

THE OPEN UNIVERSITY OF SRI LANKA
FACULTY OF HUMANITIES AND SOCIAL SCIENCES
DEPARTMENT OF LEGAL STUDIES
LL. B DEGREE PROGRAMME – LEVEL V
FINAL EXAMINATION – 2017/2018
LLU5712/ LWU 3315 - PUBLIC INTERNATIONAL LAW
DURATION – THREE (03) HOURS



Date: 3rd March 2020

Time: 1.30 p.m. – 4.30 p.m.

Total number of questions 08

Answer **five** questions only

Candidates will be penalized for illegible handwriting.

1. Robo and Koko are citizens of the States of Romeca and Caloca respectively. They are engaged in the business of piracy and smuggling of illegal drugs into Gaulia from Caloca. A Gaulian secret service agent manages to contact Robo and Koko in Caloca and lures them to come over to the State of Kong Ping to arrange a new business deal. They were invited to a birthday party of a popular businessman of Kong Ping. While at the party, they were arrested by the police in Kong Ping. The government of Gaulia has requested their extradition to Gaulia.

Robo and Koko contend *inter alia* that their detention in Kong Ping was unlawful as the conspiracy to traffic in drugs was entered into outside the territory of Kong Ping and that there was no offense committed in Kong Ping which gave the authorities jurisdiction to detain and extradite them to Gaulia.

Discuss the relevant legal issues arising from the above scenario.

Support your answer with relevant examples and case law.

(20 Marks)

2. “Article 51 of the UN Charter which permits the use of force in the case of invasion of a State’s territory is the only exception to the prohibition of the use of force under Article 2(4) of the UN Charter.”

Is this a correct assessment of contemporary international law?

Discuss, with reference to relevant treaty law and decided cases.

(20 Marks)

3. "Recognition, or the withholding of recognition, is often used as a political instrument to express approval or disapproval of a new state or government or a territorial change. The opinions expressed on behalf of a new state or government as to the legal nature and effects of recognition are therefore not devoid of ambiguity, and international legal doctrine is divided on certain central issues."

M.Sorensen *Manual of Public International Law* (ed.), (London; Macmillan, 1998), at p.27

Do you agree with the above assertion? Give reasons for your answer. You are required to support your answer with recent examples and case law.

(20 Marks)

4. "While international law enjoys a certain status before municipal courts that does not mean that, upon ascertainment, all international legal rules automatically become part of the municipal law of a given country. This is partly due to the fact that international law itself is not a single body of law, but that which, in a traditional classification, consists mainly of treaty rules and customary rules, as well as general principles of law".

A.Abass, *International Law Text, Cases, and Materials*, (2ed.) Oxford University Press 2014, at p.315

Critically analyze the above statement in the light of the relevant theories and state practices on the relationship between international law and municipal law.

(20 Marks)

5. "State immunity is a concept which has been severely restricted owing to the development of commercial relationships. However, considering the recent behavior of States concerning 'sensitive' issues (eg. crimes against humanity), it is suggested that this concept should be further curtailed."

Critically discuss the above statement, with particular emphasis on how the concept of State immunity impacts on the rights of people within States.

(20 Marks)

6. The International Union of 'World Federation of Teachers' has drafted a Convention to codify certain principles on "the Recognition of Qualifications Concerning Primary Education'. This Convention is now open for ratification and 51 States which participated in the adoption of the Convention are in the process of ratifying the Convention. The State of Mysoor, which did not attend the diplomatic conference that adopted the Convention, is considering signing the document but is not happy with provisions relating to 'Academic Quality and the Annual Ranking of States' (Article 8 (a) of the Convention) and decides to sign it subject to the condition that Article 8(a) would not have any binding effect on Mysoor. The State of Baziyana objects to the stand taken by Mysoor. The State of Sclin, a developing state which receives major foreign aid from Mysoor accepts Mysoor's position. The State of Poler, another developing state also backs Mysoor's position subject to the condition that Article 8(a) would have no application between the States of Poler and Mysoor. Article 19 of the Convention permits any State to file clarifications or alternations regarding the application of any of the provisions of the treaty at the time of ratification or at a later date.

Write an essay, discussing the effect of the application of the above Convention on the respective States.

Your answer should refer to the obligations of State parties as stipulated in the Vienna Convention on Treaties 1969.

(20 Marks)

7. Write notes on any **two (02)** of the following:

- a) The application of general principles of law as recognized by the civilized nations as a primary source of international law
- b) The common modes of acquiring territory and their significance in contemporary international law
- c) The law relating to diplomatic communication as per Article 27 of the Vienna Convention on Diplomatic Relations of 1961

(10x2= 20 Marks)

8. The International Court of Justice (ICJ) celebrated its 73rd birthday in 2019. Mr. Abishek Sharma, the foreign minister of Sahabad, is invited to deliver a lecture at the 'Worldwide Conference on Current Challenges to International Law and Justice' organized by the UN to mark the contribution of the ICJ towards international law. Looking at the statistics, Mr. Abishek is skeptical about the ICJ's contribution to international law. He needs your support. As a research assistant, write an essay on the ICJ's contribution to international law, its strengths, weaknesses and suggestions on how the Court can be made more effective in the future.

(20 Marks)

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