

UGANDA MARTYRS UNIVERSITY

NKOZI

UNIVERSITY EXAMINATION

December 2023

FACULTY OF LAW

BACHELOR OF LAWS (LLB) YEAR 1 END OF SEMESTER ONE FINAL

ASSESSMENT ACADEMIC YEAR 2023/2024

PRINCIPLES OF INTERNATIONAL LAW

YEAR 3 FIRST SEMESTER

COURSE CODE LLB 3104

DATE: Monday, 11th December 2023

TIME: 9:30pm–1:00pm

DURATION: 3HRS:30minutes

Instructions:

1. Carefully read through ALL the questions before attempting any questions.

This is a partially open book examination. In this Examination, only the use of relevant treaties, convention, Charters and clean copies of the reading list are allowed. No student is allowed to bring into the examination room and or consult classroom notes, cases, statutes or other written materials in any form during examinations

2. This examination is composed of eight (8). Question one is **COMPULSORY**. You are required to answer any three other questions to make **FOUR (4)** questions in total. All questions carry equal marks (25).

3. Your English must be **COMPREHENSIBLE** and your handwriting must be **LEGIBLE**. Clarity of expression and use of proper authorities will earn extra marks.

4. All UMU regulations and rules governing examinations and the accompanying penalties there to in case of breach apply to this exam in entirety.

Question One (Compulsory)

Utopia is a member of the United Nations (UN). Its population is composed of 90% Majoritarians and 10% Minoritarians. The Minoritarians have been agitating over several years for increased political autonomy, but these requests have been met with firm opposition from the Utopian government, which is dominated by Majoritarians. The Minoritarians nonetheless continue to press their case, organizing various peaceful protests and demonstrations to draw national and international attention to their cause. During these peaceful demonstrations, the Utopian government reacts in a swift and severe manner, dispersing the crowds and generally implementing measures which restricts the rights of Minoritarians. There are also rumors of kidnapping and summary executions of certain key figures in the Minoritarian struggle for greater autonomy.

The human rights situation in Utopia as it relates to Minoritarians continues to deteriorate, with a large number of reports of increased state sponsored violence targeting the Minoritarian people. The neighboring states surrounding Utopia have all registered their concern at the situation and have called on the Utopian government to respect the human rights of all its citizens, including the Minoritarians.

A group of Minoritarians calling themselves the "Liberation Council" organize themselves as the voice of the Minoritarian people and try to negotiate a settlement of the matter with the Utopian government. The Liberation Council enjoys support among the Minoritarians. When their attempt to arrive at a negotiated settlement fails, the Liberation Council unilaterally issues a declaration purporting to secede from Utopia in the exercise of their right to self-determination. The declaration goes on to establish a new state, the Liberated State of Minoritaria with the Liberation Council as its sole and legitimate government.

A large proportion of the international community, including all of Utopia's neighbours have recognized the Liberation Council and the Liberated State of Minoritaria. However, Utopia continues to maintain that the Liberated State of Minoritaria is part of its territory and rejects the unilateral declaration as contrary to international law. In condemning the action of the Liberation Council, they also call attention to the heavy dependence of the Liberation Council on economic support from neighbouring state of Bukane which is sympathetic to the Minoritarian cause.

Advise Utopia on:

- a) The legality of the unilateral declaration made by the Liberation Council **(8marks)**
- b) Whether the Liberated State of Minoritaria qualifies as a state in international law **(10marks)**
- c) The legal effect of the recognition by other members of the international community **(7marks)**

Question Two

"Many serious students of law do not consider international law as proper law because it is toothless," per LLB IV student of UIIU. Using examples, illustrate the challenges facing the application of international law and how those challenges can be addressed. (25marks)

Question Three

Explain the relationship of International law and Municipal law by using the theories of Monism and Dualism. (25marks)

Question Four

Discuss the circumstances under which the United Nations may collectively refuse recognition to a state. (25marks)

Question Five

International law is entirely concerned with the rights and duties of states. This has been the case historically and remains so today. Discuss the factual requirements for an entity to attain the status of a state. (25marks)

Question Six

"In a modern state we are accustomed to find a legislature which enacts the law, a judiciary which tries violations of the law and an executive body which, among other things, enforces the decisions of the legislature and the judiciary. In international law, these features are almost wholly lacking." (Akehurst, *A Modern Introduction to International Law*, 6th ed., 1987, p.5)

To what extent is this statement true today? (25marks)

Question Seven

In 2006, the State of Gondo and the State of Ego became parties to a *Bilateral Treaty of Mutual Trade and Friendship* (the *Treaty*). One of the key goals of the treaty is to remove all customs duties in mutual trade in order to support the two local economies. Article 2(6) of the treaty provides:

Custom duties shall not be levied on any good of one Party upon entry into the territory of the other Party.

By 2007, goods from the State of Gondo have flooded the markets of the State of Ego driving out local competition and causing closures of factories and widespread layoffs. The Prime Minister of Ego is furious and makes the following public statement:

"These goods from the State of Gondo are actually made in another country-the Unified States-and are simply re-labelled as Gondonian products prior to export. Such goods have no connection whatsoever to the people of the State of Ego and we have no obligation to accept in our country. As a result, I intend to invalidate or terminate the treaty."

You are hired to advise the Prime Minister of the State of Ego on the above. The Prime Minister specifically asks you to explain how to invalidate or terminate the Treaty under international law.

When researching the issues you discover that the negotiator who signed the *Treaty* on behalf of the State of Ego was only empowered to negotiate and adopt the treaty text, not to sign it. You also discover that this same negotiator was treated to an all-expense paid trip to Hawaii after the conclusion of the negotiations, by the State of Gondo. Following signature, the *Treaty* was ratified by the Prime Ministers of the two States.

Advise the Prime Minister of the State of Ego on the legal issues raised by the above, and about the possible methods of resolving the dispute **(25marks)**

Question Eight

Explain the following rules/ principles as used in international law:

- i) *Jus cogens* and obligations *erga omnes* **(10marks)**
- ii) The principle of *pacta sunt servanda* **(5marks)**
- iii) Full Powers **(5marks)**
- iv) The phenomenon of failed states **(5marks)**

Question Nine

- a) All treaties are agreements but not all agreements are treaties. Discuss; the steps and process of formation of treaties. **(15marks)**
- b) The conditions for validity of treaties in international law. **(10marks)**