

# Due Progress in International Human Rights Law

**Elective  
Past  
Papers**

LL.B. IV



# **GHAQDA STUDENTI TAL-LIĠI**

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2020/2021

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## ABOUT GhSL

Għaqda Studenti Tal-Ligi (The Malta Law Students' Society) is a faculty-based, non-profit organisation at the University of Malta that represents all law students within the Faculty of Laws.

The organisation plays a pivotal role in law students' academic and social life at the University of Malta. The organisation has also been responsible for publishing the prestigious *Id-Dritt*, and the *GhSL Online Law Journal*.

Moreover, GhSL boasts its own Thesis Library, located at the GhSL office in the Faculty of Laws. Additionally, GhSL is the only law organisation responsible for the distribution of authoritative law notes and past papers.

For further queries on this set of notes, as well as any other, please feel free to contact our **Resources Officer** at [resources@ghsl.org](mailto:resources@ghsl.org).



## Advice from an Alumna

By Dr Priscilla Mifsud Parker

The law course is a long journey, but one that, if well-travelled, will lead to beautiful destinations. In an industry which is today attracting many young individuals looking to develop their career in law, it is important to stay ON the beaten track and remain focused. It may go without saying that it is of great importance for all students to attain good academic grades, to be dedicated to their work, as well as to be determined in this highly-competitive industry in order to fulfil their dream of becoming lawyers one day. However what is crucial is that as students and later on as professionals we are innovative by being sensitive to the changes around us. These changes might be political, economic, environmental, socio-cultural or others; what is for sure is that they all have an impact on the profession of a lawyer. We are members of a dynamic profession which is very sensitive to its surroundings. The type and 'genre' of advice which is required from us is all affected by what is being experienced by the receivers of this advice.

Work experience is considered as a vital part of the staple diet of any prospective lawyer in order to put into practice and refine the knowledge gained from the theoretical reality of the lecture halls and lawbooks into the skills required for a successful career in law. An internship will not only show future recruiters that you have a genuine interest in pursuing a career in this sector, but that you have the practical knowledge and skills to succeed in your role.

Here are some personal suggestions that I feel helped me during my journey:

### 1. *Being Ambitious*

A powerful trait in any competitive industry, ambition will help you in your law course, in your career as a lawyer, as well as in your life. Whilst the law course can be quite intimidating and challenging, an ambitious individual who is dedicated to learning new things has the potential to understand and realize long-term goals. Do not view the journey as one whole insurmountable mountain but focus on the next small goal and once achieved move on to the next and goal by goal you will reach your final target point.

In this respect, gaining valuable work experience through an internship is an important step taken by an ambitious young lawyer who wants to attain certain skillsets, and remain a step ahead of his/her peers. By being inquisitive, analytical and humble enough to accept guidance and mentoring one is guaranteed a fruitful experience in a law firm. It is also not only a means to start focusing on the direction of your career and to build upon your chosen path, but will undoubtedly expose you to the international world. This is crucial, as most of the traditional legal sectors have been intertwined with new areas of legislation and all these together now present much more opportunity for intra-jurisdictional work.

### 2. *Networking*

By engaging with counterparty students abroad and in international fora one gains an insight into another reality and is exposed to different cultures, ways of communicating and is able to bridge



the differences between parties to a mundane discussion which will eventually become a transaction or a major project in professional life.

### *3. Organisational Skills*

Organisation is key in any industry. Good organisation skills always stand out to a recruiter when considering potential applicants. Such skills can be obtained by gaining experience either through organising one's own work, study plan, student events or cultural/philanthropic events.

Going hand-in-hand with this, is having a study plan. By planning your studies ahead, one will have a sufficient amount of time to meet all the demands, while also being able to participate in productive outside activities. Reviewing notes or case briefs before class can also help you follow and participate in class discussions better, whilst following case-law allows you to apply them for specific situations. In view of the amount of material involved summarising and carving out the most crucial points is essential to then build your argument in papers.

### *4. Taking your own class notes*

It is always important to take down your own notes as laws are always evolving and passed-down notes would provide the context but are not ideally used for the detail. Researching the particular topic and comparing Malta's law with that of other jurisdiction gives one a completely different outlook and commenting on these variances in an exam paper, dissertation or assignment would distinguish one student from another. Not to be overlooked are also the consultation papers, commentaries and other official public documents that are issued by local authorities from time to time on different areas of law and industry. Being abreast of what is happening in industry will help putting the particular law or regulation in context.

