

UNIVERSITY OF SWAZILAND

201

FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

FINAL EXAMINATION

MAY 2011

TITLE OF PAPER: PUBLIC INTERNATIONAL LAW

COURSE CODE: L406

TIME ALLOWED: THREE (3) HOURS

INSTRUCTIONS:

- (a) ANSWER ANY FOUR QUESTIONS.
- (b) EACH QUESTION CARRIES A TOTAL OF 25 MARKS.
- (c) THE CONTENT OF YOUR ANSWERS, CLARITY OF EXPRESSION AND LEGIBILITY OF YOUR HANDWRITING ARE ALL EXTREMELY ESSENTIAL.

DO NOT OPEN THIS PAPER UNTIL SO PERMITTED BY THE INVIGILATOR.

Question One

Mark Malema is an airline pilot with the South Azania Airways (SAA) and flies an Airbus A340 between Italy and Johannesburg every two weeks. In March 2010 Malema, in a quest to impress his newly wedded wife, took off from Lanseria Airport in the company of his wife, their dog, Chunkie and four other passengers. The other four were a couple working in the Pretoria Croatian Embassy, and two other staff members from the Bulgarian Embassy based in Pretoria but overseeing national offices in Mozambique, Lesotho and Swaziland. Malema's plan was to visit the kingdom and see amongst other things, the famed Why Not Club in the valley.

Navigating in the 6-seater Cessna 210, registered in South Azania as ZS-SHP, Malema had to go back to basics, with no aid of GPS and other technology found in his A340. Malema and crew had been flying for one and a half hours when they spotted the deep blue sea. Just as they were about to consult their maps, they were confronted by two military F16 Jets, one of which rocked its wings, beckoning them to land immediately at an adjacent air force base. Once on the ground, military police quickly rounded everyone up, searched through the aircraft and whisked everyone to custody. After being under interrogation for twenty-seven hours, they were finally released and escorted by the F16 Jets into the boundary of Swaziland.

Advise Malema and company on what rights of theirs were violated and what portions of international law were violated.

(25 Marks)

Question Two

There are arguments that the doctrine of *rebus sic stantibus* can thwart the well-intentioned international agreements that states often align themselves with. However, there are other contributing factors, apart from the above that can negate the effectiveness of such agreements. Critically discuss.

(25 Marks)

Question Three

Differentiate between the contentious and the advisory procedures of the International Court of Justice.

(25 Marks)

Question Four

The Sudanese secession vote was an eye opener for Swaziland's incessant calls for the return of its supposed land from South Africa. Contrast these two cases and determine, given the Sudanese outcome, whether Swaziland has better chances of getting her land back.

(25 Marks)

Question Five

Write short notes on the following:

- (a) Domestication of international agreements. **(5)**
- (b) *Erga omnes*. **(5)**
- (c) *Ex injuria jus non oritur*. **(10)**
- (d) Monism. **(5)**