THE OPEN UNIVERSITY OF SRI LANKA

LL.B. DEGREE PROGRAMME – LEVEL 5

FINAL EXAMINATION 2008

PUBLIC INTERNATIONAL LAW – LWU 3315/4335

DURATION - 3 HOURS

Date: 9TH April 2008 Time: 9.30 a.m. – 12.30 p.m.

Illegible handwriting will be penalized

Answer FIVE (5) questions only.

1 Dr. Dimithri Yakov is the newly appointed ambassador of the Republic of Groznia to the state of Kabul with effect from 1st January 2008. He left Groznia to take up the new appointment in Kabul on 2nd January and he left with three of his new officers appointed by Groznia. Four of his cousins and his family too accompanied him. On his way to Kabul he had two transits. The first was in Lubai, where he stopped for two days. During his stay in Lubai a few unknown people approached him with a few parcels and were seen talking to him and handing over several parcels to the officers of Dr. Yakov. On his second transit in Widney, where he broke journey for three days, Dr. Yakov was seen discussing with a person and signing a few papers. During that stay Dr. Yakov's two teenage sons and cousins went shopping and participated in a demonstration against the government of Widney. Later the demonstration turned violent and the participants including the sons and cousins of Dr. Yakov were taken into custody by the Widney police for rioting and damaging public property.

Meanwhile, Dr. Yakov and his wife arrived at the international airport in Kabul. The custom officers acting on credible information stopped the luggage belonging to Dr. Yakov and his family. On investigation the custom officers found a few catalogues on hi-tech weapons and a set of hi-tech radio transmission equipment addressed to a person residing in a remote village in Kabul which is under control of a group of insurgents who are battling for equal rights. The items were in the luggage that belonged to Mrs. Yakov. Kabul police arrested Dr. Yakov and his wife for smuggling prohibited material with the intention of handing them to insurgents under the emergency regulations in force in Kabul.

Discuss the legal issues involved.

2 "Unwarranted and extensive application of the 'effects doctrine' has been limited by the courts to certain limited circumstances."

Do you agree with the above statement? Give reasons for your answer.

3 Sovereignty, self determination and recognition are regarded as three important pillars of statehood. However the practical and relative importance of those pillars is always put to test by the modern political environment.

Critically evaluate the above statement with examples.

4 Discuss the legal issues involved in the following situations.

(a) Consequent to a general election in the Democratic Republic of Tenya violent clashes erupted between two tribal parties claiming that the election was unfair and illegal. Mass murders and massive violations of human rights were reported daily. The Security Council of the United Nations acting under Chapter VII of the UN Charter decided to send a peace enforcing mission to Tenya. The mission arrived in Tenya in March 2007 and the missions consisted of troops from the States of Romalia, Sicily and Victoria. By December 2007 Tenya complained to the UN that members of the peace enforcing mission had engaged in gross inhuman activities including murder, rape, gang rape and beating.

(b) To prevent increased trafficking of illicit drugs within the region, four states of the region, namely Bima, Cancun, Bogota and Millie entered into an agreement to prevent trafficking of illicit drugs. The schedule to the Agreement prohibits certain activities which are regarded as facilitating the drug business. The prohibited activities include *inter alia* 'growing, maintenance and transportation of opium. A Few months later Bima, Cancun and Millie learn that opium is grown as a home grown crop in Bogota and is encouraged by the government of Bogota even after becoming a party to the Agreement.

5. Every sovereign independent state enjoys the right to wage war.
Comment.

6. (a). Discuss the modes by which a treaty would become illegal, suspended or terminated. You are expected to cite examples to support your answer.

(b). The Republic of Banana and the State of Apple are coastal states situated facing the Pacific Ocean. In 2000, the Republic of Banana and State of Apple entered into a treaty to stop the dumping of waste within 20 Nm from the coast of both states. It was a usage practiced among all the coastal states for a long period of time. The foreign minister of the State of Peach, which is the State neighbouring Banana, during his official visit to Banana in 2001, made a public statement stating that his State fully endorsed the provisions in the Agreement. Meanwhile, the State of Melon vehemently objected to the practice time and again and continued to dump waste within the 20 Nm limit of the sea. In 2006, due to the increase of its population the State of Peach started dumping waste within 18 Nm of the sea.

The Republic of Banana and State of Apple file a case in the International Court of Justice against the states of Peach and Melon for their wrongful conduct.

Advise the Parties on the applicability of laws by the International Court of Justice.

7 Write notes on any **TWO** of the following;

(a) Act of State doctrine

(b) Re-structuring the United Nations

(c) Invoking the jurisdiction of the International Court of Justice

8 The Socialist Republic of Minerva is a developing state which heavily depends on exporting gold. In December 2007, the permanent representative of Minerva to the United Nations deposited the ratification of Minerva for the latest Convention on counter terrorism, the Colombo Convention on Total Elimination of Terrorism 2006, bringing it into force. Generally, provisions of international conventions do not become a part of the domestic legal system of Minerva without express legislation.

In January 2008, Binu, a citizen of Minerva was arrested by police in Arabia for smuggling arms to a group of terrorists in the state of Gaul. Later it was found that Binu

heads the list of top most wanted people for smuggling arms in Gaul. Both Minerva and Gaul requested that Binu be extradited to their territories. Arabia refuses to extradite Binu on humanitarian grounds.

(Note: the Constitution of Minerva is similar to the 1978 Constitution of Sri Lanka and Minerva and Gaul have entered into bilateral extradition treaties with Arabia.)

(a) Discuss briefly which state has jurisdiction to try Binu and on what basis?

(b) What would happen if Binu is extradited to Minerva and Minerva wishes to try him under the provisions of Colombo Convention on Total Elimination of Terrorism 2006?

(c) In your opinion what are the remedies available to Minerva and Gaul if Arabia fails or is not willing to try Binu?

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