

**PUBLIC INTERNATIONAL LAW
(LAWS 355)**

June 2006 Exam

Please ensure that you have written the name of your lecturer on the front cover of your answer book.

The examination constitutes 100 % of the final mark for this course. Students are required to answer FOUR questions – TWO from Section A and TWO from Section B. Answer each section in a different answer book (on the cover the answer book clearly mark whether section A or B).

Section A

- 1** The decision in *Kaunda and Others v President of the RSA* 2005 (4) SA 235 (CC) is a perfect example for the proposition that if a state declines to intervene diplomatically, there is, unfortunately, no remedy available under international law. Critically discuss. **[10]**
- 2** South Africa's final Constitution dramatically impacted on the place of public international law within our legal system. Contrast the pre 1996 position with that post 1996. **[10]**
- 3** Write a comprehensive note on the current rules governing diplomatic and consular immunity in international law. In the course of your answer reflect on how South Africa has incorporated these rules into its domestic legal system. **[10]**

Section B

- 4 The Romans, who knew much about both law and war, coined the phrase '*inter arma silent leges*' ('between armies the law is silent'). Does this phrase accurately reflect the current state of public international law? [10]
- 5 Assume that a rebel leader in the Democratic Republic of the Congo, fearful of his capture, has fled across the border into Rwanda. In Rwanda he attempts to organise other Congolese refugees sympathetic to his cause into a force with a view once again of returning to the Congo in order to oust the Kabila government. Hearing of these events, agents of the Kabila government enter Rwanda and arrest the rebel. The rebel is then brought to Kinshasa for trial. Does the Congolese government have jurisdiction to try the rebel leader for treason? Justify your answer by way of reference to the principles of jurisdiction relevant in this case. [10]
- 6 What do you understand by Max Huber's concept of 'intertemporal' law? [10]
- TOTAL MARKS [40]**