

OPEN BOOK EXAM (GROUP I)

- 1) This examination consists of **two hypothetical cases** with two questions each. Please read the questions **carefully** before answering them. Your responses should be complete, but as concise as possible.
- 2) You have **two (2) hours** to complete the exam.
- 3) This is an **open book** examination. You may consult all materials including books, presentations, materials posted on Moodle, as well as electronic sources.
- 4) Any kind of **electronic communication** and use of **AI technology** is strictly prohibited.
- 5) When quoting or paraphrasing, include an identifiable **reference** with a page number.
- 6) When finished, please upload the document on Moodle in the following format: "Exam_Student Number.docx". Indicate your **student ID**, but not your name, in the header of your document.

Case I

The mountainous region of Miloria spans across the borders of two countries, Anberra and Borina, but is primarily inhabited by the Milorians, an ethnic group with a distinct language and culture. While the Anberran constitution provides significant autonomy to the Milorians, notably in education and cultural matters, Borina has pursued an assimilationist policy that denies any such protection. This repressive stance led to the creation of the Milorian Liberation League (MLL), an insurgent group that has also been responsible for a number of terrorist attacks. There are regular military confrontations between the Borinan army and the MLL, with Borinan forces occasionally even crossing the Anberran border in hot pursuit of enemy combatants. Meanwhile, the MLL has continuously expanded its military capacity, funded by wealthy Milorians abroad.

Following the election of a nationalist party in Anberra that had vowed to curtail the rights of Milorians, the MLL makes a unilateral declaration of independence, creating the "Republic of Miloria" within a demarcated landlocked territory taken from both states, including the entirety of the autonomous Milorian province within Anberra. The governments of Anberra and Borina jointly condemn the declaration as illegitimate, declaring it a breach of their territorial integrity and sovereignty. The Borinan army mobilizes immediately, launching a large-scale and brutal military operation that, according to legal experts, sees many breaches of the law of armed conflict. Still, after a week of fighting, the MLL prevails, forcing Borina to retreat from the contested territory.

Having witnessed the defeat of the Borinian forces, the new Anberran government decides to pursue an alternative strategy with the declared goal of achieving "the total political and legal isolation of the MLL." For this purpose, Anberra closes off all roads to the new Milorian territory, resulting in an immediate shortage of medical supplies and staff to support hundreds of people wounded (partially gravely) during the conflict with Borina. The new government also pushes through parliament an emergency law that obliges all licensed broadcasters to receive government approval for any news story and report related to the situation of the Milorians. Finally, in a sudden countrywide raid conducted during nighttime, the Anberran police detain hundreds of ethnic Milorians, who are then charged with the crimes of sedition and terrorism. Reacting to these developments, the UN General Assembly passes a resolution condemning Anberra for its actions while reaffirming the Milorians' "inalienable right to self-determination." Twenty-four states immediately recognize the Republic of Miloria in the aftermath, including two of the UN Security Council's permanent members.

Anberra is a State Party to the International Covenant on Civil and Political Rights (ICCPR).

Questions:

- A) Which human rights obligations has Anberra violated? Answer the question in reference to specific articles of the ICCPR, also taking into account any potential justifications of the government.
- B) You are a legal advisor to the Dutch government. How should the Netherlands proceed regarding the question of recognition of the Republic of Miloria? Provide a reasoned answer.

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Case 2

Sanuda is a small developing country whose largest economic sector is agriculture. Many citizens are focused on subsistence to secure a basic livelihood. This includes local fishermen who, for centuries, have relied on the rich fish stocks of Larun, a transboundary river, to provide for their families. The same type of subsistence fishing can also be found downstream in neighbouring Rezek, a larger middle-income country.

In the early 2010s, foreign investors began building fish farms in the Sanudan part of the Larun river. Regulated and restricted to selected areas, the commercial fishing did not initially cause any problems. However, suffering a year of extreme drought, the Sanudan government faces massive political pressure, including revolts in parts of the country, to assist its economically struggling population. A group of multinational fishing companies seize the moment to extend a sizable loan to the government in exchange for permission to use cheap herbicides in their fish farms for the removal of algae and other aquatic plants. The secret agreement becomes public only after a water probe, coincidentally taken by biologists in Rezek, indicates a slight but notable deterioration in the water quality of the river. As the months go by, the negative effect on the biodiversity in the river turn out to be much more severe than predicted in this study, with natural fish stock dropping to unprecedented lows.

The resulting situation is a disaster for the local fishermen, most of whom do not know how to make a living otherwise. However, legal demands for compensation from the companies are dismissed by Sanudan courts, which deny that the fishermen hold legal standing. A peaceful protest in the capital is violently broken up by the authorities as several fishermen are arrested for agitation and later sentenced to ten years of imprisonment. Finally, as the government tries to regain the political initiative, it outlaws any fishing activity apart from the commercial fish farms, publicly blaming the decrease in natural fish stock on the local fishermen's "greedy and egoistic overfishing." Desperate and angered by the government's move, a young fisherman named Mr. Guyan takes matters into his own hands. Trespassing one of the fish farms at night, he burns down a herbicide depot, all the while broadcasting his actions on social media. He then opens the cages of the fish farm to release the fish, declaring, "If we cannot fish, no one should! It's our right and our life!" Escaping on his boat before the police arrives, he eventually reaches Rezek where he files an application for asylum.

Both countries have ratified the 1997 Convention on the Law of the Non-Navigational Uses of International Watercourses. No specific agreements exist regarding the management of the Larun River. Rezek is also a State Party to the 1951 Convention Relating to the Status of Refugees as well as its 1967 Protocol.

A) The government of Rezek is considering taking legal action against Sanuda. Identify and describe three specific treaty provisions that could reasonably be invoked in such a legal application.

B) Does Mr Guyan have a legally justified claim to refugee status? Conduct a systemic evaluation.