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Family Name					
Given Name/s					
Student Number					
Teaching Period	Semester 2, 2017				

LWZ212 – Transnational Law	DURATION	
	Reading Time:	20 minutes
	Writing Time:	120 minutes
INSTRUCTIONS TO CANDIDATES		
<p>Answer ANY TWO (2) of the four questions provided. All questions are of equal value (30 marks each).</p> <p style="text-align: center;">Please answer each question in a SEPARATE BOOK</p>		
EXAM CONDITIONS		
<p><u>You may begin writing from the commencement of the examination session.</u> The reading time indicated above is provided as a guide only.</p>		
This is an OPEN BOOK examination		
No calculators are permitted		
Any handwritten/typed/printed self-produced material is permitted		
Any hard copy, English dictionary is permitted (annotated allowed)		
ADDITIONAL AUTHORISED MATERIALS	EXAMINATION MATERIALS TO BE SUPPLIED	
Any printed material with the exception of CDU Library books	2 x 16 Page Book 2 x Scrap Paper	

**THIS EXAMINATION IS PRINTED
DOUBLE-SIDED.**

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LEFT BLANK.**

Answer ANY TWO (2) of the four (4) questions provided

Answer each question in a SEPARATE BOOK

Question 1 (30 Marks)

Amado is a citizen of the Philippines. An application has been made by the Philippines authorities seeking his extradition from Australia to the Philippines in relation to two offences, as follows:

- 1 On or about 15 January 2017 in Bangkok, Thailand, supplying a prohibited drug to a citizen of the Philippines who resided in Thailand at that time, contrary to the Penal Code of the Philippines.
- 2 On or about 12 February 2017, causing unauthorised access to data held in a computer, contrary to the Penal Code of the Philippines. It is alleged that by use of a computer in Thailand, Amado accessed a bank computer in the United States of America without authority and transferred US\$400,000 from an account in the name of Arts Development Inc. to an account in his own name. Arts Development Inc. is a company registered in the Philippines.

The application for extradition was made through the diplomatic channel and was received in Australia on 12 May 2017. Amado was arrested by Victorian police in Melbourne, pursuant to s 12 of the *Australian Extradition Act*.

Amado denies the charges and says that he can establish that he was not in Thailand in either January or February of 2017. He also says that he can establish that he had been arrested in Thailand in relation to the alleged drug incident and subsequently released. He says that the police did not believe the allegations.

Amado further claims that he is being victimised by the Philippines authorities because he has been suspected of having contact with an organisation that is prohibited under the law of the Philippines. He says that he can produce newspaper articles and other material that demonstrate the lengths that the Philippines authorities go to in order to prosecute people who have any connections at all with that prohibited organisation. He also says that it is well documented that drug users and traffickers risk summary execution by the police in the Philippines.

You are asked to advise Amado in relation to all issues that might be raised by him in resisting extradition. Provide that advice. Also advise him as to whether those issues should be raised at the extradition hearing under s 19 of the *Extradition Act* and/or in submissions to the Attorney-General if and when he is found eligible for surrender under s 19.

Answer ANY TWO (2) of the four (4) questions provided

Answer each question in a SEPARATE BOOK

Question 2 (30 Marks)

Opinion on the existence of an investor-state dispute settlement (ISDS) provision in bilateral and multilateral trade agreements seems to range from a necessary and beneficial requirement to ensure fair and equitable treatment for foreign investment in a host country to a barely disguised apparatus for multinational corporations to usurp the sovereignty of a host country for the corporation's own commercial imperatives.

Whatever the reasonable position may be on this broad spectrum, the United Nations Conference on Trade and Development (UNCTAD) has long been calling for significant changes in the current ISDS regime.

What do you think? Is the current ISDS regime effective and equitable and fit for purpose?

If so justify your position, particularly in respect of the status of state sovereignty.

If not also justify, and explain what essential changes you might suggest.

Question 3 (30 Marks)

If Australia enacts a Commonwealth Modern Slavery Act, should it contain the following:

- (i) Criminal defenses for people who commit crime when subject to abuse, coercion or exploitation. Consider duress, necessity, coercion and innocent agency, using the power of abuse of process and the Modern Slavery Act (UK), particularly schedule 4.
- (ii) Corporate reporting requirements on slavery in supply chains.
- (iii) A *presumption* that possession of cash over \$10,000 amounts to a crime of 'money laundering'. In this context "money laundering" means the possession of the proceeds of any criminal offence including human trafficking and financing terrorism.

Question 4 (30 Marks)

Evaluate Australia's legal response to environmental disaster with reference to transnational environmental regulation. What changes, if any, should be made to Australian law to better manage the consequences of cross-border environmental catastrophes?