

**NATIONAL UNIVERSITY OF LESOTHO**

**FACULTY OF LAW**

**LL.B FINAL EXAMINATIONS**

**L382- INTERNATIONAL LAW**

**MAY 2017**

**MARKS: 100**

**TIME: 3 HOURS**

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**INSTRUCTIONS**

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

### **Question 1**

Discuss the significance of the *Case Concerning the Military and Paramilitary Activities In and Against Nicaragua (Nicaragua vs United States)* 1986 I.C.J. 14 in international law?

**[25 MARKS]**

### **Question 2**

With reference to the sources of international law, and with the use of decided cases, critically discuss the importance of the concept of “consent” in the formation of rules of international law.

**[25 MARKS]**

### **Question 3**

Julian Assange, an Australian citizen resident in the United Kingdom and a co-founder of Wikileaks, an organisation which published, *inter alia*, various diplomatic cables issued by diplomats from the United States and various other countries, was charged with sexual assault by Swedish prosecuting authorities in 2010. After these charges were filed, and amidst great media attention, the Swedish government petitioned the UK authorities for Assange’s extradition. In June 2012, having lost all appeals against extradition, he took refuge at the Ecuadorian embassy in the Knightsbridge district of London. In August 2012, the Ecuadorian government announced it was granting “asylum” to Assange. Ecuador sought to justify its action on the grounds of “diplomatic asylum,” and fears that his human rights might be violated if he is extradited.

With the aid of decided cases and relevant laws, discuss the law on diplomatic relations in the light of the above facts.

**[25 MARKS]**

#### Question 4

- a) Outline 5 grounds for the termination of a treaty [10 Marks]
- b) What is the definition of *jus cogens* according to the Vienna Convention on the Law of Treaties? Would a *jus cogens* norm that emerged after a treaty had been concluded make such a treaty void? [5 Marks]
- c) Give three differences between municipal legal systems and the international legal system. [6 Marks]
- d) Outline the elements of statehood under international law? [4 Marks]

[25 MARKS]

#### Question 5

Elections were held in the United States of America (USA), and a populist candidate came to power as a result of the constitution which stipulates that the Electoral College picks the next President. One of the candidate's promises during the election campaign was to work towards expulsion of immigrants originating in neighbouring Mexico as well as building a wall between the USA and Mexican border. The Mexican authorities, who had followed the elections closely, responded to the hostile tone towards persons originating in Mexico by adopting a law stating that all persons living in the USA who could document links to Mexico were to be regarded as Mexican citizens regardless of whether they were also citizens of other States. The law entered into force immediately.

Following the elections, certain extremist groups seized the opportunity, and organized demonstrations in which property of Mexican citizens was destroyed. The police did not intervene and none of the demonstrators was brought to justice. The Department of Homeland Security argued in the press that they



feared serious riots if they had ordered the police to interfere with the demonstrations.

The extremists seemed to be encouraged by the passivity of the government, and groups were organized which attacked the homes of Mexican citizens. USA authorities condemned the attacks, and Homeland Security called for the guilty to be brought to justice. However, little was done in practice, and those arrested turned out to be innocent. The Mexican government, which felt that it could not passively witness the misfortune of their citizens in the USA, secretly sent agents into the USA in order to investigate the acts that had been committed. The agents managed to capture two leaders of the extremist groups that were considered responsible for the attacks against Mexican citizens. They were smuggled out of the USA and into Mexico, where they were imprisoned.

You are a legal adviser in the Ministry of Foreign Affairs in Mexico. Advise your government on the issues that arise and the rights and obligations of each of the parties in the dispute.

**[25 MARKS]**

### **Question 6**

Quthing and Leribe (both members of the United Nations) are states that share a common border but their relation is tense. One day, three border guards of Quthing provoke the border guards of Leribe by using heavy weapons across the border, injuring one soldier of Leribe. As a consequence, Leribe launches a counter attack that leads to a bloody six-month armed conflict. In the end, Quthing is completely defeated. Leribe then insists that Quthing signs a peace treaty (a) to end all armed activities between them, and (b) to cede a certain part of Quthing's territory to Leribe.

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a) Has Leribe used force in violation of the UN Charter?

[15 Marks]

b) What is the legal effect of the peace treaty between the two states?

[10 Marks]

**[25 MARKS]**