

UGANDA MARTYRS UNIVERSITY
NKOZI

UNIVERSITY EXAMINATION
March 2022

FACULTY OF LAW

BACHELOR OF LAWS (LLB) YEAR 3 END OF SEMESTER ONE FINAL ASSESSMENT
ACADEMIC YEAR 2021/2022

INTERNATIONAL AND REGIONAL HUMAN RIGHTS LAW
LLB 3107

DATE: Friday 4th March, 2021

TIME: 9:30 AM– 1: 00 PM

DURATION: 3 & HALF HRS

Instructions:

1. This is a partially open book/limited exam. Students may consult only International and Regional Human Rights Instruments/treaties.
2. Carefully read through ALL the questions before attempting. All questions carry equal marks.
3. **Question 1 is Compulsory.** The other 3 questions should be selected from the remaining questions. A total of **four questions** should be answered in all.
4. No **names** should be written anywhere on the examination book.
5. Ensure that your **Registration number** is indicated on all pages of the examination answer booklet.
6. Ensure your work is **clear and readable**. Untidy work shall be penalised.
7. Any type of examination Malpractice will lead to automatic disqualification.

QUESTION 1 (COMPULSORY)

Kizza Kifefe, the leader of the Opposition political party in his country Utopia was invited for a talk show programme by one of the local FM stations in Utopia. He was a presidential candidate for the recently concluded presidential and parliamentary elections. The topic was on "Democracy and good governance and the just concluded presidential elections." He said that the Utopian Constitution was clear that an undemocratic government should not be allowed to remain in power. He elaborated his point by saying that any other means as provided by the Constitution could be interpreted broadly to include overthrow of the government by warfare if elections failed to remove the unconstitutional government. Article 98 (1) of the Utopian constitution provides that, "...The people of Utopia can, using elections, referendum or any other means remove an undemocratic government from power." The Bill of Rights enshrined in the Utopian Constitution among others include Article 29(1) that provides "...there shall be no derogation from the enjoyment of the following rights and freedoms; freedom from torture and cruel, inhuman or degrading treatment or punishment. Article 21 of the same Constitution provides that no person shall be deprived of life intentionally except in execution of a sentence passed in a fair trial. Article 23 of the same Constitution provides for the right to a fair hearing which outlaws the detention of suspects for a period longer than 48 hours.

On his way back home, Kizza Kifefe was stopped by an unknown gun wielding people who forcefully removed him from his car and roughly deposited him in their car and drove him to an unknown destination where he was kept for five weeks and subjected to immense torture leaving visible marks on his body. Meanwhile efforts by his family and party members to search for him yielded no success. After five weeks of searching, they discovered that Mr. Kizza Kifefe was being detained in a government safe house and his lawyer and family members were denied access to see him. The government stand was that he was being detained for treason and for inciting violence against the

government and that he would be arraigned before a military tribunal specially convened to hear his case.

In yet another related incident Mr. Rasta Wine another presidential candidate had his house sealed off to the public and he or anyone from his household was prevented from leaving his home on the grounds that if he went out, he would incite the public, he and his wife have run out of supplies including food, water, and the necessary items for the sustenance of life. One other family member is in need of essential medication and the police has refused Mr. Rasta Wine or any member of his family from leaving home or any outsider from coming into his home.

The State of Utopia is party to the International Covenant on Civil and Political Rights (ICCPR), using the relevant provisions of the ICCPR critically discuss the issue of Kizza Kifefe's detention and whether the State of Utopia complied with its obligations under the ICCPR. Additionally discuss whether the detention of Mr. Rasta Wine complies with the major international human rights treaties that the State of Utopia is party to.

QUESTION 2

Discuss in detail Article 38 of the Statute of the International Court of Justice with regard to International Human Rights Law. *(25 marks)*

QUESTION 3

Explain the following concepts as understood in international human rights law:

- a) Obligations to respect, protect, promote and fulfill *(7 marks)*
- b) The concept of non-refoulement *(6 marks)*
- c) Universal Periodic Review *(6 marks)*
- d) Progressive Realisation of Economic, Social and Cultural Rights. *(6 marks)*

QUESTION 4

Describe the treaty-based mechanisms in the enforcement/implementation of rights in the International Human Rights System. *(25 marks)*

QUESTION 5

Economic, Social and Cultural Rights constitute three interrelated components of a more comprehensive package. The different components also have links to civil and political rights as per Katwesigye Mukama a 3rd Year LLB at the Faculty of Law, Uganda Martyrs University.

Critically discuss this statement with reference to the International Bill of Rights. *(25 marks)*

QUESTION 6

Analyse the state obligations regarding the right to education enshrined in the International and Regional Human Rights Treaties. *(25 marks)*

GOOD LUCK