



NATIONAL UNIVERSITY OF LESOTHO

FACULTY OF LAW

LL.B – FINAL EXAMINATIONS

**L 482 – INTERNATIONAL HUMAN RIGHTS AND HUMANITARIAN
LAW**

MAY 2018

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. Answer **FOUR (4)** questions **ONLY**;
2. Answer **TWO** questions from **each** section
3. Write legibly; and
4. Support your answers with relevant authorities

SECTION A

QUESTION ONE

Briefly discuss five fundamental principles of human rights.

[25 MARKS]

QUESTION TWO

During its 19th extraordinary session at the Gambia in February 2016, the **African Commission** adopted a **draft protocol on the rights of persons with disabilities**, intended to complement the African Charter on Human and Peoples' Rights and address continued exclusion, harmful practices, and discrimination affecting those with disabilities, especially women, children, and the elderly.

- (a) Define the African Commission, the law under which it is established, its mandate and how it carries out that mandate. **10 Marks**
- (b) In which areas is the draft protocol similar and or different from the UN Convention on the Rights of Persons with Disabilities? **15 Marks**

[25 MARKS]

QUESTION THREE

With reference to relevant international human rights instruments and domestic case law, critically analyse the statement of the Court of Appeal of Lesotho in the case of *Senate Gabasheane Masupha v Senior Resident Magistrate for the Subordinate Court of Berea & Others* at para 22 that:

For the first and second **amici curiae** in the matter, the Federation of Women Lawyers in Lesotho and Women and Law in Southern Africa, reliance was placed on Lesotho's obligations in terms of various international instruments aimed at eliminating all forms of discrimination against women. *These instruments, it is clear, are aids to interpretation, not the source of rights enforceable by Lesotho citizens.* In the present matter there is no aspect of the process of interpreting s 10 of the Act which leaves its meaning exposed to any uncertainty, to the resolution of which the instruments in question could contribute further than the considerations which have already been taken into account.

[25 MARKS]

SECTION B

QUESTION FOUR

Multiple and overlapping armed conflicts have been taking place in Syria since 2011 to date. Supported by Shia militia, Hezbollah and Russia, the Syrian government is involved in armed conflicts against a wide array of rebel groups, including the Free Syrian Army (FSA), the Islamic State group and Kurdish militia. There are also armed conflicts between different armed groups. Without the consent of the Syrian government, an international coalition led by the United States initiated airstrikes against the Islamic State group and al-Qaeda affiliates in a spill-over from the conflict against these groups in Iraq. Finally, Turkey is using force against both the Islamic State group and Kurdish militia inside Syria. It has deployed ground troops in northern Syria, leading to a military occupation of part of northern Syria.

Analyse the Syrian situation, classify the conflict(s) taking place in Syria and identify relevant applicable laws.

[25 MARKS]

QUESTION FIVE

At the 28th International Conference of the Red Cross and Red Crescent, in 2003, States parties to the Geneva Conventions called for “rigorous and multidisciplinary review” of new weapons and means and methods of warfare, to make sure that the law’s protection is not overtaken by the development of technology. The use of cyber operations in armed conflict is a perfect example of such rapid technological development.

Analyse how the existing fundamental principles of IHL as contained in the **Geneva Conventions of 1949** and their **Additional Protocols of 1976** may be applied to cyber warfare.

[25 MARKS]

QUESTION SIX

International humanitarian law (IHL) sets out detailed rules aimed at protecting the victims of armed conflict and restricting the means and methods of warfare. It also establishes mechanisms to ensure that these rules are respected. In particular, humanitarian law holds individuals responsible for violations of humanitarian law which they commit, or order others to commit. It requires that those responsible for serious violations should be prosecuted and punished as criminals.

(a) What acts constitute grave breaches of IHL for which individuals may be punished? **5 Marks**

(b) What are states' obligations where grave breaches of IHL have been committed? **10 Marks**

(c) What is the role of international criminal courts where grave breaches of IHL have been committed during an armed conflict? **10 Marks**

[25 MARKS]