

**THE OPEN UNIVERSITY OF SRI LANKA**

**LL.B. DEGREE PROGRAMME - LEVEL 5**

**FINAL EXAMINATION 2006**

**PUBLIC INTERNATIONAL LAW – LWU 3315/4312/4335**

**DURATION : THREE (03) HOURS**



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**DATE : 25<sup>th</sup> April 2006**

**TIME : 1.30 p.m. – 4.30 p.m.**

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**ANSWER FIVE QUESTIONS ONLY.**

**Illegible handwriting will be penalized.**

1. a. Treaty making in international law is not an easy task due to the incompatibility of interests of states. Considerable compromise has to be made in order to get consensus from the parties with diverse interests.

Discuss the role of treaties as a source of international law.

- b. Lima is an independent equatorial state which is ranked 52<sup>nd</sup> in the list of the poorest states in the world. Lima, however, has registered to obtain three slots in the Geo Stationary Orbit (GSO) at the International Telecommunication Union (ITU) with the intention of launching a satellite one day. Jerkistan is a rich state keen on entering international telecommunication business, but could not get a slot in the GSO to launch a satellite. The President of Ramastan, a neighbouring state, meets Lima's president and discusses the possibility of hiring a slot for Jerkistan. But Lima's president refuses to lease any of the slots. A few days later, Lima's president receives a message from the president of Ramastan stating that he will have to re-consider the agreement on timber for food entered into between Lima and Ramastan just two years ago. As a result, finally Lima enters into an agreement with Jerkistan to hire one slot. Later, Lima learns that Jerkistan is about to launch 3 satellites using all three slots registered in the name of Lima. The president of Lima seeks your advice on remedies available to Lima on this matter.

Advise him.

2. Mr. Tin Tin, the Minister of Home Affairs of the Republic of Gaul visits the Federal Republic of Misaka to address an intergovernmental forum. As a usual practice, the ministerial delegation consisting of ministry officials and family members is sponsored by the government. However, on this occasion, the delegation, in addition to the family members, consists of two private secretaries, three bodyguards and four human rights activists. A day before

the conference, Mr. Tin Tin goes shopping with his wife. Mrs. Tin Tin stole three crystal ornaments from a shop. His sons went to a casino in the night and stabbed a bartender to death in a drunken fight.

On the following day, while the minister is at the conference, the bodyguards went out in the street and got involved in a riot in front of the hotel causing damage to public property.

Discuss the legal issues involved.

3. The recently appointed Select Committee on Diplomatic Relations has suggested the following changes to be effected to the Vienna Convention on Diplomatic Relations 1961 by way of adding the following to Articles 22, 27 and 30 respectively. (The suggested changes are given in bold lettering).

Article 22.

1. The premises of the mission shall be inviolable. The agents of the receiving state may not enter them except with the consent of the head of the mission. **Provided however, the agents of the receiving state may enter the premises without prior permission in the interest of national security and public order.**
3. The premises of the mission, their furnishings and other property there on and the means of transport of the mission shall be immune from search, requisition attachment or execution. **Except where the receiving state believes on reasonable grounds that national security and public order is threatened by the behavior of the mission.**

Article 27.

2. The diplomatic bag shall not be opened or detained. **Provided that subject to the provisions of this Article the receiving state reserves the right to investigate on diplomatic bags on justifiable grounds.**

Article 30.

1. The private residence of a diplomatic agent shall enjoy the same inviolability and protection as the premises of the mission **except where the receiving state believes on reasonable grounds that national security and public order is threatened by the behaviour of the mission.**

The Minister of Foreign Affairs of Ceylinca seeks your advice on the proposed changes/additions to the Convention.

Advise him on the legal implications of the change/additions.

4. a. Explain the different ways in which a state may exercise extra-territorial jurisdiction in international law.
- b. Mark, a citizen of *Silverland* is the Manager of the *Macrosoft Group*, a company registered in *Silverland*. The company manufactures Pineapple brand computers, which have a big demand in the market. Mark is arrested in *Greeka* and charged with illegally exporting chips from *Silverland* to *Goldland*. These chips are supplied to *Macrosoft Group* by *Future Technic Company*, a company registered in *Greeka* subject to the condition that *Macrosoft Group* should not re-export chips to customers in third states.

Advise Mark. Give reasons for your answer.

5. There have been many calls to increase the number of permanent representatives on the UN Security Council. With many developing countries including India becoming increasingly economically and politically powerful, it is desirable that they too should be given permanent places on the Security Council in order to ensure a balance of power and global interests.

Do you agree with this statement? Discuss.

6. Chang is a cartoonist on the *Rican Herald*, a newspaper having a large circulation in the state of Rico. He publishes a cartoon depicting the President of the United States of Babaloo (USB), as the leading terrorist of the world. This cartoon gets wide publicity via the internet. The cartoon creates unrest in the United States of Babaloo and USB pressurizes the President of Rico to take action against Chang or otherwise face economic sanctions. As a result, the Rican Police arrests Chang. He wishes to file an action in the apex court of Rico invoking Article 19 of the Universal Declaration of Human Rights. Rico has ratified the International Covenant on Civil & Political Rights (ICCPR).

(a) Advise Chang

(b) Would your advice be different if Rico is not a party to the ICCPR?

7. a. Article 2(4) of the Charter of the United Nations totally prohibits the use of force by members against any other state. This prohibition is subject to a narrow exception provided in Article 51 of the Charter. The effect of Article 51 is that the right to use of force in self defence is strictly restricted to the circumstances expressly referred to in the Article.

Do you agree? Give reasons for your answer.

- b. Olu, is a state badly affected by an ongoing civil war since 1960. The Liberty of People (LOP) is demanding a separate state in the Southern part of Olu. The government of Olu suspects that the state of Kolu and the Republic of Utopia are supporting LOP with military means and has threatened to use force against both of them if they do not stop supporting LOP. The intelligence Bureau of Olu gathers credible information that several warships have been docked at a port of Kolu. The port is the closest one to the territory of Olu and it would take only a few minutes to move to the Southern territory of Olu.

The Olurian forces attack the port of Kolu and destroy two warships and seize one. Kolu takes up the matter before the International Court of Justice.

As the head of the team assisting the senior counsel, appearing for Olu you are required to prepare a report justifying the attack carried out by Olu.

Prepare the report.

8. Write notes on any **two** of the following.
- a. Extradition in International Law.
  - b. The Act of State doctrine.
  - c. Arbitration as a mode of dispute settlement in international law.

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