

**UNIVERSITY OF FORT HARE
NELSON R MANDELA SCHOOL OF LAW
(East London)**

**Human Rights Law
LFH 422E**

**Supplementary Degree Examinations
January 2020**

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Time: 3 hour

Subject: Human Rights Law

Marks: 100

**This paper consists of four (4) pages
including the cover page**

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External Examiner: Adv AW Makulana

INSTRUCTIONS

- a. Answer all the questions as per the specific instructions provided;
- b. It is in your best interest to write clearly, neatly and legibly;
- c. Rely on relevant case law and statutory provisions where applicable;
- d. Mark questions accurately and clearly;

QUESTION 1 (MULTIPLE CHOICE QUESTIONS)

[20]

- i. Each question has four possible answers, select and record the **correct** answer only;
 - ii. Questions where two or more selections are selected will be marked as incorrect;
 - iii. Record your answers in your answer book; not on this question paper.
1. **The UN Charter only refers to the concept of 'human rights' on three occasions. The Articles that refer to Human rights are:**
 - A. Article 3(1) and Articles 15 and 16;
 - B. Article 2(3) and Articles 25 and 26;
 - C. Article 3(2) and Articles 85 and 86;
 - D. Article 1(3) and Articles 55 and 56.
 2. **The United Nations Human Rights Council is the successor to the:**
 - A. ECOSOC;
 - B. League of Nations;
 - C. Human Rights Partnership;
 - D. Human Rights Commission.
 3. **The treaty-based human rights system of the UN started with the:**
 - A. Universal Declaration of Human Rights;
 - B. Convention on the Prevention and Punishment of the Crime of Genocide;
 - C. International Convention on Civil and Political Rights;
 - D. International Convention on the Elimination of All Forms of Discrimination against Women.
 4. **Which institution(s) are responsible for monitoring the implementation of the African Charter and its Protocol?**
 - A. The Organisation of African Unity and the African Union;
 - B. NEPAD;
 - C. The African Committee Group Rights;
 - D. The African Commission and the African Court.
 5. **Formal equality means that:**
 - A. Equals may be treated unequally, different must be treated differently;
 - B. Contemporaries must be treated unequally, likes must be treated unequally;
 - C. Equals must be treated equally, likes must be treated alike;
 - D. Social groups must be treated equally, citizens must be treated alike.
 6. **The sources of international law is set out in Article 38(1) of the:**
 - A. Universal Declaration of Human Rights;
 - B. Statute of the International Court of Justice;
 - C. United Nations Charter;
 - D. Rome Statute of the International Criminal Court.
 7. **A persons inherent characteristics such as race and sex are:**
 - A. Not acceptable criteria for differential treatment;
 - B. Acceptable criteria for discrimination in national law;
 - C. Acceptable criteria for discrimination in terms of international law;
 - D. Not acceptable criteria for consistent treatment.

8. Who may bring complaints to the African Commission alleging violations of the African Charter by State parties?
- A. Both States and individuals;
 - B. Only individuals;
 - C. Only States;
 - D. Both international organisations and NGO's.
9. The general obligations in human rights law on states are to:
- A. Enter into treaties and adhere to their conditions;
 - B. Secure; respect; protect and fulfil human rights;
 - C. Not engage in aggression and hostilities;
 - D. Ensure that domestic law agrees with international law.
10. The starting point in the protection and fulfilment of internationally guaranteed human rights is the:
- A. Individual;
 - B. United Nations;
 - C. International Court of Justice;
 - D. State.

QUESTION 2

[20]

It may be argued that, from the Universal Declaration of Human Rights (UDHR) (the preamble and text), it is possible to abstract a number of essential characteristics of human rights. **Required:** Critically evaluate the meaning of the philosophical concepts, which lie at the heart of the Universal Declaration of Human Rights. You are specifically required to clarify the meaning of the UDHR by inquiring into its text and drafting history, but also into the competing philosophical genealogies most prominent in debates over the concepts in the UDHR.

QUESTION 3

[20]

The South African Constitutional Court has referred to the concept of 'equality', both as a right and a value. The Constitutional Court has adopted a contextual and robust approach to the adjudication of matters where the right to equality was relevant. However, equality may also be evaluated and interpreted in a formal, abstract and categorical approach. **Required:** Evaluate this statement with specific reference to decided cases and the judicial reasoning of the Constitutional Court with regard to the right to equality and concrete factual matters where discrimination occurred. Refer to international, regional and domestic law in your answer.

QUESTION 4

[20]

Human rights are those rights possessed by virtue of being human. Human rights are traditionally classified into three 'generations' of rights. The division has been criticised by some from an African perspective. **Required:** Critically evaluate this statement with specific reference to the accepted or traditional classification of human rights and the classification thereof that have been proposed by some authors, including relevant submissions from African scholars.

QUESTION 5

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The national protection of human rights in Africa is monitored not only by the UN system but also through an extensive framework of regional instruments adopted by the African Union and its predecessor, the Organization of African Unity, as well as sub-regional organizations such as the Economic Community of West African States, the East African Community, and the Southern African Development Community. However, the African Commission on Human and Peoples' Rights, established in 1987, remains the main human rights body of the continent. An African Human Rights Court has been established to complement the work of the Commission.

Required: Critically examine the role of the African regional intergovernmental organizations, in particular the African Union, in the realization of human rights in Africa with specific focus on the African Charter on Human and Peoples' Rights and the main organs, the Commission and the Court, which have been established to ensure its implementation.

[100]