



KISII UNIVERSITY
UNIVERSITY EXAMINATIONS
THIRD YEAR EXAMINATION FOR THE AWARD OF THE
DEGREE OF BACHELOR OF LAWS
SECOND SEMESTER, 2023/2024
(JANUARY-APRIL, 2024)

LLBK 326: INTERNATIONAL HUMAN RIGHTS

STREAM: Y3 S2

TIME: 2 HOURS

DAY: THURSDAY, 12:00 – 2:00 P.M.

DATE: 11/04/2024

INSTRUCTIONS

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE and any TWO other Questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

QUESTION ONE

In the year 2007, after a hotly contested election in the Republic of Bonglomafia, which saw the Chama Cha Wezi (CCW) win the election, the opposition party, Modern Freedom Fighters (MFF) denounced the election. The MFF then embarked on a call for Secession of the region of West Bonglomafia which voted overwhelmingly for the MFF. They called on the government of Bonglomafia to conduct a referendum. The government of Bonglomafia declined to call the referendum because West Bonglomafia was a region full of oil and gold deposits and useful to the economy of Bonglomafia.

On 14th February 2008, the MFF called on country-wide peaceful protests to force the government to conduct the referendum and allow for Secession. The Bonglomafian government responded by imposing a nation-wide state of emergency, suspending the constitution, and arresting all the leaders of MFF.

Human Rights International (HRI) an International Human Rights has approached you, a distinguished scholar in International Human Rights for your opinion on the remedies available to the detained MFF leaders. Write a comprehensive legal opinion to HRI taking note to address any possible human

rights violation by the government of Bonglomafia and the available avenues for redress. **(30 Marks)**

QUESTION TWO

The International Human Rights system imposes certain obligations on States in their relations with their citizens and residents. Identify and critically analyse, whilst giving examples in appropriate cases, the nature of state human rights obligations. **(20 Marks)**

QUESTION THREE

On 15th October 2023, the Kenya Doctors Union (KDU) announced a doctor's strike. The Union stated that the strike was based on the poor working condition of doctors and insufficient remuneration. On 18th October 2023, Ms. Mrembo Hatari, a 4th year student at the University of Failures (UOF) sought medical treatment for ruptured cystic fibroids at the Kenya Government Hospital. As there were no doctors, she was not properly attended to and subsequently lost her womb.

She proceeded to demand compensation based on the Union's violation of her right to highest attainable standard of health under Article 43(1) of the Constitution. The Union, however, argues that all workers have a right to strike under Article 41 of the Constitution.

Ms. Hatari has sought your legal opinion on whether she has an arguable claim based on her right to the highest attainable standard of health, taking note of the competing right of the doctors to strike. Prepare a comprehensive opinion letter to her. **(20 marks)**

QUESTION FOUR

a) "Social Economic and Cultural Rights are merely second grade rights that cannot be put on the same level as Civil and Political Rights" (Anonymous) Critically discuss the veracity of this statement with the use of appropriate illustrations and examples. **(10 marks)**

b) Discuss the modern day challenges to enforcement of Social Economic and Cultural Rights. **(10 marks)**

QUESTION FIVE

Discuss any **TWO** of the following concepts.

- a) Inalienable rights **(10 Marks)**
- b) Justiciability of Social Economic Rights **(10 Marks)**
- c) Normative structure of the ICCPR **(10 Marks)**
- d) Normative structure of the ICCESCR **(10 Marks)**