

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:–

Laws C2: Public International Law

COURSE CODE : LAWSC002

UNIT VALUE : 1.00

DATE : 18-MAY-06

TIME : 10.00

TIME ALLOWED : 3 Hours 15 Minutes

PUBLIC INTERNATIONAL LAW

Answer **FOUR** questions

1. Answer **EITHER** (a) **OR** (b):

(a) "While one might with certainty define what a treaty is, a satisfactory legal definition of customary international law has proved more elusive."

Discuss.

OR

(b) What value, if any, do the concepts of obligations operating "erga omnes" and those having "jus cogens" status have in international law? Explain your answer.

2. What effect does international law have on, and in, national legal systems? What problems are there in the application of international law in the United Kingdom and how are such problems resolved?

3. What have been the major changes in the treatment of individuals by international law? Is this treatment now sufficient to address all the issues relating to individuals that should properly be the focus of international law? Is there still a role for 'diplomatic protection' in the era of human rights law, and, if so, what is it? Explain your answers.

4. Is there a clash between state immunity and human rights in international law, and, if so, how has it been and how should it be addressed? Explain the reasons for your answers, with reference to the key cases in this area.

5. You are legal adviser to the foreign ministry of Gallifrey, an autocratic state where human rights abuses are frequent and in relation to which allegations are made by some other states that a secret programme to develop weapons of mass destruction, including nuclear weapons, is underway. In the light of this, advise the ministry as to when, if at all, Gallifrey might be subject to lawful military intervention by one or more foreign states, and what steps, if any, Gallifrey could take to remove any legal entitlement on the part of other states to engage in such intervention. Explain the reasons for your advice.

6. "There is no more perplexing question for the international lawyer than the attribution of conduct to the State for the purposes of state responsibility."

Do you agree with this statement, or do you consider other areas of the law of state responsibility to be more urgently in need of clarification than the rules on attribution? Explain your answer.

TURN OVER

7. What value, if any, is there in enabling parties not directly affected by violations of international law to trigger the adjudication of such violations by international review mechanisms? What possibilities exist in the international system in this regard, and are they adequate and effective? Explain the reasons for your answers.
8. The New Era Data Corporation ("NEDC"), a company incorporated in the Republic of Alpha, has set up a base on the Evo, a ship registered in the State of Omega and anchored on the high seas. The NEDC uses this base to host off-shore banking enterprises, internet servers, radio and telecommunications equipment, and a centre for secondary trading of shares, commodities and other financial transactions, all of which (NEDC claims) are subject only to NEDC's "Evo Code". The Evo Code is a short set of rules designed to prevent harm to NEDC's base on the ship; but otherwise the activities of NEDC's clients using the Evo's facilities are unregulated except in the sense that NEDC has discretion to admit anyone to, or exclude them from, use of those facilities.

NEDC has a large clientele in Utopia where use of the internet is heavily restricted to exclude its use by nationals and residents of Utopia for many of the activities which are carried out on the Evo; and certain of the activities, including the off-shore banking and secondary trading, are also prohibited acts for those nationals and residents. NEDC has bank accounts containing large amounts of money, the proceeds mainly of fees and charges paid to it by nationals and residents of Utopia in respect of the whole range of its services, but also from nationals and residents of other countries in the region.

The Government of Utopia is considering measures to restrict and regulate the effects of NEDC's activities in Utopia and in regard to its nationals. These measures would include legislation requiring NEDC to cease all dealings with Utopian nationals anywhere; to file full disclosure of all its activities and accounts for all income NEDC receives world-wide; powers to freeze, seize and sequester all assets of NEDC in Utopia; and the use of electronic measures to monitor and block the operation of all electronic equipment on the Evo.

Advise the Government of Utopia how international law on the jurisdiction of states would affect these proposals and would apply to the situation described.

END OF PAPER