Municipal Law"

There are three main views concerning this relations of international law to municipal law :

1- The Dualist view : It maintains that international and national law are independent of each other. At the same time each can take specific rules from the other, but cannot be superior to the other one.

2- The Foreign States Law View : early in the twentieth century this view considered the (pre-eminence) of national law over international law in connection with the implementation of armed actions by aggressive intents.

3- The View of (equal significance) : this view maintains the significance of both rules of international and municipal law in equal level and value. As independent laws each constitute obligations for the parties in the extent and sphere which be applied with concern.

The conclusion after along negotiations on this question was the indivisible of the relations between international law and municipal law have equal importance for the parties establishing rights and duties, at the same time they have binding force for all either subjects of international law or individual law, as they gives rise to obligations each in the specific sphere .

Important terms:

- 1- municipal al law
- 2- negotiations

القانون الوطني
مفاوضات

The Public International Law

The third lecture

"Sources of International Law"

First : The main sources of international law are :

- A- International Conventions.
- B- International Custom .
- C- The General Principles of law.

A- International Treaty :

An international treaty is a written agreement for a mutual understanding between two or more than two states or international organizations as well, expressing their rights and obligations.

Nowadays the treaty is regarded "as main source of international law, because it regulates the quickly developing international economic and political relations between groups of countries.

Kinds of Treaties :

1- Law making treaties : are the treaties which creates general and permanent rules in the domain of international relations.

2- Treaties of contractual character : they are treaties which aim only at regulating temporarily legal relations between two or more than two states.

Important terms:

1 - contractual

2 - temporary

تعاقدي

مؤقت

The Public International Law

The forth lecture

"Sources of International Law"

B- International Custom :

International custom is understood to mean certain rules which have come into existence by the conduct of states in their relations.

These rules have their legally binding force by the observance of the states of these rules through practice and conviction.

International custom occupies a second place after international treaties as a source of international law.

The difference between the treaties and the custom :

The difference between the two sources is that treaties require an expression of consent, while international custom requires a tacit consent of states.

International custom may be replaced by international treaty which creates new rules of public international law, on the other hand an international treaty may be modified or abolished by a certain custom.

This custom has the character of legal rules between the signatories of the treaty. For example International Law of

War, Law of the Sea and Diplomatic Law developed from treaties to customs .

Important terms:

1- consent

2- signatories

3- Diplomatic Law

قبول

الموقعون (على معاهدة مثلاً)

القانون الدبلوماسي

The Public International Law

The fifth lecture

"Sources of International Law"

C- General Principles of Law :

Principles of law are general norms in the form of general rules which accepted and recognized by the majority of states . Or they are norms and principles in force between independent states and binding upon them in their international relations in the same way as of other norms or rules of international law.

The general principles of law differ from other norms or principle only by a high degree of generally accepted law from a great number of states, or some times from all of them.

The general principles of law are the result of the generalization of the legal norms of law (principles) applied to a certain area of international relations, for example : general principle of law related to the immunities of the state and they are many as rules related to the equality of sovereign states ; principles of respect to the sovereignty of all states ; principles of non-intervention the internal affairs of other states ; principles of non-use of force and non-aggression in international relation ; respect to the principle of self-determination of peoples ; principles related to the concept of the rights.

Important terms:

- 1- norms
- 2- immunity
- 3- sovereignty
- 4- non-intervention
- 5- self-determination

قاعدة , معيار

حصانة

سيادة , استقلالية

عدم التدخل

تقرير المصير

The Public International Law

The sixth lecture

"Sources of International Law"

Second : The subsidiary sources of international law:

- 1- International decisions.
- 2- Arbitral awards.
- 3- Teaching of the most highly qualified publicists.
- 4- Decisions of international organizations.

These sources are on the one hand international decisions , and arbitral awards as well as the teaching of the most highly qualified publicists of the various nations. On the other hand some writers consider acts of international organization as subsidiary means for the determination of rules of law .

Decisions of international organizations can be considered to a certain extent as sources of international law if they receive international recognition.

Third : Other Possible sources of international law :

- 1- Justice.
- 2- Equity.
- 3- Good conscience.

According to Article 38 Paragraph 2 of the Statute of international court of justice, the court may decide a case

by other possible sources as (ex aequo et bono) i.e. that means according to justice, equity and good conscience.

Important terms:

1- Arbitral awards

قرارات تحكيمية

2- publicists

خبراء القانون الدولي

3- international court of justice

محكمة العدل الدولية

The Public International Law

The seventh lecture

"Subjects of International Law"

First : Sovereign States :

A : Definition :

A state is a permanent people settled at a specified territory under its own independent government.

B : conditions of existence of a state

The conditions which are required for the existence of a state according to article of the Convention of Rights and Duties of States of December 26, 1933 are the following :

- 1- A permanent population.
- 2- A country in which the people have been settled.
- 3- A government.
- 4- Sovereignty.

C : Conditions of membership of UN :

According to article 4 of the Charter of the United Nations there are certain conditions for the admission of a state to the membership of the United Nations organization as following :

- 1- The state must be peace loving.
- 2- It must accept the obligation of the UN.

