

## War:

**Oppenheim:** War is a contention between two or more states through their armed forces for the purpose of overpowering each other and imposing such conditions of peace as the victory pleases.

**Starke:** War in its most generally understood sense was a contest between two or more states primarily through their armed forces and ultimate purpose of each contestant is to vanquish the other and impose its own conditions of peace.

**Wheaten:** War is essentially a struggle between states, involving the application of Forces.

### Conclusion from above definitions (Essentials):

1. Struggle between states	2. Armed forces & violence	3. Condition of peace	4. Acceptance of conditions
----------------------------	----------------------------	-----------------------	-----------------------------

### Legal form of war and control:

1. Oldest concept	2. Necessity from beginning	3. Method of last resort	4. Resource & Power	5. Same conception in international law
-------------------	-----------------------------	--------------------------	---------------------	---

## Grotius

- introduced important changes in the concept of war and has divided war into two parts: Just & Unjust war.
- Limited the power of states to launch the war.
- Resort can be had to war but it is necessary that: —
  - It should not violate the rights of other, and
  - Unjust use of power should not be exercised

## Wolze

- Has same view as Grotius that war launched for getting good and prevent evil.
- Justified war is effort to get justice and to prevent injustice.
- Justified war is such war, that when all peaceful method fails, to get remedy or war becomes essential for self defence.

## TRICKS:

Effects of War Trick: <u>No Train Can Directly Contract Passengers</u> Pg 62					
<u>No</u>	<u>Train</u>	<u>Can</u>	<u>Directly</u>	<u>Contract</u>	<u>Passengers</u>
Normal	Treaties	Combatants	Diplomatic	Contract	Property

Immunities and Privileges of Diplomatic Representatives: <u>Wow C JET PRICE LIST</u> Pg 73			
<u>Wow C</u>	<u>JET</u>	<u>PRICE</u>	<u>LIST</u>
1. Worship and Devotion to God 2. Communicate Information	1. Jurisdiction 2. Evidence in the Court 3. Taxes	1. Police Rules and Regulation 2. Residence 3. Inviolability 4. Civil and Administrative 5. Exercise Control	1. Local and Military Obligations 2. Inspection and Checking of Passenger Luggage 3. Social Security Contracts 4. Travel and Touring
1. <b>In Civil &amp; Criminal Judges</b> ko <b>Court</b> ne <b>Residence</b> de kar <b>Travelling</b> ka <b>Payment</b> diya. 2. <b>Local Police</b> ko <b>Worship</b> karne ka <b>Control</b> diya 3. <b>Social</b> media pe <b>Communicate</b> kar ke <b>Passenger</b> ko check kiya			

Waiving of Immunities and Facilities: <u>CRAWDS</u> Pg 77					
<u>C</u>	<u>R</u>	<u>A</u>	<u>W</u>	<u>D</u>	<u>S</u>
Called back to home state	Removed from his service	Appointment fulfilled	War	Dies	Service over
He himself give <b>evidence</b> , file a <b>suit</b> and pays <b>tax or duties</b> .					

## UNO:

Article 7 & 8

In Article 7 -> 2 types of organs: 1. Principle organ 2. Subsidiary organ

Main organs of UNO: Pg 78			
E	Tu	GS <sup>2</sup>	Jayegl
1. Economic and Social Council	1. Trusteeship Council	1. General Assembly 2. <u>Security Council &amp; Secretariat</u>	1. International court of Justice
At present 193 members are there in UNO. On 9th July 2011 South Sudan became an independent nation by separating from Sudan. On 14th July 2011, South became 193rd member of UNO.			

### Main organs of UNO:—

1. General Assembly (महासभा) - chapter 4 & article 9 to 22.

#### Constitution:

- 5 representative
- Annual meet at New York.

#### Voting Rights

- Important decisions **2/3rd** majority
- Ordinary decisions by simple majority

2. Security council (सुरक्षा परिषद) - chapter 5 & article 23 to 32.

#### Constitution:

- 11 members become 15 in 1965.
- 5 permanent [FRABC = France, Russia, America, Brittain, China]
- 10 temporary elected by general assembly for 2 years on basis of contribution and geo. distribution
- Meeting at headquarter but sometime happens at other places.

#### Voting Rights

- 9 positive vote for procedural questions
- Other important questions 5 positive vote of permanent members
- Negative vote is called **vito**.

#### Power & Functions

- Maintenance of International peace & security.
- Functions relating to election
- Supervisory functions
- Statutory function
- Peace and security, prevent war, recommendation for judge & secretary.
- Add, suspend or removal of members, Amendment in charter.

3. Economic and Social council (आर्थिक व सामाजिक परिषद) - chapter 10 and article 61 to 72.

#### Constitution:

- 54 members elected by GA.
- **1/3** i.e. **18** members elected for 5 years and eligible for re-election.

#### Voting Rights

- Decisions taken by majority of vote cast.

#### Power & Functions

- Study international, economic, social, cultural, educational, health subject and file report.
- Prepare for draft for related subjects.
- Submit of draft to GA.
- Organise international conference on subject matters.

