

HUMR 5702 - Human Rights and Development

Take Home Exam No. 2 (Final)

Background information. E'gron is a high-income country in Europe with a Gross National Income (GNI) per capita of \$US 46,430 per capita in 2013. This is expressed in Purchasing Power Parity (PPP) terms. Nari is a poor but middle-income country with a GDP of \$US 4,231 per capita. Iwalam is a low-income though fast growing country with a GDP of \$US 1670 per capita.

Answer one question from Part A and one question from Part B.

Part A

Answer **ONE** of the following three questions from Part A.

1. The Polity index score for the state of Nari fell from 1 to -1 in the period 2005 to 2013. However, the country has maintained consistent economic growth of 3 per cent each year and extreme poverty has fallen to 20 per cent, from a level of 50 per cent in 1990. The office of the Centre for Development in Nari has proposed that E'Gron reduce by 20 per cent the amount of direct budgetary support given to Nari and replace it with a Democracy Fund. Civil society organisations, employer and employees organisations, and any political party would be able to apply for support from the Democracy Fund for democracy-enhancing activities. You are asked to write a memorandum on whether E'Gron should adopt a general policy that re-allocates budgetary support to democracy enhancement programmes when a country is on a non-democratic trajectory.
2. The Prime Minister of E'gron has proposed a cut in the amount of international development assistance provided by E'gron from 0.7 per cent of GDP to 0.6 per cent. The official justification is the 2013 recession: GNI fell by 1 per cent and unemployment rose by 1.2 per cent. The Centre for Development in E'Gron has claimed that this contravenes E'Gron's international treaty obligations. You are asked to provide a memorandum to the Minister of Foreign Affairs on whether this cut is a violation of the International Covenant on Economic, Social and Cultural Rights. Note that some relevant legal literature can be found in the following publications.¹
3. The Government of Iwalam has decided to replicate exactly the recent Ugandan law on the enhanced criminalisation of homosexual behaviour. The bill was approved by the Iwalam Parliament after a public debate for 3 months. Upon its subsequent approval by the President, the Iwalam Instant, a leading newspaper, published a list of 300 alleged homosexuals. Two weeks later, vigilante groups were apparently behind the murder of ten of the named and police arrested another 15 named individuals. Iwalam is a major beneficiary of aid from E'Gron. The Prime Minister of E'Gron announced publicly that her government would consider halting all development aid to Iwalam. You are asked to provide a memorandum on the response that you think E'Gron should take.

¹ See, e.g., article by Philip Alston in the recommending reading for the pensum and chapters in M. Langford, W. Vandenhole, M. Scheinin and W. v. Genugten (eds.), *Global Justice, State Duties: The Extraterritorial Scope of Economic, Social, and Cultural Rights in International Law* (Cambridge: Cambridge University Press, 2013).

Part B

Answer **ONE** of the following three questions from Part B.

4. In Nari, the state provides only those medicines on the WHO essential medicines list. All other medicines must be purchased at full cost by individuals or they may be covered by private health insurance (which 40 per cent of individuals possess). In 2012, all of the communities displaced by the 2005 earthquake have begun returning to Nari. This was part of a return and resettlement scheme organised by the IOM and amounted to the return of 113,523 individuals. While residing in neighbouring Alogna, 13 per cent of the displaced community contracted a rare disease *mordus*, which spreads through sexual activity. Most victims die within 2 years if they do not receive the drug Viva, which costs 6000 USD per year and must be taken for life. The Government of Iwalam has refused to provide Viva but has instigated a public health campaign and health experts confidently expect that no new transmissions of the disease from 2020. There is a cheap vaccine available at a cost of \$1 per person and transmission can be stopped through the use of contraceptive devices. After campaigning for a year for the government to provide Viva to *mordus* victims, the Earthquake Justice association has launched a court case. It argues that the refusal to provide Viva is a violation of the right to health. The International Covenant on Economic, Social and Cultural Rights is incorporated in the Nari constitution and is subject to judicial review by the courts. Write an opinion on the scope of Nari's constitutional obligations in this case.
5. The informal settlement of Modos in centre of Nari's capital is to be demolished for the construction of new suburb, which will be called New Modus. Increased subsidence on the northern slope and the collapse of twenty structures (with the deaths of 14 children) appears to have triggered the announcement, along with concerns over the pollution of groundwater sources from the lack of sanitation. The Government of Nari has promised that it has learnt from previous failures in slum upgrading and has presented plans which show that New Modus will include public services and significant low-income housing. Modos residents will be relocated to the outskirts of the capital but by 2025 all of the residents are to be relocated to New Modus or similar schemes. The plan is financially backed by the Government of E'Gron and an Ombudsman has been appointed for the process so that current residents can make complaints. The population of Modos is currently estimated at 100,000 and the size of the settlement is 250 acres. UN-Habitat is approached to join the State of Nari as a formal partner: the Government wishes to benefit from the expertise of UN-Habitat on slum upgrading. The new director of UN-Habitat has committed the organisation taking a human rights-based approach. You are asked to advise on whether UN-Habitat should partner for the project.
6. Iwalam has proposed a land agreement with a biofuel company, GaiaCorp, based in E'Gron. In return for a significant area of land, GaiaCorp will create thousands of local jobs, and build schools and hospitals in an area which currently lags behind the rest of the country on a range of social indicators. The income from the land sale is earmarked for converting Iwalan's entire existing public transport to renewable energy, while the biofuels produced will cut E'Gron's own carbon emissions by 20 percent. The land in question is 40 percent rainforest (including several indigenous groups), 40 percent informal agricultural land, and 20 percent pastoral land (including nomadic indigenous groups). After protests from local and international groups, the government has opened up for consultations on the deal. You have been commissioned by the Environmental Ministry to write a submission based on the different human rights issues at play, using a human rights-based approach.

Instructions

1. The limit for the entire exam is 3500 words. You are advised to roughly divide equally the words used between each question.
2. It is expected that you will use materials *in* the course pensum but also use to a certain degree of literature outside the pensum.
3. Do not create new facts to answer questions but it is legitimate to make some conditional arguments. I.e., you might argue that ‘if the situation were X, then Y would apply’.
4. Please use the author-date method for referencing secondary literature. This requires a simple author-date citation in the main text (with any relevant page number) and the full citation in a bibliography. This is the method used in the main course book: *The MDGS and Human Rights* (CUP, 2013). The bibliography is not included in the word limit.
5. Please follow the standard Faculty Guidelines for referencing case law. Full references are not needed for treaties. Case law and treaties should be referenced in the footnotes.
6. Footnotes should otherwise be used sparingly. Use them for clarification purposes for example.
7. Please upload your Exam in Fronter with a document name formatted in the following style: “Candidate Number – HUMR 5702 Final Exam”.