3- It should be able and willing to carry out these obligations.

D : Kinds of the states :

The states as subjects of international law can be either (Unitary) or (Composite), Unitary states have a United State Structure and a system of higher organs of state power and control. While a Composite states includes (Federations) (confederations) and (Personal) and (Real) Unions.

Important terms:

- 1- membership
- 2- territory
- 3- Convention

عضوية
إقليم
اتفاقية , مؤتمر

The eighth lecture **"Subjects of International Law"**

Second : International Organizations :

A : Definition :

International Organizations are associations of states which have been established on the basis of a legal act, such as international treaty.

B : Its importance :

The importance of international organizations can be determined by the special framework of the states activities and their co-operation in specialized fields of scientific and technological progress and by giving ever assistance to the organization in any action it takes in accordance with its charter.

C : Classification of Organizations :

According to the ranges and extent of such a treaty establishing an international organization there can be a difference between two kinds of organizations :

1- General (international) organizations : It acting on behalf of all states of international community, as the organs of the United Nations Organization.

2- Particular (regional) Organizations : It acting on behalf of some states, as the Organs of the League of Arab States and the African Unity Organization.

Important terms:

- | | |
|-------------------------------|------------------------|
| 1- co-operation | تعاون |
| 2- regional organizations | منظمات إقليمية |
| 3- African Unity Organization | منظمة الوحدة الأفريقية |

The ninth lecture

"Subjects of International Law"

The United Nations :

The United Nations organization is one of the more important international organizations which has been established after the Second World War.

A : Purposes of the UN :

According to article (1) of the Charter the Purposes of the UN are :

- 1- To maintain international peace and security .
- 2- To develop friendly relations among nations .
- 3- To achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character.
- 4- To be a center for harmonizing the action of nations.

B : The Principles of the UN :

According to article (2) of the charter the principle of the UN are :

- 1- The organization is based on the principle of the sovereign equality of all its members.

- 2- All members shall fulfill in good faith the obligations.
- 3- All members shall settle their international disputes by peaceful means.
- 4- All members shall refrain in their international relations from the threat or use of force.
- 5- All member shall give the UN every assistance in any action it take in accordance with its charter.

C : Organs of the UN :

- 1- The General Assembly.
- 2- The Security Council.
- 3- The Economic and Social Council.
- 4- The Trusteeship Council.
- 5- The international Court of Justice.
- 6- The Secretariat.

Important terms:

- | | |
|-------------------------|-----------------------------|
| 1- peaceful means | الوسائل السلمية |
| 2- The General Assembly | الجمعية العامة |
| 3- The Security Council | مجلس الأمن |
| 4- The Secretariat | السكرتارية , الأمانة العامة |

The tenth lecture

"Subjects of International Law"

The League of Arab States as a regional organization:

A : Historical background :

The league of Arab States established after a conclusion of a conference held in Cairo on March 22nd 1945 that participated with representatives of some independent Arab States as (Egypt, Jordan, Iraq, Saudia Arabia, Lebanon, Yemen and representative of the Arab population of Palestine) .

B : The Aim of the Pact of the league :

The aim is to strengthen mutual relations between Arab states, to harmonies their efforts towards the ambition for the welfare of all the Arab states, to achieve common interests.

C : The fields of the cooperation in the Pact :

The Pact provides for co-operation in various fields economic, financial matters, including trade, customs and currency, social welfare, communications and transport, cultural matters, and health matters, nationality passports, visas, execution of judgments and extradition.

D : The evolution :

Because of political reasons and procedural loopholes of the pact, the Arab States League was very often unsuccessful to realize the propose provided by the articles of the pact , which are twenty. For example requiring unanimity for adopting decisions on important matters.

Important terms:

- | | |
|----------------------|----------------------------------------|
| 1- conference | مؤتمر |
| 2- Pact | معاهدة دولية , ميثاق |
| 3- mutual relations | علاقات متبادلة |
| 4- financial matters | الشؤون المالية |
| 5- nationality | الجنسية |
| 6- extradition | تسليم المتهم الفار (بموجب معاهدة خاصة) |

The eleventh lecture

"Other Subjects of International Law"

Third : Individuals-Natural Persons :

A : Who are the individuals ?

Individuals may represent a state in international relations either in their official capacity having full authority and immunities as the head of states and diplomats , or they acquire their rights and obligations towards foreign states on the basis of international law.

Direct international responsibility of individuals is well known to international law in the cases of (Crimes Against Peace) and (War Crimes) and (Crimes Against Humanity). These crimes can be committed by special motives by natural person not by direct orders of a state.

B :The legal Personality of the Individuals :

There is no acceptance whether individuals as the state would have their legal personality as a subject of international law as following :

1- There is an opinion which refuses to accept the legal personality of natural person, because it might lead to the weakening of the sovereignty of states, and may enable other state to interfere in the internal affairs of other states.

2- The second opinion is that individuals are also subjects of international law as long as they are nationals of a particular state.

