



PROGRAM : LL.B
BA (LAW)
BCOM (LAW)

MODULE : HUMAN RIGHTS/BILL OF RIGHTS

CODE : HRT41BO/HRE0021

DATE : 19 JANUARY 2021 (SSA EXAMINATION)

DURATION : 180 MINUTES

TOTAL MARKS : 60

EXAMINERS : DR M ROUX
: PROF MR PHOOKO

NUMBER OF PAGES : 3 PAGES

INSTRUCTIONS TO CANDIDATES:

- You must download the question paper from Blackboard at 16h30 on 29 October, and must submit your answers by 19h30 on 29 October on Blackboard.
- Please indicate very clearly which questions you are answering.
- Plan your answers carefully: the mark allocation for a specific question will give you an idea as to the level of detail expected in your answer.
- The exam will be open-book: you may therefore use prescribed study material to substantiate your answers. When quoting directly from a source, place it in quotation marks.
- You may NOT get assistance from fellow students or communicate answers to one another. Please take note that the Law Faculty takes a zero-tolerance approach to plagiarism, sharing of answers, or unauthorised assistance by anyone else in writing the test. Your answer script will be tested for plagiarism in general, and in respect of the answers of other students.
- Submitting your answer script:
 - You must submit your answer script on Blackboard.
 - Please *rather* type out your answers on an electronic device, and submit the document on Blackboard. Should you not be able to type out your answers, you may *write your answers by hand*, and scan/photograph your answers
 - NB!!!! If you write out your answers by hand, PLEASE CONSOLIDATE AND SUBMIT THE SCANS/PHOTOS OF YOUR ANSWERS INTO A SINGLE DOCUMENT. Blackboard does not accept separate documents.

QUESTION 1

Section 6 of the Civil Union Act 17 of 2006 provides as follows:

“A marriage officer, other than a marriage officer referred to in section 5, may in writing inform the Minister [of Home Affairs] that he or she objects on the ground of conscience, religion and belief to solemnising a civil union between persons of the same sex, whereupon that marriage officer shall not be compelled to solemnise such civil union.”

This section was repealed by the Civil Union Amendment Act 8 of 2020. The implication of this is that marriage officers may no longer refuse to solemnise such a civil union. The purpose for repealing this section is to comply with the right to equality as guaranteed in Section 9 of the Bill of Rights. However, the repeal may face constitutional challenges on the grounds that it violates the right to freedom of religion, belief and opinion as guaranteed in Section 15 of the Bill of Rights.

Answer the following questions relating to the above:

- 1.1 Express your opinion on whether this would be a matter of direct or indirect application of the Bill of Rights, as well as whether it would be a matter of horizontal or vertical application. You must justify your answer. (10)
 - 1.2 Critically evaluate whether the repeal of Section 6 of the Civil Union Act by the Civil Union Amendment Act would constitute a justifiable limitation of constitutional rights(s) in terms of Section 36 of the Bill of Rights. (15)
 - 1.3 Outline which constitutional remedies would be the most appropriate should this amount to a constitutional violation. (5)
- [30]**

QUESTION 2

Discuss your understanding of the International Bill of Rights of human rights. In your answer, specify the reasons it ended up with two separate international covenants. **[15]**

QUESTION 3

Define the concepts of universality, indivisibility and interdependence of human rights. **[5]**

QUESTION 4

COVID-19 remains one of the deadliest virus in the global community. In an effort to curb the spread of the virus, the government of South Africa has secured the COVID-19 vaccine which will be rolled out towards the end of January 2021. The government has indicated that frontline workers such as doctors and nurses will be the first ones to receive the vaccine. In light of the above, answer the following questions:

- 4.1. Does the government's conduct amount to preferential treatment? Substantiate your answer. (5)
 - 4.2. Is preferential treatment permissible in a constitutional democracy? Substantiate your answer. (5)
- [10]**

TOTAL EXAM: **[60]**
