



NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B FINAL EXAMINATIONS

L482: HUMAN RIGHTS AND HUMANITARIAN LAW

MAY 2017

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer **FOUR** questions.
2. All questions carry equal marks.
3. This Paper is divided into two parts, answer at least one question from each part.
4. In your answers to questions in Part A, assume that the law of the states referred to is similar to that of Lesotho.

PART A

Question 1

Morusu applied to the police in terms of section 3 of the Libobeng Public Meetings and Processions Act, 2016, for permission to hold a political rally in the centre of the Libobeng City on the 1st April, 2017. The date of the rally coincided with the date on which the local Praise the Lord Group was to hold a meeting at the same venue.

The police advised Morusu of this and suggested that he should change the venue or the date of his rally. Morusu rejected this suggestion maintaining that his political rally was to discuss issues of national importance and the prayer meeting had to give way. The police then told him that they could not grant him the permission in the light of his refusal to either change the venue or the date of his rally.

Morusu feels aggrieved by the decision of the police and asks you for advice on the possibility of challenging the constitutionality of the law. He says the law is unconstitutional in that it requires people to seek permission for the exercise of their constitutionally protected rights and also gives the police subjective powers to deny citizens the exercise of their rights.

Advise Morusu.

[25 MARKS]

Question 2

Pelo from the state of Bolometsa was recently diagnosed with a rare heart disease. The doctors have told him that his only hope of survival lies in him finding a donor and an amount of M500 000 to pay for the operation. The public hospitals have told Pelo that they have no money to pay for his operation even if he were to find a donor.

Pelo approaches you in desperation on the possibility of compelling the state of Bolometsa to foot her medical bill for her heart transplant in exercise of her rights to life and to access health facilities.

Advise Pelo.

[25 MARKS]

Question 3

The Minister of Education of the state of Litokelong recently issued the Discipline of Children in Education Regulations, 2017. Regulation 10 prohibits teachers from “administering any form of chastisement for purposes of disciplining school children.”

The Thupa-ke-Mosetso Religious Group (Thurego) feels strongly about these Regulations. The group says the Minister is trampling on their right to bring up their children according to the prescripts of the scriptures. They have vowed to continue administering chastisement as a form of correction in their schools “in exercise of our constitutionally enshrined freedom of religion.”

The Minister of Education of the state of Litokelong approaches you as Attorney General for advice on the constitutional validity of the contentions of Thurego.

Advise the Minister.

[25 MARKS]

Question 4

Critically discuss the statement that human rights are indivisible, interrelated and interdependent.

[25 MARKS]

PART B

Question 5

The State of Ntoa Lumela has been involved in a long drawn out civil war with a religious organisation called Baka-Hararo (BH). The BH group recently drove into an isolated village in a convoy of vehicles fully laden with men armed to the teeth, seized tens of girls aged between 12 and 16 years; and also rounded up boys of the same age saying the boys were old enough “to join the struggle.” Both the boys

and the girls have never been seen or heard from by anyone ever since they were taken away by the BH group.

Discuss the permissibility of the acts of the BH group at International Humanitarian Law. **[25 MARKS]**

Question 6

The state of Subaya has recently been engaged in a bloody frontier war with its neighbour, the state of Warriorland.

The Subaya military is suspicious of the loyalties of the Babelaelloa ethnic group as they live both in Subaya and in Warriorland, but are a majority ethnic group in Warriorland. As a result of this suspicion, Babelaelloa males aged between 15 and 80 years have routinely been arrested at army check points, subjected to lengthy interrogations where many have been tortured and or even killed in a bid to extract confessions out of them. The army recently destroyed the wheat crop grown in the fields of the Babelaelloa and has threatened that "severe reprisals shall be visited upon every living thing in the area of the Babelaelloa, from rats in the fields, frogs in springs to suckling children, if the Babelaelloa do not stop their treacherous acts of supporting the enemy."

The E-ea-Kae-Baneng humanitarian group is worried about the plight of people belonging to the Babelaelloa ethnic group and approaches you for advice on the legality of the actions of the Subaya military under International Humanitarian Law.

Advise E-ea-Kae-Baneng.

[25 MARKS]