



KENYATTA UNIVERSITY
EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS

LIL 300 : PUBLIC INTERNATIONAL LAW

1ST SEMESTER 2022/2023

TIME: 2 HOURS

INSTRUCTIONS:

1. ALL QUESTIONS ARE COMPULSORY.
2. Support your answer with illustrations from relevant case laws, statutory provisions and any other applicable references wherever necessary.
3. Write neatly and legibly.
4. Your answer script must bear your student's registration number.
5. Do not scribble or draft answer on the inner or outer cover pages of your answer booklet.
6. Do not write anything except your registration number on this question paper.

Question 1

Mularia is a province of Bambuco. It has 15 million inhabitants. In 1999, it declares independence from Bambuco, a big multinational state with 100 million inhabitants. In the following years, mularia manages to establish a government with fully functional three branches (executive, legislative and judicial). It is also recognized by 130 States. Yet, Bambuco still regards it as its province.

In 2020, a local train connecting two towns within Mularia is hit by an explosion which leads to the death of 140 persons, mostly Mularian citizens. The Mularia police establish that the explosion was triggered by a bomb laid by Vladimiro, a citizen of Insomnia, but a resident of Bambuco's capital. Vladimiro manages to escape to Bambuco before being apprehended by Mularia police. Mularia demands from Bambuco that Vladimiro be surrendered to Mulanian authorities. Bambuco refuses. The government of Bambuco points out that it is best positioned to put Valdmiro on trial. Mularia is a province of Bambuco, the government of Bambuco explains.

Vladimiro is released on bond and put under house arrest in his apartment in the capital of Bambuco. The government of Mularia takes this as an opportunity and sends a small elite police unit to the capital of Babuco. The Mularian police unit abducts Vladimiro from his apartment and brings him back to Mularia, where he is set to face murder trial. During the abduction, the Mularian officers engage in a gunfight with two Bambuco policemen guarding Vladimiro's apartment. There were no fatalities.

The president of Bambuco is furious. He decides to teach the brazen Mularia regime a lesson so as to prevent further "war-like encroachments on Bambuco's sovereignty" (a quote from Presidents' televised address). On one night, while Vladimiro waits for the trial in a high security arrest facility, two hypersonic ballistic missiles launched from Bambuco on Babmuco's president's order hit the law courts premises in Mularia leading to their total destruction and death of 30 persons present in those premises during the attack. The president of Bambuco sees himself vindicated. The "illegal" criminal trial of a Bambuco residents cannot go on, he declares.

- A. Assess the compatibility of the action of Mularia and Bambuco with Public International Law (22 marks)
- B. Discuss the compatibility of Bambuco's missile strike with the ideas about the right to wage war prevalent in the different eras of history of international law (8 marks)

Question 2

The States Anemia, Bimbula and Celulosa - all parties to the Vienna Convention on the Law of Treaties - adopt a Treaty. The Treaty has two commitments which are to apply also in times of war. First, the State Parties agree that certain buildings listed in a schedule to the Treaty to be submitted by each state must not be attacked because of their value as cultural heritage. Second, the State parties agree that prisoners of war should be exchanged without undue delay.

Bimbula lists on its schedule a number of buildings used as arms factories. Anemia makes upon ratification of the Treaty a "declaration" that it does not regard as protected by the Treaty the buildings listed in Bimbula's schedule as cultural heritage but used as arms factories. Bimbula argues that this is not a declaration but an invalid reservation to which it objects.

Analyse the Treaty obligations between Anemia and Bimbula, between Anemia and Celulosa, and between Bimbula and Celulosa (20 marks)

Question 3

Based on the evaluation of the case law by High Court and the Supreme Court, discuss the rank and the applicability of ratified international treaties with the domestic Kenya legal order (20 marks)