

220

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER (MAIN)
YEAR: 2013/2014

TITLE OF PAPER : PUBLIC INTERNATIONAL LAW

COURSE CODE : L 406

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS:

- (i) ANSWER ANY FOUR (4) QUESTIONS.**
- (ii) EACH QUESTION CARRIES A TOTAL OF 25 MARKS.**
- (iii) IN ANSWERING THE QUESTIONS, NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**
- (iv) REFER TO LEGAL AUTHORITY TO SUBSTANTIATE YOUR ANSWERS.**

DO NOT OPEN THIS PAPER UNTIL TOLD TO DO SO BY THE INVIGILATOR.

QUESTION ONE

221

(a) Mr.Fumo, a Swazi national, was held without trial in Rwanda for several months, in a small cell, together with twenty five other prisoners, both male and female. Ventilation was poor, sanitary and ablution arrangements primitive, food scarce and coarse and he was denied any physical exercise. When Swaziland approached Rwanda to complain about the treatment of Mr.Fumo, Rwanda responded that as a prisoner Mr.Fumo was treated in the same way as his fellow Rwandan prisoners.

The Government of Swaziland has approached you, an international law expert, for a legal opinion on this matter. **[10 Marks]**

(b) Discuss custom as a source of public international law. **[10 Marks]**

(c) Define *juscogens*. **[5 Marks]**

[25 Marks]**QUESTION TWO**

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 2014. **[25 Marks]**

QUESTION THREE

(a) Discuss the traditional principles governing the acquisition and loss of territory and how the courts have used these principles in resolving boundary disputes. **[15 Marks]**

(b) In 1961, India invaded and annexed Goa, a Portuguese colonial enclave on the Indian subcontinent. In justification of its aggression India argued that Portugal had illegally occupied Goa by means of conquest in the sixteenth century and that India was simply exercising its right of self-defence against the Portuguese aggressor- some four hundred years later. Write an essay on this statement, paying attention to the following issues:

(i) the validity of the Indian annexation; and

(ii) the basis for and validity of India's claim that its actions were in self-defence and therefore justified in terms of public international law.

[10 Marks]**[25 Marks]**

QUESTION FOUR

- a) Discuss the jurisdiction of the International Court of Justice in contentious proceedings. 222
[15 Marks]
- b) Briefly discuss the following:
- (i) immunity *rationematerie*; and [5 Marks]
 - (ii) inviolability of the diplomatic mission. [5 Marks]
- [25 Marks]

QUESTION FIVE

Discuss the role of the United Nations in promoting and maintaining international peace and security. [25 Marks]