QUESTION 1

“What Apartheid violated our Post Apartheid Bill of Rights protects” (Anonymous)

Write an essay on human rights in South Africa linking the Apartheid past to our current protective Bill of Rights. Your essay should include a discussion of selected human rights violations which occurred under Apartheid and show how the Bill of Rights in Chapter Two of the Constitution of Republic of South Africa, 1996 now protects these rights.

(20 marks)

QUESTION 2

“The challenge for any transitional democracy emerging from a violent period marked by crimes committed on a massive or widespread scale is to embrace the future and its hope of peace without forgetting (or condoning) the events of the past. The achievement of justice in such circumstances presents such transitional democracies with a stark choice. On the one hand, they can choose to deliver justice in the form of ‘retribution’, either through international criminal trials such as those envisaged before the International Criminal Court, or through domestic prosecution of individuals. On the other hand, they can choose to deliver ‘restorative’ justice through the means of what we now know as ‘Truth Commissions’.” (Anonymous)

Write an essay in which you critically discuss whether truth commissions, along the lines of the South African Truth and Reconciliation Commission, are effective tools to be employed by transitional democracies as they struggle to “embrace the future” without “forgetting the past”. To what extent, if any, is it necessary for societies in transition to address the desire for retributive justice within or outside of the truth commission process?

(20 marks)
QUESTION 3

Suhayfa, a Grade 10 learner at a local high school has become deeply religious and has started to wear a plain black head scarf to school with her school uniform. She was warned by her class teacher and the principal that this is in contravention of school rules which state that “… only officially endorsed school apparel may be worn to school. No jewelry, hats (other than designated sun hats), or scarves may be worn.” After a two month stand-off between the school, Suhayfa and the School Governing Body, her parents approach the Pietermaritzburg Equality Court with the assistance of Lawyers for Human Rights. They argue that the school’s failure to exempt her from the school’s uniform rule unfairly discriminates against her in terms of the Promotion of Equality and Prevention of Unfair Discrimination Act, No.4 of 2000.

You are an intern working at lawyers for Human Rights. Write an opinion on:
(i) Suhayfa’s prospects of success; and
(ii) if successful, the most appropriate remedy in this matter.  

(20 marks)

QUESTION 4

Write and essay in which you critically discuss the hate speech limitations on freedom of expression as set out in s 16(2)(c) of the Constitution of the Republic of South Africa, 1996. In your answer you should refer to the approach of the South African Human Rights Commission to hate speech in the Freedom Front v South African Human Rights Commission and Another 2003 (11) BCLR 1283 (SAHRC).  

(20 marks)