



**Strathmore**  
UNIVERSITY

**STRATHMORE LAW SCHOOL  
MASTER OF LAWS  
END OF JANUARY MODULE EXAMINATION  
LLM 8108: TRADITIONAL KNOWLEDGE AND TRADITIONAL CULTURAL  
EXPRESSIONS (FOLKLORE)**

**DATE: Thursday 11<sup>th</sup> April 2019**

**Time: 2 Hours**

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**Instructions**

1. This examination consists of **FOUR** questions.
2. **Question ONE is COMPULSORY** and any other **TWO Questions**.

**Question 1**

Wakanda, a country in Eastern Africa has in the recent past been the target of unauthorised use, misuse and misappropriation of their traditional knowledge (TK) by foreigners from other countries. In the recent, Urembo, a company that specialises in manufacturing cosmetics heard about a natural dye that they could use in the process of manufacturing and which did not have any adverse effects on the consumers. The Watu community in Wakanda have used the dye since time immemorial for decorating their bodies for different religious festivities. Mr. Brite from Urembo came to Wakanda to get more information about the dye from the Watu Community. However, to access the traditional knowledge, he had to spend time within the Watu Community as the TK was sacred. Although Watu community shared the information with him, they told him that it was sacred and should not be used outside the permitted use.

Mr. Brite, after leaving Wakanda went on to share the information at Urembo and the company produced a line of cosmetics using it and acquired patents over the cosmetics line. When the Watu Community learnt this they protested and said it was against their customs and beliefs to use it outside the traditional context. In light of the above, you have been hired by the Government of Wakanda to provide a draft legislation law on the protection of traditional knowledge.

- (a) Which approach would be appropriate; Defensive or Positive? (10marks)
- (b) Can Wakanda, being a member of the African Regional Intellectual Property Organization, having ratified the ARIPO Swakopmund Protocol, use the protocol to seek redress from Ng'ambo, as country in Northern Africa where Urembo is based? (10marks)

**Question 2**

Traditional knowledge and Traditional Cultural Expressions are part and parcel of our culture and have been used by indigenous and local communities for centuries. At the moment, there are very few national laws that have specific provisions for protection of traditional knowledge and traditional cultural expressions. At the International level, there have been several discussions over the last one decade and in particular under the World Intellectual Property Organisation (WIPO) Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC)

Why should traditional knowledge and traditional cultural expression be protected? (20 Marks)

**Question 3**

Discuss the rationale behind “*sui generis*’ protection of traditional knowledge and traditional cultural expressions (20 Marks)

**Question 4**

What are the Key issues to be considered when developing a *sui generis* system for protection of traditional knowledge and traditional knowledge? (20 Marks)