

LCP 4807 REVISION QUESTIONS: UNIT 1, 2 AND 6

For examination purposes-all study units are relevant. We expect you to read all the prescribed work.

THE OCT/NOV 2018 EXAMINATION

The examination is a three-hour paper for **100 marks**. The paper contains short questions, problem- and essay-type questions. When writing the essay type response, ensure that you pay particular attention to the structure by demarcating your essay into headings and sub headings. Use Provisions of various conventions, their interpretations and case law as authority.

In answering the hypothetical/problem type question, be able to identify the issues raised and how you will structure your response. Demarcate your response accordingly-by using headings. Further, use of Conventions, case law; comparative analysis of different provisions, as authority to argue your case.

TOPIC 1 DEFINITION AND DEVELOPMENT OF INTERNATIONAL HUMAN RIGHTS LAW

TOPIC 6 INTERNATIONAL HUMAN RIGHTS AND MUNICIPAL LAW

REVISION EXERCISE 1: SELF STUDY

These questions are answered sufficiently in study guide 1 and 2

1. Define International Human Rights Law and distinguish it from other branches of Public International Law. (12)
2. To what extent can International Human Rights Law be invoked as part of domestic legal system and what is the role of the principle of state sovereignty in this regard? (5)
3. Is International Human Rights Law really law? Briefly Discuss. (6)

4. Answer questions on Activity 5, page 8 of the Study guide. (10)
5. Answer Activities 9 to 11 on the study Guide. (10)
6. Are South African Courts allowed to apply international law? Critically discuss with reference to the applicable provisions of the Constitution. (15)
7. Answer activity 7 in unit 6 on page 117 of Study Guide 1. (15)

TOPIC 2 :THE UNITED NATIONS SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS

1. Which instruments/Conventions form what is generally known as the International Bill of rights and the classes or nature of rights of rights they protect? (10)
2. Briefly discuss enforcement mechanism provided for under the Covenant on Civil and Political rights as well as covenant on Social, Economic and Cultural Rights. (12)

GUIDELINES ON ANSWERING ACTIVITIES: TOPIC 1 AND 6

1. This question is a self-explanatory. Firstly, it requires you to define the concept and link the definition to the concept human rights and human rights law. You should distinguish international human rights law from other branches of public international and indicate under what circumstances are this branches of the law applicable.
2. This question requires you to discuss the meaning and role of the principle of sovereignty and explain the extent to which IHRL erodes this principle-(if it does!). You should also discuss the relationship between public international law and municipal law with reference to the two approaches –monism and dualism and the role that they play in the implementation of international law at

the domestic/municipal level. Further, indicate the role of the principle of subsidiarity.

3. You should note that IHRL Law just like Public international law has often been criticised that it is not really law as it is deprived of sanctions or mechanisms to enforce these sanctions. Therefore this question requires you to explain whether you agree with this criticism and indicate if there are mechanisms like courts or non-judicial bodies created to enforce IHRL.
4. SELF-STUDY
5. SELF-STUDY
6. SELF-STUDY
7. SELF-STUDY

GUIDELINES ON ANSWERING ACTIVITIES: TOPIC 2

1. The answer to this question is found in Topic 2-par 2.1 -2.3 of the Study Guide. The international Bill of rights is made up by the UDHR; ICCPR and ICESCR. The rights protected under these instrument range from Civil and Political rights to Socio-economic rights. –You should be able to distinguish and explain the rights in all these three instruments.
2. This question requires you to discuss two committees:
 - Firstly, the Human Rights Committee which was established under the ICCPR to deal with issues of compliance with and monitoring of the ICCPR. You should be able to discuss various provisions of the ICCPR which deals with reporting procedure; general comments, interstate communications as well as individual complaints. Note that the **First Optional Protocol to the Covenant** gives the Committee competence to examine individual complaints with regard to alleged violations of the Covenant by States parties to the Protocol.
 - Secondly, the Committee on Economic, Social and cultural Rights established by ECOSOC in 1987 to consider issues of compliance with the Covenant. This committee examines state reports and addresses its concerns and recommendations to the State party in the form of

“concluding observations”. Note that the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which entered into force on 5th May 2013, provides the Committee competence to receive and consider communications from individuals claiming that their rights under the Covenant have been violated. **(This last point is not discussed in the study guide and will not form part of the assessment criteria)**