THE UNIVERSITY OF THE WEST INDIES

Examinations of December  ☑ /April/May  ☐ /July  ☐ 2011

Originating Campus: Cave Hill ☐ Mona ☑ St. Augustine ☐

Mode: On Campus ☑ By Distance ☐

Course Code and Title: GOVT 2047: Principles of Public International Law

Date: Monday, December 5, 2011  Time: 9:00 – 11:00 a.m.
Duration: 2 Hours.  Paper No

Materials required:

Answer booklet: Normal ☐ Special ☑ Not required ☐

Calculator: Programmable ☐ Non Programmable ☐

(where applicable)

Multiple Choice answer sheets: numerical ☐ alphabetical ☐ 1-20 ☐ 1-100 ☐

Auxiliary/Other material(s) – Please specify:

Candidates are permitted to bring the following items to their desks: Pencil or pen, Ruler, ID card, Exam card

Instructions to Candidates: This paper has 3 pages & 8 questions.

Candidates are reminded that the examiners shall take into account the proper use of the English Language in determining the mark for each response.

Students are required to answer three questions, QUESTION ONE and any other two questions.

QUESTION ONE

In 1991, the state of Portmore gained its independence from the former Jacan Soviet Republic (JSR). It joined the United Nations in June 1992. Under the old regime, Flanker was always considered to be part of Portmore.

In September 2007, the Flanker Independas Movement (FIM) staged an uprising in a bid to win its independence from Portmore. But Portmore would have none of it, and immediately responded that Portmore does not recognise Flanker independence. It promptly deployed the Portmorean military to crush the uprising, sending ten thousand (10,000) troops and twenty-four (24) military tankers to attack Flanker and restore it as a part of the Portmorean State. As a result, twenty (20) Portmorean soldiers were killed with sixty (60) members of
the FIM were also killed by what they described as “the brutal use of force by the Portmorean State.”

Nonetheless, in January 2008, Flanker proceeded to declare its independence, backed by the state of Foulmouth, which sent troops to Flanker in support of its independence movement. Foulmouth is ruled by a military dictatorship and is not a member of the United Nations, declaring that the UN Charter has no bearing on Foulmouthian actions, making Foulmouth free to use any force it views fit in the circumstances.

The Foulmouthian President, Milton, further warned Portmore that Flanker is a member of the Regional States Security Pact (RSSP), having joined the day after declaring its independence. It is a Pact of five (5) countries, all of which are not members of the United Nations. President Milton also warned that he will not tolerate any state using aggression against Flanker. Two weeks after President Milton’s warnings, Foulmouth invaded Portmore. Portmore, a member of the Western Atlantic Treaty Organisation (WATO), in turn, called upon its members (Hanhour, Moreland and Anndy Bay) to provide military support for Portmore.

Hanhour, Moreland and Anndy Bay heeded the call, and used their military might to bomb Foulmouth’s major towns, commercial centers and its military base. As a small state, Foulmouth was no match for Portmore and its allies and unfortunately, the fighting ended in the destruction of 4 small villages containing 800 homes and the death of over 2400 Foulmouthians.

Paulo East, the Secretary General of the United Nations, called on Portmore, Foulmouth and all states involved in the fighting to “respect the lives of innocent people” and bring their fighting to an end” – which they did some six (6) weeks after the fighting started.

Using well reasoned arguments, answer the following questions:

i) Is Article 2 (4) of the UN Charter applicable to Portmore’s use of force in quelling Flanker’s uprising? (6 marks)

ii) Was it lawful for Foulmouth to enter the conflict between Portmore and Flanker? (6 marks)

iii) Were Hanhour, Moreland and Anndy Bay’s use of force in the conflict permissible under International Law? Give reasoned arguments to support your position. (4 marks)

iv) Would International Law support the use of Humanitarian intervention by any state, in an attempt to save the people of Flanker? (4 marks)

QUESTION TWO
Critically discuss the strengths and weaknesses of International Law as a system of law (20 marks).
QUESTION THREE
(a) Critically discuss the view that treaties are the most important source of law in the hierarchy of sources (10 marks).
(b) Critical evaluate the elements of Customary International Law (10 marks).

QUESTION FOUR
Critically examine the view that collective security remains the only legitimate basis upon which states may exercise force in International Law (20 marks).

QUESTION FIVE
"The traditional view is that there are several distinct modes by which sovereignty can be acquired over territory" (Akehurst, 1996: 143). Critically evaluate this view (20 marks).

QUESTION SIX
What are the main issues of Public International Law that have arisen with respect to the development of the International Criminal Court (20 marks).

QUESTION SEVEN
Critically discuss some of the issues in the debate concerning the application of the death penalty by referring to (a) the relevant provisions of International Law in general, and (b) Caribbean cases in particular (20 marks).

QUESTION EIGHT
"Throughout history diplomats and other envoys have needed privileges and immunities for the effective performance of their functions in the receiving state" (Akehurst 1996: 115). Critically discuss this statement, referring to the relevant provisions of the Vienna Convention on Diplomatic Relations 1961 (20 marks).

END OF QUESTION PAPER