

# B.A. LLB X SEMESTER

## PUBLIC INTERNATIONAL LAW AND HUMAN RIGHTS

TOPIC:- Define and explain briefly the term asylum

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**Q. No. 14: - Define and explain briefly the term asylum.**

**Ans:- Asylum: -** The term asylum may be defined as under:

**Definition: -** "To provide shelter and protection by a host state to a citizen of another state, is called asylum."

**Explanation: -** The grant of asylum is an old international doctrine. But lacking general rules for its regulation in the premises of international law. Asylum is the extension of shelter and protection to an alien by a sovereign in case where there is a danger to the life of the alien or he is in fear of being prosecution in his state by the his opponent government due to the divergent political, social or religious views as between him and his government.

The philosophy behind asylum is the generally accepted international rule that each state is sovereign in its territorial jurisdiction. No other state has a right of jurisdiction on the territory of any state.

Asylum is granted in consideration of national security because the rebel of today may be the ruler of future. So, if he is not given the asylum the relations may become adverse if the person, seeking asylum, comes in power in future.

Asylum is opposite to another legal doctrine namely, extradition. In which case the person is not granted the asylum but is handed over to the requesting state.

As pointed out hereinbefore, that there is no generality of rules on the subject of asylum in international law, even though, there are certain declarations and customs which stress on fact that every person should be given asylum. But as such declarations are not binding in nature so the grant of asylum is dependent totally on the discretion of the granting state.

**Kinds of Asylum: -** There are following two kinds of asylum;

- Territorial Asylum, and
- Extra-territorial Asylum

**1. Territorial Asylum: -** The grant of asylum by a state on its own territory is said to territorial asylum. As for as, every state has exclusive right of control and jurisdiction on its territory, so it the discretion of that state weather to extradite the person or to grant asylum to him. Because every state has territorial sovereignty over all persons, on its territory, whether they are its subject or aliens.

**2. Extra-territorial Asylum: -** The grant of asylum by a state outside its own territory is said to be extra-territorial asylum. In other words the grant of asylum on places not forming its physical territory, is said to be extra-territorial asylum.

Extra-territorial asylum may be given at any of the following places:

**i. Asylum in legation or Diplomatic Asylum: -** The grant of asylum by a state in its embassy premises situated in foreign state, is said to be asylum in legation or diplomatic asylum. It is so because the embassy premises are considered to be excluded from the territorial jurisdiction of the state where it is situated.

iii. **Asylum in Consulates:** - In consulates also the asylum may be granted to any person in the same way as in the case of asylum in legation premises.

ii. **Asylum in Warships:** - Asylum may also be granted in warships, because men of war and public vessels of a foreign are exempted from the jurisdiction of the state in whose ports or waters may be found. Rather, they are under the jurisdiction of the flag state.

iii. **Asylum In Merchant Vessels:** - In merchant vessels the asylum cannot be given except where there is a treaty between the states. The reason that merchant vessels cannot grant asylum is that, they are not excluded from the jurisdiction of the state in whose waters or ports it is found.

iv. **Asylum in the Premises of International Institutions:** - Asylum may also be granted in extreme danger to life in the premises of international institutions.