



FHT Updates

Public

International Law

2nd Internal

Questions

1. What is Extradition? Its essentials.

Definition: Extradition is the formal legal process by which one sovereign State surrenders a suspected or convicted criminal to another State for prosecution or punishment for crimes committed in the requesting State's jurisdiction.

Essentials of Extradition:

- **Extradition Treaty:** There usually must be a valid bilateral or multilateral treaty existing between the two States.
- **Dual Criminality (Double Criminality):** The act committed must be recognized as a crime punishable by law in *both* the requesting and the requested State.
- **Rule of Specialty:** The extradited person can only be tried and punished for the specific offense for which their extradition was requested and granted.
- **Political Offense Exception:** States generally refuse to extradite individuals accused of purely political, religious, or military offenses.
- **Prima Facie Evidence:** The requesting State must provide sufficient initial evidence to prove that the accused likely committed the crime.

2. Explain Asylum? Its essentials.

Definition: Asylum is the protection and shelter granted by a sovereign State to a foreign national who is fleeing from political persecution or danger in their home country, and the refusal to deliver them to the pursuing State.

Essentials of Asylum:

- **Element of Shelter:** The host State must provide a safe haven or physical refuge to the individual.
- **Active Protection:** It is not merely allowing someone in; it involves the host State actively refusing to extradite or hand the person over to their home country.
- **Fear of Persecution:** The individual must have a well-grounded fear of persecution based on race, religion, nationality, or political opinion.
- **Types of Asylum:** It can be *Territorial Asylum* (granted within the physical borders of the host State) or *Extra-territorial/Diplomatic Asylum* (granted in an embassy, consulate, or public vessel located in a foreign country).

3. What are the various modes of acquisition of Nationality?

Nationality is the legal bond between an individual and a State. The primary modes of acquiring it under International Law are:

- **By Birth (Jus Soli):** Acquiring nationality based on the territory or soil where the person is born, regardless of the parents' nationality.
- **By Descent (Jus Sanguinis):** Acquiring nationality based on the bloodline or the nationality of the parents at the time of birth, regardless of where the birth takes place.
- **By Naturalization:** A legal process where a foreigner applies for and is granted nationality by a State after fulfilling certain conditions (like long-term residency or marriage).
- **By Resumption (Reintegration):** When a person recovers their original nationality after having previously lost or renounced it.

- **By Subjugation or Cession:** When a territory is defeated, annexed, or legally transferred to another State, the inhabitants of that territory automatically acquire the nationality of the new acquiring State.

4. Treaty, its essentials and Kinds.

Definition: As per the Vienna Convention on the Law of Treaties (1969), a treaty is an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or multiple related ones.

Essentials of a Valid Treaty:

- **Capacity:** The parties must have international legal personality (i.e., sovereign States or International Organizations).
- **Consent:** Consent to be bound must be freely given (via signature, ratification, or accession) without any coercion, fraud, or threat of force.
- **Written Form:** While oral agreements exist, formal treaties governed by the Vienna Convention must be in writing.
- **Lawful Object:** The purpose of the treaty must be legal and must not conflict with *Jus Cogens* (peremptory norms/fundamental rules of international law).

Kinds of Treaties:

- **Bilateral Treaties:** Agreements between exactly two States.
- **Multilateral Treaties:** Agreements involving three or more States.
- **Law-Making Treaties:** Treaties that lay down universal rules of international conduct (e.g., the UN Charter, UNCLOS).
- **Treaty Contracts:** Treaties dealing with specific, limited matters or exchanges between a few parties (e.g., a trade agreement).

5. Freedom of High Seas

Definition: Under Article 87 of the United Nations Convention on the Law of the Sea (UNCLOS), the "high seas" (the open ocean beyond any State's Exclusive Economic Zone or territorial waters) are open to all States. No State can validly claim sovereignty over any part of the high seas.

The Six Core Freedoms: These freedoms apply to both coastal and land-locked States, provided they are exercised for peaceful purposes and with due regard for other States:

1. **Freedom of Navigation:** The right to sail ships flying the State's flag.
2. **Freedom of Overflight:** The right to fly aircraft over the open ocean.
3. **Freedom of Fishing:** The right to fish, subject to international conservation treaties.
4. **Freedom to lay submarine cables and pipelines.**
5. **Freedom to construct artificial islands and installations** (permitted under international law).
6. **Freedom of Scientific Research.**