



ZIMBABWE EZEKIEL GUTI UNIVERSITY

FACULTY OF LAW

HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW - LLB 310 (1)

2022

DURATION: 3 HOURS

29 DEC 2022

INSTRUCTIONS TO CANDIDATES

1. Answer **any FOUR** questions. Each question carries **25 marks**.

Materials allowed in exam

Students may bring into the exam un-annotated and clean texts of applicable legislation. Copies with notes inside shall not be allowed and may be confiscated. No student is allowed to share his/her copy with another.

INFORMATION FOR CANDIDATES

1. Students are NOT allowed to carry and use electronic gadgets such as laptops and cellular phones, among other things
2. Write legibly
3. Number your answers accordingly.
4. Cellphones are not allowed into the examination room.
5. Begin each answer to a full question on a fresh page.

NB: DO NOT TURN OVER THE QUESTION PAPER OR COMMENCE WRITING UNTIL INSTRUCTED TO DO SO.

Question 1

Differences in culture, religion, social and political contexts means human rights cannot be characterised as universal. Discuss this assertion, making reference to the key theoretical foundations. **[25 marks]**

Question 2

The definition of human rights, namely entitlements that accrue to all human beings without discrimination by virtue of being human rights, is a least contested concept among scholars in the human rights movement. In fact the definition makes a clear distinction between human rights and any other rights such as animal rights. However, the same (scholarly agreements) is not the case with the related concept such as source, origins, nature and application of human rights to the human race.

With reference to established theoretical foundations and other leading scholarly arguments, discuss fully the contestations around source, origins, nature and application of human rights throughout the world. In your answer be careful to refer to the Zimbabwean context for illustrative purposes. **[25 marks]**

Question 3

- a) Statutory Instrument 83 of 2020 Public Health (COVID-19 Prevention, Containment and Treatment) (National Lockdown) Order, 2020 grossly violated the Constitutional rights. Discuss **(15 marks)**
- b) Identify and discuss the major points of departure between the SI 83 OF 2020 and the declaration of the state of public emergency under section 87 of the Constitution of Zimbabwe **(10 marks)**

[Total:25 marks]

Question 4

Although the state is traditionally regarded as the main and primary actor in international law, several non-state actors are now recognised as players and indeed, make important contribution in the development, implementation and enforcement of international law.' Critically discuss the veracity of this statement, identifying the other actors and analysing their contribution. **[25 marks]**

Question 5

The exhaustion of local/domestic remedies rule is one principles that has received universal application in international law human rights litigation. Those who support this rule, especially States, argue that it is part of state sovereignty, a principle that is as old as international law itself. However, advocates against the rule insist that it only serves nothing other than to 'over protect' the State yet it violates human rights

With reference to acceptable legal authorities in the African human rights system, explore the proposition that the exhaustion of local remedies rule over protects' the State at the expense of individuals who are victims of human rights violation by state. [25 marks]

Question 6

With aid of Zimbabwean case law authorities examine and analyse the justification for the application of constitutional avoidance and related doctrines in constitutional litigation. In your answer also explore whether the approach by the courts is consistent with the duty placed on every institution and every person including the courts to respect, promote and fulfil the rights and freedoms set out in the Bill of Rights at every level as well as being consistent with regional and international trends in constitutional adjudication. [25 marks]

Question 7

Describe and analyse the extent to which the Geneva Convention relative to the Protection of Civilian Persons in Time of War illustrates the link between humanitarian law, constitutional rights law and human rights law. [25 marks]

****End of Examination****