4. Trusteeship Council (न्यास परिषद) - chapter 13 and article 86 to 91.

#### Constitution:

- Trustee territories
- Members elected by GA for 3 years.

#### Voting Rights

- Decisions taken by majority of vote cast & doesn't have vito power.

#### Power & Functions

- Prepare questionnaire for political, social, economic and education.

- Prepare reports and submit to GA.
- Consider report submitted by administrative officers.
- Function according to trusteeship agreement.

5. International Court of Justice (अंतरराष्ट्रीय न्यायालय) chapter 14 and article 92 to 96.

**Constitution:**

- 15 Judges elected by GA & SC of UNO & appointed for 9 years and eligible for reappointment.
- Chairman & Vice chairman appointment by ICJ for 3 years & eligible to reelect and is situated in Hague.

**Jurisdiction**

- Voluntary, Optional, Ad hoc (when needed), Advisory.

6. Secretariat (सेक्रेट्रेट / सचिवालय) - chapter 15 and article 97 to 101.

**Constitution:**

- Head is secretary general and known as main administrative officer.
- Appointed on recommendation of security council.

**Power & Functions**

- Participate in meetings of **E Tu GS** JayegI.
- Submit annual report to GA.
- Can call emergency or special meeting of GA and attract attention of security council.
- Act as spokesman and prepare budget of UNO.

Peaceful method of settlements: **Aaj Nahi Gaya MC Iske Saamne**

Aaj	Nahi	Gaya	M	C	Iske	Saamne
Arbitration	Negotiation	Good office	Mediation	Conciliation	Inquiry	Settlement of disputes through UNO

**Human Rights:**

According to the Protection of Human Rights Act, 1993, section 2(1)(d) — Human rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution and embodied in the international convention and enforceable by courts in India.

Following are also considered as human rights: —

- Right to medical treatment & health
- Clean environment
- Protection against exposure of naked body & immodesty in beauty contest
- Protection against sound pollution
- Reach one's own residence easily.

Main Provision for protection of human rights:

Protection of HR Act, 1993, 8th Jan 1994 consent given by Indian president.  
MP HR vs MP -> losing eyes of 7 person in eye operation is violation of HR.

**National Human Rights Commission:**

**Constitution:**

- 1 chairman (CJ of SC)
  - 7 members:
    - Judge of each SC & HC
    - 2 persons with special knowledge of HR.
    - 3 Ex-officio members:
      - National Minority commission
      - National commission for SC & ST.
      - National women commission.
  - A secretary general.
- Head office in Delhi.

Functions:

1. Enquire of violation or misuse of HR, due to carelessness of public servant.
2. Inspect the Jail and other institution.
3. Review measures taken for protection of HR & suggest measures for implementation.
4. Review terrorist activities affecting HR & suggest measures for implementation.

5. Conduct research for HR.
6. Make popular concept of HR.
7. Take steps for promotion of HR.
8. Encourage efforts of voluntary organisations.

### State Human Rights Commission:

#### Constitution:

- 1 chairman (CJ of HC)
- Other members:
  - Judge of HC
  - Judge of district judge
  - 2 persons with special knowledge of HR.

\*Function & power is same as NHRC.

### Human right courts

#### Restrictions of jurisdiction

### UN Charter is considered as first document of HR.

Fundamental right's credit goes to Magna carta 1215

Other documents considered: Bills of right 1689, French Declaration (Revolution) 1789

### Main Documents:

#### UN Charter & HR

- first International document.
- encourage HR & fundamental freedom without discrimination of CSLR and advancement towards upliftment.
- Economic & Social council article 61 to 72.

#### UDHR

- HR commission drafted and adopted by GA of UNO in 1948.
- Main provisions & rights (equity, dignity, born freely, equal before law, property, marriage, speech, employment)
- In Indian constitution part 3 and part 4.

#### UN Commission on HR

- Setup by Economic & social council in 1964.
- Bills of rights
- International declaration & convention (IDC) [status of women, civil liberties, freedom of information]
- Prevention on discrimination (CSLR)
- Protection on minorities & other matters.
- Members of commission elected for 3 years and meet annually and report to Economic & social council.
- Initially 32 members and increase gradually.

#### Vienna Declaration 1993

- held at Vienna in June 1993 and members of UNO states participated.
- Declaration document prepared is called Vienna declaration 1993.
- Main points (HR & basic freedom are birth rights, promotion & protection HR, **poverty**, education system)

### Treaties:

**Oppenheim:** International treaties are such agreements between states which are of the nature of contract which give rise to legal rights and liabilities.

**Starke:** In almost all cases, the objectives of treaties are to create binding liabilities upon the parties to the treaties.

#### Formation of Treaties: Chalo Delhi Aaj SingeR AAR aaye hai

Chalo	Delhi	Aaj	SingeR	AAR
Confer right on representative	Deliberation	Accept the provision of treaty	1. Signature 2. Ratification	1. Accession & Adhesion 2. Application of Treaty 3. Registration & Publication