

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

**MAY 2019**

**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

State A and State B (both members of the UN) share a common border but their relation is tense. One day, three border guards of State A provoke the border guards of State B by firing gunshots across the border, injuring one soldier of B. As a consequence State B launches a counter attack using, amongst others, hellfire missiles which lead to a bloody one-month armed conflict. In the end, State A is completely defeated. State B then insists that State A signs a peace treaty to: (a) end all armed activities between A and B, and (b) cede a certain part of A's territory to State B.

- a) Is the peace treaty between State A and B a legally valid instrument? Use provisions of the Vienna Convention on the Law of Treaties 1969 to illustrate your answer.

**10 Marks**

- b) State B has argued that their counter attack was an act of self-defence in line with provisions of the UN Charter. Is this argument valid in terms of the provisions of the UN Charter?

**15 Marks**

**[25 MARKS]**

## Question 2

Define the following terms:

- |                               |                |
|-------------------------------|----------------|
| a) <i>Jus ad bellum</i>       | <b>5 Marks</b> |
| b) Imputability               | <b>5 Marks</b> |
| c) <i>De facto</i> government | <b>5 Marks</b> |
| d) <i>De jure</i> government  | <b>5 Marks</b> |
| e) <i>Uti possidetis</i>      | <b>5 Marks</b> |

**[25 MARKS]**

### **Question 3**

Recognition is merely a political act which has no legal or practical significance.

Critically discuss.

**[25 MARKS]**

### **Question 4**

a) With the aid of a decided case, define the doctrine of political offences.

**5 Marks**

b) List and define the political offences exception tests

**20 Marks**

**[25 MARKS]**

### **Question 5**

Mr Robert was removed from office as President of Zimba by the army and judiciary of Zimba. Subsequently, elections were held and President Emmerson Moyo was elected. A large Zimba community lives in South Africa supporting Robert. This community disagrees with the removal of Mr. Robert from office and with the outcome of the recent election. As a response, they have been demonstrating peacefully in front of the Zimba Embassy for 5 days. The police have been monitoring the demonstrations. However, at one point the crowd becomes violent and they manage to enter the premises and cause substantial damage. A day later, the South African authorities issued a statement acknowledging the actions of the protesting Zimba community and announced that they had decided to send extra forces to the embassy to stop the violence and arrest the protesters.

Can South Africa be held responsible under international law for the damage caused to the Zimba Embassy?

**[25 MARKS]**

**Question 6**

In the case of *Ker v Illinois* 119 US 436 (1886), the US Supreme Court held that mere irregularities in the manner in which Ker was brought into the custody of the law did not entitle him to escape prosecution. The Court upheld its jurisdiction, stating that the proper remedy for the breach of international law was at the diplomatic level, and the physical presence of the accused before the Court, no matter how he had been brought there, sufficed to validate the proceedings.

In the light of the Ker case, critically discuss the concept of the illegal apprehension of suspects and the exercise of jurisdiction.

**[25 MARKS]**