



**KENYATTA UNIVERSITY**

**UNIVERSITY EXAMINATIONS 2016/2017**

**SECOND SEMESTER EXAMINATION FOR THE DEGREE OF BACHELOR OF LAWS**

**LIL 304: INTERNATIONAL LAW OF THE SEA**

**DATE: WEDNESDAY 26<sup>TH</sup> APRIL 2017**

**TIME: 3.00 P.M. - 5.00 P.M.**

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**INSTRUCTIONS**

1. Answer Question **ONE** and any other **TWO** questions. Penalties accrue for failure to answer question **ONE**.
2. Support your answers with relevant illustrations from case law, statutory provisions and any other references.
3. Your writing must be **NEAT** and **LEGIBLE**.
4. Your answer booklet must bear your assigned **REGISTRATION NUMBER**, both on the cover and every written page therein.
5. Do not scribble or draft answers on the inner or outer cover pages of your answer booklet.
6. Do not write anything except your **REGISTRATION NUMBER** on this question paper.
7. **ALL** Kenyatta University Examinations Rules apply as if they were contained herein.

**QUESTION 1 (Compulsory) (30 marks)**

MV Faina is a distant water fishing vessel registered in the State of Guyana, a landlocked country. Over the last 15 years, MV Faina has been undertaking fishing both in the High Seas and sovereign waters of several coastal States by entering into fisheries access agreements with relevant competent authorities. Most of the fisheries access agreements are negotiated on behalf of MV Faina by the State of Guyana. In December 2016, MV Faina was detained in the Port of Mombasa by Kenyan authorities for failure to comply with license conditions attached to its fisheries access agreement with Kenya. The detention led to diplomatic tension between Kenya and the State of Guyana which now threatens to file a dispute with the International Tribunal for the Law of the Seas based in Hamburg, Germany. The Minister for Foreign Affairs and International Trade is concerned about escalation of diplomatic tension but is adamant that as coastal State, Kenya has duties and responsibilities in the management of the oceans and its living and non-living resources. The Minister has tasked you to compile a detailed report regarding rights and responsibilities of coastal states under the United Nations Convention on the Law of the Seas (UNCLOS).

**QUESTION 1 - 20 Marks**

Referring to the specific facts of the case and using relevant treaty provisions and case law including the *The Case of S.S. Lotus*, discuss the rights and duties of Kenya as a coastal State.

**QUESTION 2 - 20 Marks**

Describe at least three critical stages in the evolution of contemporary international law of the sea post World War II of 1945, while noting to refer to international conference and conventions.  
Please note to refer to relevant international conferences and conventions.

**QUESTIONS 3 - 20 Marks**

The United Nations Convention on the Law of the Seas (UNCLOS) was adopted in 1982 and came into effect in 1994 upon attaining its 60<sup>th</sup> ratification by Republic of Guyana. The Convention divides the ocean into major zones and assigns duties and responsibilities regarding management of marine living resources, which are primarily commercially viable fish stocks like tuna and tuna-like species.

Using the Convention as a reference, identify at least two major zones of the oceans relevant to understanding management of marine living resources and discuss the duties and responsibilities of coastal States or any other institution tasked with governing marine living resources under the Convention.

**QUESTION 4 - 20 Marks**

Define the concept of territorial seas in International Law of the Sea Convention 1982 and describe the circumstances under which foreign-flagged vessels and other commercial ships can exercise their right of innocent passage.  
Outline three exceptions to the right of innocent passage.

**QUESTION 5 - 20 Marks**

Write explanatory notes on any **four (4)** of the following:

- |    |                                                       |           |
|----|-------------------------------------------------------|-----------|
| a) | Territorial Seas                                      | (5 marks) |
| b) | International Sea Bed Authority                       | (5 marks) |
| c) | The Enterprise                                        | (5 marks) |
| d) | The Commission on the Limits of the Continental Shelf | (5 marks) |
| e) | International Law of the Sea Tribunal                 | (5 marks) |

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