

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION, MAY 2007

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 TO BE SPENT ON THE ANSWER.
2. REFER THROUGHOUT TO LEGAL AUTHORITY TO SUBSTANTIATE YOUR STATEMENTS.

DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

QUESTION 1 (ANSWER EITHER A OR B)

- A. It is often said that public international law is not really “law”. Write a *note* in which you critically evaluate this statement. [20 MARKS]

OR

- B. *Define* what you understand under the concept of international legal personality and **explain** the extent to which this status is enjoyed by international organisations in contemporary public international law. [20 MARKS]

QUESTION 2 (ANSWER EITHER A OR B)

- A.
(i) Discuss custom as a source of public international law. [10]
(ii) *Differentiate* between the requirements of:
(a) General principles of law recognised by civilised nations; and [5]
(b) *Jus cogens* [5]
[20 MARKS]

- B.
(i) Define a treaty and evaluate the importance of treaties as a source of contemporary public international law. [10]
(ii) Discuss the making of treaties with specific reference to:
(a) Swazi statutory measures in this context; [3]
(b) Ratification of a treaty; [5]
(c) Accession to a treaty. [2]
[20 MARKS]

QUESTION 3 (ANSWER EITHER A OR B)

- A. *Explain briefly* the criteria for statehood under the Montevideo Convention of 1933, and discuss whether these requirements still meet the demands of the international community. [20 MARKS]

OR

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

QUESTION 4

Discuss briefly the following traditional methods of acquisition of territory in terms of public international law, using practical examples to illustrate your answer. Also refer to the different forms sovereignty assumes in each of these methods:

- | | | |
|-------|--------------|-----|
| (i) | Occupation | [5] |
| (ii) | Annexation | [5] |
| (iii) | Cession | [5] |
| (iv) | Prescription | [5] |

[20 MARKS]

QUESTION 5

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.

[20 MARKS]

QUESTION 6

- (i) 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 regarding its possible jurisdiction in this case; [10]

- (ii) Write a brief note in which you compare the nature and jurisdiction of the International Court of Justice (ICJ) with that of the International Criminal Court (ICC)

[10]

QUESTION 7

Write an *essay* in which you explore the nature of the African Union (AU) and its challenges in promoting democracy and good governance on the African continent.

END OF PAPER