

Course Code: L406/L 501 (M) 2005

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER, MAY 2005

- TITLE OF PAPER** : **PUBLIC INTERNATIONAL LAW**
- COURSE CODE** : **L 406/L 501**
- TIME ALLOWED** : **THREE (3) HOURS**
- INSTRUCTIONS** :
- 1. ANSWER ANY FIVE (5) QUESTIONS. MARKS ALLOCATED TO A QUESTION INDICATE THE TIME SPENT ON THE ANSWER.**
 - 2. REFER THROUGHOUT TO LEGAL AUTHORITY TO SUBSTANTIATE YOUR STATEMENTS.**

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QUESTION 1

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- A** Traditionally international legal personality has been restricted to states. However, this is no longer the case in modern-day public international law.

Define what you understand under the concept of international legal personality and *explain* the extent to which this status is enjoyed by *states* and entities *other than states* in modern public international law. (Note: Do *not* discuss the requirements for statehood.) (15)

- B** *Define* public international law and *list* the differences between public international law and municipal law? (5) [20]

QUESTION 2 (ANSWER EITHER A OR B)

- A** (i) *Discuss* custom as a source of public international law (10)

(ii) *Contrast* the requirements set for custom with those for:

- (a) General principles of law recognised by civilised nations (5)
 (b) *jus cogens* (5) [20]

- B** (i) *Define* a treaty and *evaluate* the importance of treaties as a source of modern international law. (10)

(ii) *Discuss* the making of treaties with specific reference to:

- (a) Ratification of a treaty; (4)
 (b) Reservation to a treaty (6) [20]

QUESTION 3 (ANSWER EITHER A OR B)

- A** *Discuss* the criteria for statehood as contained in the Montevideo Convention of 1933 and *explain* whether these requirements still meet the demands of the international community in 2005. [20]

- B** *Discuss critically* collective recognition and non-recognition of an entity as a state. [20]

QUESTION 4

- A** *Discuss briefly* the traditional principles governing the acquisition and loss of territory and how the courts have used these principles in resolving boundary disputes. (10)

- B** *Define* state liability and *illustrate* under which circumstances a state would incur direct

and indirect responsibility? (10)

[20]

QUESTION 5

- A** Mrs Simelane, a Swazi national, was held without trial in Botswana for several months, in a small cell, together with twenty other prisoners, both male and female. Ventilation was poor, sanitary and ablution arrangements primitive, food scarce and coarse, and she was denied any physical exercise. When Swaziland approached Botswana to complain about the treatment of Mrs Simelane, Botswana responded that as a prisoner Mrs Simelane was treated in the same way as her fellow Botswana prisoners.

Swaziland foreign affairs officials approach You, a public international law expert, for a *legal opinion* on this matter. (10)

- B** *Explain briefly* the following methods of acquisition of territory and also *refer* to the different forms sovereignty assumes in each of these methods:

(i) Annexation(conquest) (5)

(ii) Cession (5)

[20]

QUESTION 6

- A** When sailing on the high seas, the vessel Morning Star (registered in Liberia) collided with a ship Early Dawn (registered in Turkey). The Early Dawn sinks with considerable loss of life. The Morning Star picks up survivors, including the Early Dawn's Captain. The Morning Star sails to Liberia where the Captain is put on trial for culpable homicide. Turkey objects to Liberia exercising jurisdiction, because the collision did not take place in its territory.

You are asked by the Liberian government to furnish a *legal opinion* on whether Liberia has jurisdiction in this case; (15)

- B** Write a *brief note* on immunity as an exception to jurisdiction and pay particular attention to diplomatic immunity. (5) [20]

QUESTION 7

- A** *Briefly explain* five enforcement measures of public international law which involve self-help. (10)

- B** *Discuss critically* the role of the United Nations in promoting and maintaining international peace and security. (10) [20]

END OF PAPER