

International legal personality: Definition

- The possession of international rights and duties as well as the procedural capacity to seek redress for alleged violations and be held accountable for non-fulfillment of duties

Subjects of international law

- States – the primary and original subjects of international law;
- all states possess full international legal personality

Requirements of statehood

- Permanent population
- Defined territory
- Effective government
- The ability to enter into relations with other States

Territory

- Tangible evidence of state sovereignty
- The territory of a state includes:
- the land mass, subsoil, the water enclosed therein, the land under that water, the sea coast to a certain limit, the airspace over the land mass and the territorial sea

International organisation

- Established by agreement and has states as its members
- The key to determining international legal personality – the organisation's constituent document
- International organisations vary in the international personality possessed and in this respect their personality is distinct from the personality enjoyed by states

UNITED NATIONS- INTERNATIONAL ORGANIZATIONS

- *Reparations for Injuries Suffered in the Service of the United Nations* (1949) ICJ Rep. 174
- The Court was asked by the General Assembly to give an Advisory Opinion on whether the UN, following injury to one of its agents sustained in the performance of his duties, has:

UN

- “...the capacity to bring an international claim against the responsible *de jure* or *de facto* government with a view to obtaining the reparation in respect of the damage caused
- A) to the United Nations,
- B) to the victim or to persons entitled to him?
- li. In the event of an affirmative reply on the point i, how is the action to be reconciled with such rights as may be possessed by the State of which the victim is a national?”

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- Answer:
- “Throughout its history, the development of international law...and the progressive increase in the collective activities of States has already given rise to instances of action upon the international plane by certain entities which are not States”

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- “In the opinion of the Court the Organisation was intended to exercise and enjoy, and is in fact exercising and enjoying, functions and rights which can only be explained on the basis of possession of a large measure of international personality and the capacity to operate upon an international plane. It is at present the supreme type of international organisation and it could not carry out the intentions of its founders if it was devoid of international personality”

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- “The fifty States, representing the vast majority of the members of the international community had the power, in conformity with international law, to bring into being an entity possessing objective international personality and not merely personality recognised by them alone, together with capacity to bring international claims” (ICJ Advisory Opinion)

Individuals: duties

- Individuals can no longer hide behind the state apparatus:
- 1946 Nurnberg Tribunal: “crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crime can the provisions of international law be enforced”
- *HOWEVER HOW FAR?*

Individuals: duties

- 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*: “persons committing genocide or any of the other acts enumerated in Article III shall be punished whether they are constitutionally responsible rulers, public officials or private individuals”

Procedural capacity of individuals

- Individuals have limited procedural capacity and enjoy only that capacity given to them by states

DISCUSSION

- Discuss any other subject of international and find how those becomes the subjects of international law?