

**NATIONAL UNIVERSITY OF LESOTHO**  
**FACULTY OF LAW**  
**LL.B FINAL EXAMINATIONS**  
**L382- INTERNATIONAL LAW**

**MAY 2016**

**MARKS: 100**

**TIME: 3 HOURS**

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**INSTRUCTIONS**

1. This paper contains six questions.
2. You are required to answer any **FOUR(4)** questions.
3. All questions carry equal marks.

### **Question 1**

It has been argued that military intervention against other States' territories must be viewed from a new perspective in public international law in the light of the need for protection against terrorism and weapons of mass destruction. In this context, arguments have been brought forward in favour of a right of "pre-emptive strike" to protect national interests.

Critically discuss the above statement and give your assessment of whether the existing rules of public international law in this field need to be developed.

[25]

### **Question 2**

John is a British citizen. Along with a group of twelve other men, he hijacked an Israeli vessel that was passing through Greek territorial waters. They took the passengers and crew on board as hostages. Charley, an American citizen, was shot and killed while trying to escape from the ship. The group later escaped taking valuable jewels that were being conveyed by the vessel. John subsequently escaped to China where he spent five years at large before his whereabouts were discovered. He has been apprehended by the Chinese authorities.

England, Israel, Greece, the United States and China all claim entitlement to exercise jurisdiction over John's crime.

Explain whether, and on what basis, each state would be entitled to exercise criminal jurisdiction. You must use relevant cases to support your answers.

[25]

**Question 3**

With the use of decided cases, discuss the doctrine of imputability under state responsibility.

[25]

**Question 4**

A group of alleged mercenaries are arrested at Tona Road in Liphiring. The Government of Liphiring explains that they were arrested because of information received to the effect that the mercenaries were intending to stage a *coup d'etat* to overthrow the Prime Minister of Liphiring. The mercenaries are all Kalunda citizens.

In Liphiring, the mercenaries are detained in appalling conditions at the Maximum Prison. They are required to sleep on the floor, and receive little more than dirty water and porridge by way of sustenance. Liphiring's justice system is notoriously corrupt. The Prime Minister appoints all judges, and local and international newspapers have reported the Prime Minister as saying that "my judges" will ensure that "these foul mercenaries' intent on overthrowing me will be punished by death". Liphiring still retains the death penalty which it carries out by way of firing squad. While in detention, the mercenaries manage to escape to the Republic of Santana but soon thereafter, they are arrested and detained.

The Minister of Justice and the Prosecutor are adamant that the suspects have to stand trial in Liphiring.

You are a legal adviser in the Ministry of Justice. Write a legal opinion on how the mercenaries can be brought back to Liphiring to stand trial.

[25]

### Question 5

a) Give three differences between municipal legal systems and the international legal system. [6]

b) List three types of sanctions/ punishment which may be employed in international law. [3]

c) Name the five primary/ main modes of acquiring territory [10]

d) Define the following terms:

*i. Opinio juris* [2]

*ii. Obligations erga omnes* [2]

*iii. Jus cogens* [2]

[25]

### Question 6

I should regard it as highly improper for me to admit that any country on earth can question the sovereignty of the United States of America in the exercise of that high political act of recognition of the de facto status of a state. Moreover, I would not admit here, by implication or by direct answer that there exists a tribunal of justice or of any other kind, that can pass upon the legality or the validity of that act of my country.

(Mr. W.R. Austin, Representative of the USA to the Security Council in 1948)

In the light of the above quote, describe the nature of recognition of states, with particular reference to differences between *de facto* and *de jure* recognition

[25]