

NATIONAL UNIVERSITY OF LESOTHO
FACULTY OF LAW
LL. B – FINAL EXAMINATIONS
L 4303 – INTERNATIONAL HUMAN RIGHTS LAW

JANUARY 2024

MARKS: 100

TIME: 3 HOURS

INSTRUCTIONS:

1. There are six (6) questions. Answer any **FOUR (4)** questions.
2. Write legibly.
3. Support your answers with relevant authorities.

QUESTION 1

Women have been identified as a vulnerable group whose rights need specific protection. Hence adoption of the Convention on Elimination of All forms of Discrimination Against Women (CEDAW). Over and above CEDAW, the African Union adopted the Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol).

With reference to specific articles, illustrate ways in which the Maputo Protocol address women's rights that are peculiar to women in Africa differently from other instruments adopted under the auspices of the United Nations.

[25 MARKS]

QUESTION 2

Bambi is a seventeen-year-old girl of the Republic of Disney, an African state which is a member of the United Nations and the African Union. In December 2023, the Republic of Disney passed a law in terms of which all high school-leaving candidates would not be admitted to university until and unless they have gone through the national military service. As a result, although she did not want to, Bambi joined the one-year service which was to begin from December 2023 to December 2024. At the beginning of the training, Bambi was subjected to sexual harassment by one of the generals in the army. She was afraid to report these incidents due to fear of reprisals. The treatment continued until June 2024 when Bambi had turned eighteen years. Two months after her birthday, Bambi decided to report the matter since she was now close to completion of the service.

Advise Bambi on the following:

(a) Whether the harassment in question amounts to violation of human rights, if so, which rights? **5 Marks**

(b) Specific instruments and their articles, under the UN and AU human rights systems which Bambi can cite to support her claim that her human rights have been violated. **10 Marks**

(c) Assuming that Republic of Disney's domestic laws are similar to those of Lesotho, how could the domestic laws protect Bambi? **10 Marks**
[25 Marks]

QUESTION 3

Lironts'o, a twelve-year-old girl, and her mum stay in a small village of Lihahabing in Lesotho. Lironts'o was born with cerebral palsy and as a result, her skeletal movement and speech have not fully developed. Despite her ability to read and comprehend many concepts, her parents have not taken her to school. Their justification is that due to her disability, education will not benefit her at all as no one will employ her and she will not even be able to have a family. One day when Lironts'o's mother attended a funeral in the village, she found that her daughter had been raped, yet again, as it happens anytime, she leaves her alone. This time Lironts'o was able to communicate to her mother as to who raped her. The culprits were Smart and Lepae, both of whom are their neighbours. However, Lironts'o's mother did nothing other than to clean her child and weep for the misfortune that befell her.

(a) Identify human rights violation in this scenario. **10 Marks**

(b) With reference to relevant UN, AU and national human rights instruments, illustrate how the violations can be best addressed in order to secure redress for the victims. **15 Marks**

[25 Marks]

QUESTION 4

While Lesotho's national laws do not expressly prohibit homosexuality, which barriers do sexual minorities face in exercising human rights? In your answer, illustrate what factors contribute to such barriers and how legislative, administrative and other measures can be used to ensure that all people in Lesotho enjoy human rights on an equal basis without any form of discrimination.

[25 MARKS]

QUESTION 5

Labovivi is a middle-aged woman and one of very few successful agripreneurs in Lesotho. She is a Phuthi woman resident in Quthing, the southern district in Lesotho. Labovivi has the intention of growing her business and building capacity of young women in Quthing. She believes in education is the first step to achieve her dream. However, she is worried by the high level of school drop-out and high failure rate amongst young women in Quthing. She has also realized that the drop out is more prevalent amongst children who speak the minority languages (isiPhuthi, isiXhosa, isiNdebele and isiZulu) and she believes that this has an impact on the foundation of their basic education as the medium of instruction for the first three years is Sesotho in all government schools and English from the fourth grade in primary through to tertiary.

With reference to the relevant international human rights instruments, illustrate the correlation between the right to education and the right to speak one's language.

10 Marks

How can Labovivi use this to convince government to improve education amongst linguistic minorities in Lesotho.

15 Marks

[25 MARKS]

QUESTION 6

The African Commission Special Rapporteur on Prisons, Conditions of Detention and Policing, Ms. Maria Teresa Manuela, paid a visit to correctional facilities in Lesotho. In her report on this visit, she expressed concern about two inmates, Daisy and Jack, both of whom are detained at the Mulalo Central Correctional Facility. Both Daisy and Jack are HIV Positive. On the one hand, Daisy does not have access to anti-retroviral treatment (ART) and the justification given by the facility authorities is that she is on death row for murder of her husband and two daughters whom she poisoned in order to claim life insurance, therefore, giving her treatment would be waste of resources. Jack on the other hand, is taking ART but his viral load keeps going up. He is a gay man detained in a male facility and he reported to Ms. Manuela that he is often subjected to torture and rape by other inmates who refuse to use protection.

The Special Rapporteur would like to make recommendations to the government of Lesotho on how to address these two cases in accordance with Lesotho's human rights obligations as contained in the African Charter, Lesotho domestic laws as well as other international human rights instruments.

Write a brief to the Special Rapporteur to enable her to write the recommendations.

[25 MARKS]