



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

EXAMINATION PAPER (1)

COURSE CODE : LLB 204
COURSE TITLE : Public International Law
DURATION : 3 Hours
LEVEL : 2.1
DATE :

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INSTRUCTIONS TO CANDIDATES:

1. Answer **four questions**, choose two questions from **each** section.
2. Each question carries **25 Marks**.
3. Start each question on a new page of your answer sheet.

PART A (Answer any TWO questions)

Question 1

In light of the jurisprudential theories of Hugo de Groot and Cornelius van Bynkershoek, discuss the origins and the nature of Public International Law as it applies in our contemporary society.

[25 marks]

Question 2

International law is generally regarded as emanating from formal and material sources. Using detailed examples and with reference to the Statute of the International Court of Justice, define and distinguish between the two sources of international law.

[25 marks]

Question 3

Using international case law, discuss the process by which a rule of law attains the celebrated and esteemed status of a customary international law rule.

[25 marks]

Question 4

“International Human Rights Law, International Humanitarian Law and International Criminal Law are the three amigos of the international scene”

Prof. Conrad Clive Bixby in “The memoirs of a psychopath-pole dancer” published by Longman Zimbabwe (2015).

Discuss.

[25 marks]

Section B

(Answer any two questions)

Question 5

James Fundi, a Japanese national flees to South Africa after committing Crimes against Humanity against the Japanese in 2007. He has lived in Johannesburg where he became a successful businessman until 2019. In 2020, at the request of the Japanese government, Fundi is kidnapped by

Zimbabwean intelligence agents who, on the instructions of the Zimbabwean government, hand him over to Japanese authorities in Osaka.

Fundi is tried and convicted on numerous courts of crimes against humanity and treason and is sentenced to death. He appeals against both conviction and sentence on the grounds that he had been illegally and forcibly taken to Japan and that Japan should have instituted proper extradition procedures in South Africa to extradite him to Japan. Further he argues that Zimbabweans had no business kidnapping and handing him to Japanese authorities where he faced certain death. He further argues that South Africa has an obligation in international law to demand and secure his safe return to South Africa.

You are an international lawyer appointed by Gilmore Malik, Fundi's half-brother. Advise James Fundi on the prospects of the success of his appeal, especially dealing with the obligations of Japan, South Africa and Zimbabwe in this respect.

[25 marks]

Question 6

Wicknell Gumbo is a personal aide to the First Lady of the State of Zambezia, Lady Grace Chipetiwa. While living in Dubai for an International Summit, Grace and Wicknell assault and rob a celebrity and model, Rihanna Smith. Wicknell also steals money from the Zimbabwean embassy. He was later dismissed when he called the First Lady by a nickname which had gone viral on tweeter, "**Gucci Grace**".

The theft of money from the Zimbabwean Embassy in Dubai was discovered two years after Wicknell had returned to Zimbabwe.

Discuss the principle of territoriality and consider whether Wicknell can be prosecuted in Zimbabwe for the crimes above.

[25 marks]

Question 7

During the internal armed conflict of 2019 to 2020, the **Moscato People's Army** led by General Trevor established bases on the Azania side of Lake Kebab and in Moscato. The Moscato People's

army is the revolutionary militant arm of the Azanian Party fighting the Moscato Republic in this liberation war.

The Moscato government issues statements condemning the presidents of Kebab and Meadows, alleging that these presidents are holding secret meetings with General Trevor to support his liberation war. Moscato publicly condemns Kebab Republic and Meadows for what it calls "regime change agenda and interference with Moscato's internal affairs".

One night, The Selous Scouts, a secret wing of the Moscato-armed forces, crossed the Azania river and their border with Meadows Republic and simultaneously attacked liberation forces on Kebab and Meadows soils. Kebab Republic and Meadows complained to the United Nations that this was intervention or violation of their respective territories and requested the Security Council to take appropriate measures, citing Moscato action as a threat to world peace and security. Kebab Republic and Meadows reserved their rights to retaliate in self-defence. Moscato retorts that it acted in anticipatory self-defence or in self-defence.

(a) What appropriate measures may the United Nations and Security Council take?

(8)

(b) Advise Kebab Republic and Meadows and Moscato of their rights and obligations under international law.

(8)

(c) Advise General Trevor and the people's movement of their rights and responsibilities under international law.

(9)

[25 marks]

Question 8

You have been accredited by the Government of Zamunda to lead a defence team to the International Criminal Court to defend the Minister of Foreign Affairs facing charges of Money Laundering and Genocide in Zimbabwe. He is appearing before Chief Judge Muesli-eater in the Hague.

Part of your role as lead counsel is to explain the immunity of foreign diplomatic officials and of heads of state and government.

Discuss the immunity enjoyed by the Minister in respect of the charges he is facing.

[25 marks]