1. "Cases such as North Sea Continental Shelf and Nicaragua illustrate the difficulty of establishing the existence of a rule of customary international law. It often seems that decisions in disputes concerning a rule of customary international law are made based more on the demands of the case rather than a strict application of the relevant legal principles."

Comment on the above statement. (50 marks)

2. "Historically, international law only governed the relations of States; but today international legal personality extends to all manner of entities and provides equal rights and obligations to all."

Discuss. (50 marks)

3. Perezuela and the Unified States are two neighbouring countries with a history of strained diplomatic relations. The Perezuelan President, Señor Capitán, has recently accused the Unified States of interfering in his country’s domestic affairs in an effort to depose his government. Specifically, Señor Capitán claims that:

   i) the Unified States has provided significant financial support to the opposition party;

   ii) the Unified States provided financial and logistical support for a recent series of violent anti-government demonstrations which resulted in a number of deaths as well as significant economic losses; and

   iii) the Unified States has imposed an embargo on trade in products originating from Perezuela with a view to destabilising the domestic economy.
Señor Capitán wishes to institute dispute settlement proceedings against the Unified States before the International Court of Justice (‘ICJ’) based on the above claims for breach of international law.

Perezuela and the Unified States are both members of the United Nations and have both filed declarations under Article 36(2) of the ICJ Statute. Perezuela’s declaration states:

‘Effective immediately, Perezuela recognises as compulsory ipso facto and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with Article 36(2) of the Statute of the Court.

The Unified States’ declaration states:

‘The Unified States recognises as compulsory ipso facto and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36(2) of the Statute of the Court with the exception of cases which, in the sole judgment of the Unified States, involves its national security interests.’

The Unified States has made it clear that it considers this dispute to be one which involves its national security interests and accordingly claims that it cannot properly be determined by the ICJ.

Advise Señor Capitán on:

a) whether the ICJ has jurisdiction to hear the dispute (15 marks); and

b) the merits of Perezuela’s case against the Unified States (35 marks).

4. Explain and comment on the views on the interpretation and legal effects of reservations to multilateral treaties expressed by:

i) the UN Human Rights Committee in its General Comment 24;

ii) the International Law Commission in its 2011 Guide to Reservations to Multilateral Treaties; and

iii) the International Court of Justice in its Advisory Opinion in the Genocide case.

(50 marks)

END OF PAPER