

# ZIMBABWE EZEKIEL GUTI UNIVERSITY

## FACULTY OF LAW

### DEPARTMENT OF PUBLIC LAW

## PUBLIC INTERNATIONAL LAW (LLB205)

### EXAMINATION

May/June 2018

13 JUNE 2018

**THREE HOURS**

#### Instructions

- (i) Answer FOUR questions. At least one question must be from section A. Each question carries 25 marks.
- (ii) Students may bring into the exam un-annotated and clean texts of the 2013 Constitution of Zimbabwe, Charter of the United Nations and Statute of the International Court of Justice. Copies with notes inside shall not be allowed and may be confiscated. No student is allowed to share his/her copy with another.
- (iii) Number your answers accordingly

**NB: DO NOT TURN OVER THE QUESTION PAPER OR COMMENCE WRITING UNTIL INSTRUCTED TO DO SO.**

**Section A**

**Question 1**

“International law is not really law”. React to this statement. (25 marks)

**Question 2**

“It is of course axiomatic that the material of international law is to be looked for primarily in the actual practice and *opinion juris* of States, even though multilateral conventions may have an important role to play in recording and defining rules deriving from custom or indeed in developing them.” Discuss this statement. (25 marks)

**Question 3**

Briefly describe any **THREE** of the following terms in the context of jurisdiction in international law:

- (i) Territoriality principle
- (ii) Nationality principle
- (iii) Passive personality principle
- (iv) Universal jurisdiction
- (v) Protection of the state (25 marks)

**Section B**

**Question 4**

The People’s Republic of Colonia is a small country in Southern Africa. Its President Totonga Kubusa who is the Head of State and Government and Commander-in-Chief of the Defence Forces, has been in power for a good four decades. He is married to Mariyata, his third wife, who is six decades younger. The family has six children. On 4 January 2018 Mariyata received information that her four profligate boys who are based in South Africa were misbehaving by drinking excessively and engaging in substance abuse. Incensed by the news Mariyata caught the evening plane to South Africa. She promised to wait for her husband in South Africa as he

was due to attend a meeting of SADC Heads of State and Government on 25 January. She was going to monitor the boys for the period of three weeks and hopefully instill discipline in them. When Mariyata got to the luxurious hotel where her boys stayed she found them in the company of a 20 year old young lady, Amanda, who was introduced as the boys' "friend". In a fit of rage, Mariyata attacked the young lady, accusing her of influencing her sons to engage in drug abuse and alcoholism. Using empty beer bottles, water glasses and plates, Mariyata severely assaulted Amanda and caused some serious injuries. The girl made a police complaint. The following day the media was awash with the story of the attack upon Amanda by Mariyata. Mariyata went into hiding when police indicated that they wanted to interview her in connection with the case of attempted murder reported by Amanda. Her whereabouts remained unknown until 25 January 2018 when her husband went to South Africa. He negotiated with the South African Government which granted Mariyata diplomatic immunity from prosecution for the offence alleged. She joined her husband at the summit and flew out of South Africa after the end of summit. She clandestinely left that country by a private aircraft hired for her by her husband.

You have been approached by the family of Amanda to challenge the decision by the President to grant immunity to Mariyata, and to advise on the following:

- (a) What is the nature of the immunity which was granted to Mariyata? (10 marks).
- (b) On what grounds and with what prospects of success can the decision to grant immunity to Mariyata be challenged in a court of law? (15 marks)

### Question 5

Lapania and Ukonja are neighbouring countries who share a border. Many years ago the two used to be part of the Socialist Republic of Lukonia which disintegrated at the end of the Cold War around 1990. The majority ethnic group in Lapania is of the Lapa who occupy more than a third of the country. In Lukonia the Lukoni constitute about 75 percent of the population. There are ethnic Lukonis in the northern part of Lapania which is the part of the country which borders Lukonia. The region which they occupy is called Lukono region. The Lukonis in Lapania have since the end of the Cold War been demanding independence from Lapania. A Lukoni Resistance Movement (LRM) was formed to demand independence from Lapania. Some within the LRM want their region to be part of Lukonia. Leading personalities in the government of Lukonia also publicly claim that Lukonia is part of their country. Three months ago the Lukonia Republican Empire invaded in the then part of Lukonia and took occupation. They declared that henceforth the Lukoni's region would be part of Lukonia but would be a semi-autonomous region. The majority of the countries on the African continent resolved to accept the new set up but there were other countries which insisted that the region is and must be part of Lapania.

- (a) What international law issues arise from the above scenario? (10 marks)
- (b) Advise the two countries and the people of Lukono as to their rights, if any, under international law. (15 marks)

### Question 6

Chomolia and Bonanzia have been involved in a border dispute since their independence from Britain in 1964. The dispute centres around a strip known as Kafishi which has a big fish industry because of its strategic location in relation to the Lake Kafishi. Before independence the strip was always part of Chomolia. Bonanzia insists that it was arbitrarily taken away from it by the former colonisers. Both countries have kept soldiers on the border with each other. Last week the military personnel from the two countries exchanged fire. The situation continues to be tense now, with threats of military action being made by both sides. Another neighbouring state, Wararia has threatened to invade and totally obliterate Bonanzia should the situation degenerate into an armed conflict. The United Nations Security Council has briefed you to render an opinion on:

- (a) What international law issues arise from the conflict; (12 marks) and
- (b) Whether the United Nations or any of its organs has a role to play in that conflict. (13 marks)

END OF QUESTION PAPER