



**STRATHMORE LAW SCHOOL
MASTERS OF LAW (LL.M)
END OF MODULE MAIN EXAMINATION
LLM 8211: INTERNATIONAL LEGAL STUDIES**

Date: **Wednesday, 18th October 2023**

Time: 3 Hours

Instructions

1. This examination consists of **FIVE** questions.
2. Answer **Question ONE (COMPULSORY)** and any other **TWO** questions
3. Some questions have multiple parts (sub-parts). Please answer all parts of the question.
4. Each question has a value of **20 points**. Each sub-part has an equal point value.
5. This is an open-book examination. You may consult any written material you like in preparing to answer the questions. The exam mode for this exam is **OPEN**. However, **DO NOT** use any other bibliography other than the one provided in the course syllabus. This means you may cite to class notes, class readings, PPTs and jurisprudence. Do not use any outside sources.
6. **DO NOT** copy and paste from any online source or from another candidate. The answers will be subject to a plagiarism check and a similarity index of over 30% will automatically lead to disqualification. If you cite lines of jurisprudence or other class texts, please make sure to include a citation.
7. You should spend a fair amount of time organizing your thoughts before starting to write.
8. Careful organization and clarity will be highly valued.
9. Please start each question on a new page.

Question One (Compulsory):

On Feb 23, 1993, a lawsuit was filed in a US. federal district court against the Bosnian Serb leader, Radovan Karadzic. The suit is a multi-million Dollar civil class action lawsuit filed by three human rights organizations, charging him with responsibility for systematic rape and other atrocity crimes carried out under his command. The lawsuit was filed on behalf of two victims on behalf of “all women and men who suffered rape, summary execution, other torture and cruel, inhuman and degrading treatment inflicted by Bosnian Serb military forces under his command. What would be your legal arguments to convince the Court to accept jurisdiction and rule in your favor as the lawyer for the victims?

Question Two:

Case study: Walmart (a big department store based in Kentucky, U.S.A.) decides to open a business abroad. At Walmart, you can buy anything from guns to underwear to peanut butter (all three at the same time, if you wish). Walmart decides to place the store in an impoverished area of a country due to the low price of land. About 30 families will be evicted from their land and resettled by government authorities. However, protests erupt across the region and Walmart indirectly hires a group of individuals to “eliminate” anyone who tries to obstruct the building of this super Walmart (and super it is). Local police are paid off by the intermediary group to avoid coming into this town at night when “elimination” occurs. Many of those involved are off duty police officers. Government officials are aware of what is happening but want to build the Walmart in an effort to create jobs (and because they are likely receiving bribes). Thirty people are killed and hundreds more are badly injured by this intermediary group.

A. Based on the ruling of the U.S. Supreme Court in the business and human rights cases we looked at in our last class, how should a U.S. court rule with regard to whether U.S. corporations can be held liable for human rights abuses abroad?

B. If a group of victims wants to take this forward based on international human rights law and mechanisms, what options are available to them?

Question Three:

A U.S. candidate for President of the United States is attracting large crowds due to his populous message to build a fence along the Mexican border. He talks about kicking “illegals” out of the country and retaking America for Americans. He says that all immigrants are rapists and murderers and should be immediately expelled from the country. Arguably as a result of his incendiary language, tensions have been on the rise and recently led to the death of two undocumented migrants in New York City. There has

also been some fighting in the streets (no one killed) between immigrant and non-immigrant communities in Brooklyn. At a recent rally in New York, the Mayor sent in police to arrest this candidate. The candidate is arrested and spends two nights in Rikers Island Prison. He's charged with inciting violence.

The candidate is finally released, and he sues the City of New York, arguing that he is protected by his constitutional and human right to freedom of expression.

- A. How should the U.S. Supreme Court rule?
- B. How should the European Court rule, assuming similar facts in a European country?
- C. Would this individual be protected under the U.N. General Comments on Freedom of Expression if the case were brought in front of a U.N. mechanism?

Question Four:

A man is arrested for killing another man in a fight over a parking spot. The crime was on video, but the face of the defendant was slightly blurred. During interrogation, the man refused to acknowledge his role in the crime but did happen to mention that his six-year-old son was about to die of cancer at any moment. The police decided that harsh techniques needed to be used to get him to talk and chose to leave him in a cell until he confessed. The man was placed in solitary confinement in total darkness and told he couldn't speak to his son until he was ready to discuss the crime. He was denied water or food during the 10 hours he was confined and was handcuffed to a wall while in solitary confinement. At times during the confinement, he pleaded with the police to let him say goodbye to his son, but the police refused. Each time the police walked in, he said "please, please, this is my only chance to say goodbye to him!!! I love him so much and just want one more chance to hear his precious breath. He's my only child.!" The man eventually agrees to speak to the police, but by that time his son had died. Upon leaving the cell, it was noted that he had urinated and defecated all over himself multiple times. After speaking with police, he's placed in solitary confinement for five days while the investigation was on-going. The room consisted of four white walls, a bed, toilet and one magazine. He was not allowed to speak with anyone but his lawyer.

In the end, it turns out that the man was near the scene of the crime, but it was not actually him. He informs the local Human Rights Commission (a government entity) of what happened, but they never investigate. He eventually sues the police department based on torture / cruel and inhumane and degrading treatment.

- A. Under international human rights law, identify and discuss all violations of torture under the Convention Against Torture.
- B. How should the U.S. Supreme Court rule?
- C. How should the European Court rule?

Question Five:

A 13-year child is taken from his home as a result of suspected neglect by the parents. According to the Government's child protection unit, the child was extremely thin, unbathed and hadn't been to school in at least six months. In addition, the child was dirty and smelled of human excrement. No signs of intentional physical or sexual abuse are present. The Government calls a hearing to determine what should happen to the child. The child is present at the hearing but is not offered the chance to speak.

The possible options are to send the child to live with his grandmother, who lives about 30 KM away from where the child currently resides, but the child has had minimal contact with her. And the other option is to place the child in a group home under the care of the state. The Court ultimately decides to send the child to a group home, without providing any justification other than "the child should no longer have contact with this family, which has failed to protect its interests." The decision does not provide for the possibility to eventually be reunited with family. The case is appealed by a child rights NGO in national court but the superior court agrees with the lower court. The case is now pending in front of the UN Committee on the Rights of the Child. How should it rule?