

UGANDA MARTYRS UNIVERSITY

NKOZI

UNIVERSITY EXAMINATION

MAY 2023,

FACULTY OF LAW

BACHELOR OF LAWS (LLB) YEAR III

END OF SEMESTER TWO EXAMS

ACADEMIC YEAR 2022--2023

PRINCIPLES OF PUBLIC INTERNATIONAL LAW

DATE: Thursday, 25<sup>th</sup> May 2023

TIME: 9:30 AM– 1: 00 PM

DURATION: 3 & HALF HRS

Instructions:

1. Carefully read through ALL the questions before attempting
2. This is a partially open book examination, students may bring into the examination room clean copies of the reading list, relevant treaties, conventions and charters **BUT SHALL NOT SHARE THE SAME**
3. Answer a total four (4) questions. **Question one is COMPULSARY.**
4. All questions carry equal marks, (25)
5. It is in your interest that your work is clear and readable.
6. Clarity of expression, citation of relevant authorities/examples and logical flow of arguments will earn you extra marks
7. Do not write anything on this question paper; use your answer booklet to do your rough work.
8. **ANY TYPE OF EXAMINATION MALPRACTICE WILL LEAD TO AUTOMATIC DISQUALIFICATION**

**Question One (Compulsory Question)**

Mr. Zelaya was removed from office as President of Honduras by the army and judiciary of Honduras. Subsequently, elections were held and President Porfirio Lobo was elected. A large Honduran community lives in Nicaragua supporting Zelaya. This community disagrees with the removal of Mr. Zelaya from office and with the outcome of the recent election. As a response, they have been demonstrating peacefully in front of the Honduran Embassy for 5 days. The police have been monitoring the demonstrations. However, at one point the crowd becomes more violent and they manage to enter the premises and cause substantial damage. The day after the Nicaraguan authorities decide to send extra forces to the Embassy to stop the violence and arrest the protesters.



Can Nicaragua be held accountable under international law for the damages caused to the Honduran Embassy? **(15marks)**

In another scenario, the Iranian revolutionary Guards acting as immigration officials at Teran airport, in the immediate aftermath of the Iranian revolution committed violations and on being sued, Iran counter argued that the actions of the revolutionary Guards cannot be attributed to Iran as they are not agents of the state and were not actually authorized by the new government. In your opinion and supported by authorities, do you believe this line of argument will succeed before a tribunal? **(5marks)**

In yet another incident, the mayor of the city of a Mexican town called out troops to suppress an unruly mob demonstrating outside the house of American employers over a trivial wage dispute. The troops, on arriving at the scene of the demonstration, instead of dispersing the mob opened fire on the house, as a consequence of which three Americans were killed. Can Mexico be held liable before an international tribunal for the death of the 3 Americans? **(5marks)**

### **Question Two**

On 24<sup>th</sup> February 2022, Russia invaded and occupied parts of Ukraine. Since this invasion, an escalation of the war has continued and this war has already caused immense suffering and resulted in numerous victims, including more than four million refugees and tens of thousands of deaths on both sides. It has been widely stated that Russia's invasion of Ukraine, a sovereign country cannot be justified through resort to the use of force and has the potential to destroy the basic principles of international law that were born from the ashes of World War II. Russia on the other side maintains that it is the aggrieved state and is the victim of the North Atlantic Treaty Organization's (NATO's) eastward march and is only acting in self defence. Spectators have further argued that Russia's invasion of Ukraine violates the principles of the Charter of the United Nations including the prohibition of the threat or use of force against a country's territorial integrity or political independence as provided in Article 2(4) of the UN Charter. Spectators further argue that the permitted exceptions to the prohibition of the use of force are: (i) action by the Security Council under Chapter VII of the Charter—which does not apply in this case because of Russia's right of veto; and (ii) the inherent right of individual and collective self-defence in the event of an armed attack while the Security Council intervenes, they simply argue that the right to self defence recognized in article 51 of the UN Charter is not applicable in this case. Discuss the merits and demerits of each side supporting your arguments with legal authority. **(25marks)**

### **Question Three**

a) Sophia is an artist from Kampala who concludes an agreement with the government of Goldava. The agreement stipulates that she will paint a portrait of the wife of the Goldavian Ambassador to Uganda (Mrs. Nip), which is to be hung on the wall of the Ambassador's office, and that in turn she will be paid 2.5m UGX as a deposit before she starts working, and 6.5m UGX when her work is completed. She receives the deposit in good time. A month later the portrait is finished and she shows it to Mrs. Nip at the



embassy. Mrs. Nip is not happy with the way she has been depicted by Sophia. Sophia quietly insists that the portrait is lifelike and as requested. Mrs. Nip loses her temper and throws her paperweight at Sophia. Sophia is seriously injured and taken to hospital. When her condition improved, she approaches you for legal advice. With legal authority, advise Sophia on;

i) Whether Mrs. Nip can be arrested and charged with assault; **(5marks)**

ii) Whether the embassy premises can be searched for the paperweight which was allegedly used in the assault and **(5marks)**

iii) Whether Sophia can institute an action in a Ugandan Court claiming 6.5m UGX from the government of Goldava. **(5marks)**

b) In yet another incident, Kemal, a journalist and a national of the state of Azovia, is living in the state of Tiberia. One day he goes to the Azovian consulate in Kosta, a major Tiberian city, in order to obtain a divorce certificate, which he needs to marry his current fiancée. Kemal never emerges from the consulate. A few days later, Tiberian authorities publicly claim that Kemal was murdered by Azovian agents while he was in the consulate. The Azovian government denies these allegations. Assuming that the facts asserted by Tiberia are true, answer the following questions (in doing so, bear in mind that Azovia and Tiberia are both parties to the Vienna Convention on Consular Relations and the Vienna Convention on Diplomatic Relations).

(1) If Tiberia had obtained reliable intelligence that Kemal was about to be murdered in the Azovian consulate in Kostantiniyye, would it have been (i) obliged to or (ii) permitted under international law to forcibly enter the premises of the consulate in order to save Kemal's life? **(5marks)**

(2) Would your answer to question (1) be any different if Kemal was murdered/about to be murdered in the Azovian embassy in Tiberia, rather than in its consulate? **(5marks)**

#### **Question Four**

Using sound legal authorities and examples, discuss the various ways through which a territory can be acquired. **(25 marks)**.

#### **Question Five**

Under what circumstances may the United Nations Charter authorize the use of force? **(25marks)**

#### **Question Six**

With examples of case law, discuss the various defences available to a state accused of breaches of international obligation as provided in the draft articles on state responsibility for internationally wrongful acts. **(25marks)**