Important terms:

1- the head of states

رؤساء الدول

2- War Crimes

جرائم حرب

3- Crimes Against Humanity

جرائم ضد الإنسانية

The twelfth lecture

"Other Subjects of International Law"

Forth : The Holy See (Vatican City) :

A : What's the Holy See (Vatican City) ?

Holy see has been recognized by Italy at 11 feb 1929 by (Latran Treaty) for the establishment of a status of Vatican City with non-intervention in its domestic affaires, that's means that it has exclusive sovereignty and jurisdiction over the city of Vatican. Then it has a diplomatic relations with a number of states which recognize Holy See.

According to its functions and administrating of all affairs the Vatican City has equal rights in the level of a state .

A : The legal Personality of the Vatican City :

There are many opinions which said about the legal personality of the Vatican City as following :

- 1- It considered by some jurists as a state especially for its widely recognized legal personality in the domain of the international relations.
- 2- Some jurists considered it as a subject of international law for its recognized special kind of international legal

personality, not as a state because it has no the same constituent elements of the normal state.

Important terms:

1- The Holy See

مقر الأسقف المقدس

The Public International Law

The thirteenth lecture **"Rules of Human Rights"**

First : Protection of Human Rights by UN :

A : Articles of Human Rights in the UN's Charter :

The charter of the UN contains a number of rights and obligations which are respected by states. These rights and obligations are intended for all without distinction as to race, sex, language or religion. Article 1 par.3. Article 13.par 1. Article 55,76, of the UN's Charter.

Then Universal Declaration of Human Rights has been adopted by the third session of the General Assembly of the UN, on December 10, 1948, which contains (Thirty) brief articles enumerating that fundamental human rights, mainly in the political and civil fields.

B : The Covenants of Human Rights by UN :

Afterward, in the 1966 the UN completed the drafting of two covenants :

1- International Covenant on Civil and Political Rights of 1966 . like to (the right of life, liberty, security, freedom of thought, conscience and religion ... ect)

2- International Covenant of Economic, Social and Cultural rights of 1966 , like to (the right to work, to fair

wages, social security, the right to health and education...ect)

Important terms:

1- Universal Declaration of Human Rights

الإعلان العالمي

لحقوق الإنسان

2- Covenant

اتفاقية , ميثاق

The Public International Law

The fourteen lecture **"Rules of Human Rights"**

Second : Human Rights under European Convention :

The European Convention on Human Rights was concluded in Rome on 4th November 1950 for the protection of human and fundamental rights of Europeans. This convention derives its importance from the fact that this regional agreement has considerably binding effect. By its practical consequences and successful applications on the European social life.

This convention which contains 66 articles has contributed the protection of human rights and fundamental freedom. Which confirms the significance of the Universal Declaration of Human Rights adopted by the General Assembly of the UN in 1948 for the purpose of propagation of justice and maintaining international peace and security in a large part of the world .

Important terms:

- 1- European Convention on Human Rights الإعلان الأوروبي
لحقوق الإنسان

Questions

The first lecture

- 1- What's the conception (meaning) of international law ?
- 2- Show the basis of the obligation ?

The second lecture

- 1- There are three main views concerning this relations of international law to municipal law , **show** ?

The third lecture

- 1- Count the main sources of international law ?
- 2- : The main sources of international law are And the subsidiary sources are
- 3- Define the international treaty ?
- 4- What are the kinds of the treaties ?

The forth lecture

- 1- Define the international customs ?
- 2- What's the difference between the treaties and the custom ?

The fifth lecture

- 1- Define the general principle of law ?
- 2- The general principles of law differ from other norms or principle only by

The sixth lecture

- 1- Count the subsidiary sources of international law ?
- 2- Show the subsidiary sources of international law ?
- 3- Other Possible sources of international law are ,and

The seventh lecture

- 1- Count the subjects of international law ?
- 2- What are the conditions of existence of a state ?
- 3- Show the Conditions of membership of UN ?
- 4- State the Kinds of the states ?

The eighth lecture

- 1- Define the International Organizations ?
- 2- What's the importance of international organizations ?
- 3- the International Organizations can be divide into tow types areand

The ninth lecture

- 1- Define United Nations ?
- 2- What are the Purposes of the UN ?
- 3- What are the Principles of the UN ?
- 4- Show the Organs of the UN ?

The tenth lecture

- 1- The league of Arab States established after a conclusion of
- 2- What's the aim of the Pact of the league of Arab States ?
- 3- Show the fields of the cooperation in the Pact of the league of Arab States ?
- 4- What's the evolution of the work of the league of Arab States ?

The eleventh lecture

- 1- Define the Individuals-Natural Persons as Subjects of International Law ?
- 2- Show The legal Personality of the Individuals ?

The twelfth lecture

- 1- What's the Holy See (Vatican City) ?
- 2- What's The legal Personality of the Vatican City?

The thirteenth lecture

- 1- Show the Articles of Human Rights in the UN's Charter?
- 2- in the 1966 the UN completed the drafting of two covenants are
....and

The fourteenth lecture

- 1- Show Human Rights under European Convention ?