

UNIVERSITY OF ESWATINI
FACULTY OF SOCIAL SCIENCES
DEPARTMENT OF LAW
FINAL EXAMINATION PAPER (MAIN)
YEAR: 2018/2019

TITLE OF PAPER : PUBLIC INTERNATIONAL LAW II

COURSE CODE : LAW414

TIME ALLOWED : THREE (3) HOURS

INSTRUCTIONS:

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

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

QUESTION ONE

Prado is wanted in South Africa to face charges of corruption. Suspecting his arrest is imminent, he flees to eSwatini where he settles. The Swati authorities allow his presence in the country and allow him to remain on a temporary resident permit. There is a valid extradition treaty between South Africa and eSwatini.

The South African police officer in charge of the case approaches his Swati counterpart and asks if he can enter the country to capture Prado. The Swati official refuses, saying that the correct procedure under the extradition treaty should be followed. The South African officer conveys this news to his fellow officers and tells them that they may not be able to capture Prado in eSwatini.

Despite these instructions, Y and Z, two South African constables, enter Swaziland in their police vehicle and in uniform, grab Prado and repatriate him to South Africa where he is arrested and charged.

On the basis of these facts, discuss fully whether South Africa has incurred liability towards eSwatini and if so what form this liability takes and on what basis.

YOUR ANSWER SHOULD NOT EXCEED TWO PAGES.

[25 MARKS]

QUESTION TWO

(a) You are the principal legal adviser to the Government of Raspara, one of the poorest countries in the world. Fifteen male nationals of the Republic of Samsung (Samsung) entered Raspara on false passports for the sole purpose of committing crime. The nationals of Samsung were arrested and are held in Raspara prisons. The Government of Samsung has received reports that its detained nationals are denied basic necessities and that the warders demand money in exchange for soap, cigarette and bread. When the Samsung consul visited the prisons, the prisoners complained about poor medical treatment and that they survived on rotten beans and fish. The prison officials informed the Samsung consul that these conditions applied to all prisoners and were not exclusive to Samsung nationals. The prison officials also argue that the Samsung nationals are not entitled to decent treatment because they are illegal immigrants in Raspara and that Raspara is a poor country which cannot afford to treat its prisoners in the same way as hotels treat their guests.

The Government of Raspara has approached you for legal advice. Advise the Government whether the argument of the prison officials has legal basis or not.

YOUR ANSWER SHOULD NOT EXCEED ONE AND HALF PAGES.

[15 MARKS]

(b) Critically examine two ways in which the International Court of Justice may obtain jurisdiction over international law disputes between states or over states that are parties to its Statute.

YOUR ANSWER SHOULD NOT EXCEED ONE AND A HALF PAGES.

[10 MARKS]

[25 MARKS]

QUESTION THREE

Discuss the powers of the Security Council of the United Nations when it acts under Chapters VI and VII of the Charter of the United Nations.

YOUR ANSWER SHOULD NOT EXCEED TWO PAGES.

[25 MARKS]

QUESTION FOUR

Critically examine four circumstances in which states have used force without the authority of the United Nations.

YOUR ANSWER SHOULD NOT EXCEED TWO AND A HALF PAGES.

[25 MARKS]

QUESTION FIVE

You have been assigned by the International Committee of the Red Cross (ICRC) to give a summary of the rules for the treatment of civilians to three states that are involved in armed conflict. **Give the summary.**

YOUR ANSWER SHOULD NOT EXCEED TWO PAGES.

[25 MARKS]

===== **END OF EXAMINATION PAPER** =====