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**THIS EXAMINATION CONSISTS OF 4 PAGES (INCLUDING THIS PAGE)  
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER**

**THE UNIVERSITY OF BRITISH COLUMBIA  
FACULTY OF LAW**

**FINAL EXAMINATION – APRIL 2019**

**LAW 319C.001  
INTERNATIONAL HUMAN RIGHTS**

**PROFESSOR STEWART**

**TOTAL MARKS: 100**

**TIME ALLOWED: 3 HOURS  
PLUS 10 MINUTES READING TIME**

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NOTE: 1. This is an open book examination

**THIS EXAM CONTAINS TWO QUESTIONS. YOU ARE  
REQUIRED TO ANSWER BOTH OF THEM.**

MARKS

50

Margordia is a large independent country in South America. Independence from Spanish colonial rule was achieved in 1960, but the state apparatus that the Spanish left behind centralised power in whoever could militarily capture the country's capital city. In 1980, after several decades of vicious fighting, General Tomo seized power of Margordia in a decisive military victory. He has ruled the country with an iron fist ever since, crushing dissent by imposing a system of brutal torture of anyone who makes pro-democracy or human rights criticisms of his autocratic regime and occasionally disappearing family members of dissents. Earlier this year, General Tomo also detained hundreds of thousands of ethnic Zard in labour camps in an offshore facility provided by a friendly neighbouring state called Narnot, claiming that they were members of a terrorist organization bent on destabilizing his country.

Bright Futures Ltd (BF) is a Canadian technology firm that supplies surveillance equipment to countries throughout the world. In 2004, General Tomo reached out to the CEO of Bright Futures, Sally Sloak, requesting that she sell him equipment that would: (a) detect the name and identity of anyone making pro-democracy and pro-human rights criticisms of General Tomo and the Margordia government on the internet; and (b) recognize people with facial features associated with the Zard ethnicity from within crowded public areas. Sally Sloak was initially reluctant to do this because she knew that bigger tech companies had refused to do this work based on the well-publicised oppression of human rights defenders and ethnic Zard by Tomo's totalitarian regime. Ultimately, however, she reasoned that if she refused this lucrative contract, her competitors would certainly accept it, which would probably make matters even worse in Margordia and Narnot.

Moreover, after receiving legal advice, Sally discovered that the practices in Margordia were all consistent with national law. General Tomo had passed multiple pieces of legislation over the years allowing for the torture of anyone convicted of the crime of seeking to undermine state authority. In addition, Margodian officials had not ratified the United Nations Torture Convention and explicitly entered a reservation to the provision governing torture in the International Covenant on Civil and Political Rights. Although Sally saw the forced disappearances as a major problem in the country, there was no evidence linking General Tomo to these disappearances, so Sally reasoned that they presented no impediment to working with him. And finally, as for the Zard ethnic minority, General Tomo had announced a state of emergency suspending their human rights after several of their members openly called for an overthrow of the government.

Accordingly, in 2005, Bright Futures Ltd provided Tomo with cutting-edge technology as requested. It immediately became clear that the equipment helped Tomo strengthen his repressive grip on power. After receiving the new technology, rates of torture and forced disappearance increased drastically according to Human Rights Monitors (HRM), the leading human rights NGO in the region. In addition, authoritarian leaders in neighbouring countries were emboldened by the example in Margordia, which they began

to copy, leading to a regional deterioration of democracy, rights and stability. When HRM presented Sally Sloak with concrete evidence showing how her company's equipment had led to specific acts of torture, forced disappearances and arbitrary detention in labour camps in neighbouring Narnot, she responded that it was not her company's obligation to police how purchasers used the merchandise. HRM publicly denounced this attitude as criminal.

*1. You act for Human Rights Monitors (HRM). Please write an opinion advising: (a) what violations of human rights have taken place here; (b) who is responsible for those violations; (c) whether the justifications offered by Sally Sloak are legally compelling; (d) which fora could hear these complaints; and (e) your opinion about the most effective response to these problems. You may assume that all countries involved are parties to the International Covenant on Civil and Political Rights.*

MARKS

- 50 2. Choose **one** question from the list below, then **write an essay** responding to the question you have chosen.

Essay Options:

- (a) Frédéric Mégret argues that “domestic and international human rights law is always tempted to reach beyond positive law, especially at times when rights are arguably needed most...” Discuss this proposition using examples from our class.
- (b) Each of the words “international human rights law” is contingent in that one could have sought universal human flourishing without using any one of them. Discuss why each is important for this field, illustrating your answer with cases from class;
- (c) What is the margin of appreciation and what does it tell you about the theory and politics of international human rights law? Discuss drawing on materials from our course, showing connections between the different topics we considered;
- (d) What are the strengths and weaknesses of limiting human rights obligations to states and states alone? Draw on examples we discussed in class to motivate your answer in both these respects;
- (e) Is international human rights law part of the problem? Explore this idea by drawing on the critical literature we explored, illustrating your thinking with reflections on the material we covered throughout this course.

END OF EXAMINATION