



**STRATHMORE LAW SCHOOL
MASTER OF LAWS
END OF MODULE EXAMINATION
LLM 8211: INTERNATIONAL LEGAL STUDIES**

DATE: Friday 12th April 2019

Time: 2 Hours

Instructions

1. This paper consists of Part A and B.
2. Answer **TWO QUESTIONS** from **PART A** and **THREE QUESTIONS** from **PART B**

PART A

Answer ALL Questions in this section

Question 1

Discuss the role and impact of the following three modern developments in fragmenting and/or expanding the corpus of international law:

- (a) the entry of new states into the international legal order following the end of the Second World War; **(5marks)**
- (b) the proliferation of international courts and tribunals; and **(5marks)**
- (c) the rise of international organizations and regional systems. **(5marks)**

Provide concrete examples to support your answer.

Question 2

Kejan, a renowned journalist and a national of the state of Raspara lived in the state of Tiberia. One day in October 2018 he went to the Rasparian consulate in Nogeib, the capital city of Tiberian, in order to obtain a divorce certificate, which he needed before he could enter into another marital relationship. Kejan never emerged from the consulate. A few days later, Tiberian authorities publicly claimed that Kejan was murdered by Rasparian agents while he was in the consulate. The Rasparian government denied these allegations. Assuming that the facts asserted by Tiberia are true, answer the following questions:

- a) If Tiberia had obtained reliable intelligence that Kejan was about to be murdered in the Rasparian consulate in Nogeib, 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 Kejan's life? **(8marks)**
- b) Would your answer to question (a) be any different if Kejan was murdered or about to be murdered in the Rasparian embassy to Tiberia, rather than in its consulate? **(7marks)**

Note that Raspara and Tiberia are both parties to the Vienna Convention on Consular Relations and the Vienna Convention on Diplomatic Relations. **(15 marks)**

PART B

Answer any THREE questions from this part

Question 3

On 1 June 2011, the heads of state of Luwonda and Ruracio signed an agreement at the coastal town of Mula (Ruracio) for the delimitation of the maritime boundary between the two States. This agreement came to be popularly known as the Mula Declaration. On 12 March 2019, the Luwonda Minister of Foreign Affairs wrote a note verbale to his Ruracio counterpart in which he declared that Luwonda does not consider itself bound by the Mula Declaration as it is invalid under international law. He cited the following two reasons:

- (a) The head of state who signed the Mula Declaration on behalf of Luwonda did so in contravention of Luwonda's constitutional rules regarding the conclusion of treaties.
- (b) The head of state who signed the Mula Declaration on behalf of Luwonda had no power to legally bind Luwonda.

You are a Senior Director at the Ruracio Ministry of Foreign Affairs. The Minister has asked you to prepare a well-reasoned draft response to Luwonda's note verbale for her consideration. Her particular instructions are that you refer to the relevant principles of the law of treaties as well as the appropriate case law of the International Court of Justice. Note that both Luwonda and Ruracio are state parties to the 1969 Vienna Convention on the Law of Treaties. **(10 marks)**

Question 4

Discuss the legal status of resolutions of the United Nations General Assembly and the legal relevance of these resolutions in the formation of international customary law? **(10 marks)**

Question 5

The states of Kenia and Muganda have a dispute concerning an island, Mijingo. Kenia is of the opinion that the island falls within the jurisdiction of Kenia, as it is surrounded by Kenian waters. Muganda holds that Mijingo is part of its territory based on historical claims. The situation escalates when the press in both states reports that Muganda is considering enforcing its rights to Mijingo by bombing parts of Mijingo. As a response, Kenia decides to bomb airports and harbors in Muganda. The head of state of Muganda issues a statement declaring that grave breaches of public international law have been committed by Kenia. Kenia responds by saying that its actions are justified by the earlier threats made by Muganda to bomb parts of Mijingo.

Assess the legality of the attack of Kenia on Muganda in the light of relevant rules of international law on the use of force. **(10 marks)**

Question 6

Considering contemporary practice of domestic courts, critically examine the traditional theories of the relationship between municipal and international law. **(10 marks)**

Question 7

"It has sometimes been argued that [humanitarian] intervention in order to protect the lives of persons situated within a particular state and not necessarily nationals of the intervening state is permissible in strictly defined situations". (Malcolm Shaw *International Law (5th ed) Chapter 20*)

Discuss the veracity of this statement giving particular attention to the relevant provisions of the African Union Constitutive Act as read together with the relevant provisions of the United Nations Charter. **(10 marks)**