### *5. Participation*

Participation is a main element of the learning process. Being actively involved during seminars and lectures and participating in legal debate sessions, mock trial competitions and moot courts are essential in order to improve your persuasive and presentation skills. If you find this very difficult (all of us have different characters and traits), then try to focus on participation in other events which will expose you to public speaking starting off in smaller groups in a more familiar environment and trying out new experiences and larger audiences as you go along.

### *6. Practice is the key to success*

This leads us to our next point – practice. Attaining good grades is undoubtedly an important part of the law course, however, in themselves, they are not enough to show that you have substantial material to succeed. Working within a law firm introduces you to the world of work, and allows you to gain specific industry-related skills which one will only ever be able to learn in a workplace setting.

Work experience can provide you with valuable insight which will help you decide what your career aspirations are and in which areas you would like to further delve into.



SIXTH YEAR LAW  
ELECTIVE UNITS PAST PAPERS

# DUE PROCESS IN INTERNATIONAL HUMAN RIGHTS LAW



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**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LLD III YEAR 2012/2013**  
**MAY/JUNE 2013 EXAMINATIONS**

**EXAMINATION: PBL5017 – DUE PROCESS IN INTERNATIONAL HUMAN RIGHTS LAW**

**DATE: MONDAY 24<sup>TH</sup> JUNE 2013**

**TIME: 9.15AM – 10.15AM**

**CHOOSE ANY TWO QUESTIONS. ALL QUESTIONS CARRY EQUAL MARKS.**

1. Explain the meaning of the concept of 'due process' and its application in International Human Rights Law.
2. The adversarial principle has dimensions which go beyond the notion of equality of arms and which extend across the whole vast area of due process. Discuss this statement, giving examples.
3. Outline the three different contexts in which due process principles are applicable.
4. It is important that a decision maker be subject to a body exercising judicial control which has full jurisdiction and does provide the guarantees of Article 6(1) of the European Convention on Human Rights. Why?
5. A theatre licence may be granted at the discretion of the licensing authority. Should there be a right of appeal against a refusal to grant a licence or to impose conditions and restrictions? Should the reviewing body's power be limited to a consideration of points of law or should the reviewing body be able to consider all disputes of fact and law?

UNIVERSITY OF MALTA

FACULTY OF LAWS

LLD III

SEPTEMBER 2013 SUPPLEMENTARY SESSION OF EXAMINATIONS

EXAMINATION: PBL5017 – DUE PROCESS IN INTERNATIONAL HUMAN  
RIGHTS LAW  
DATE: MONDAY 2<sup>ND</sup> SEPTEMBER 2013  
TIME: 9.15AM – 10.15AM

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ANSWER ANY TWO QUESTIONS

ALL QUESTIONS CARRY EQUAL MARKS (ALL PARTS OF EVERY QUESTION  
CARRY EQUAL MARKS)

1. The right to a fair trial has two faces: a technical face (i.e. a procedural right) and a philosophical face (i.e. a right of judicial policy which expresses a certain ideal of justice). Discuss.
2. Illustrate how the principle of due process is applicable (a) in judicial proceedings, (b) in legislation and (3) in *exequatur*.
3. The case law of the European Court of Human Rights is rich in doctrine and principles concerning the right to a fair hearing. Highlight those principles which emerge from the Court's jurisprudence.
4. Highlight some of the problems arising from the disclosure or non-disclosure of sensitive evidence in trials concerning counterterrorism and discuss how the principle of due process impacts on such problems.
5. The right to a fair trial is not only a technical right but a right which expresses the democratic nature of a court. It is one of the rights by which we define a democratic society. This ideal of justice is reflected in the constant widening of the scope of the right to a fair trial. Discuss.



UNIVERSITY OF MALTA  
FACULTY OF LAWS

JUNE 2014 SESSION OF EXAMINATIONS

PBL5017 – DUE PROCESS IN INTERNATIONAL HUMAN RIGHTS LAW

THURSDAY 12<sup>th</sup> JUNE 2014

9.15 AM – 10.15 AM

*Answer any 2 questions (equal marks)*

- 1) Describe in detail what you have taken on board from your studies in “Due Process in International Human Rights”. Indicate specific applications of this fundamental concept.
- 2) “Due Process of Law”, being based on the rule of law, impacts many spheres of law. Explain how due process of law impacts on criminal procedure and civil procedure.
- 3) Due process is a concept at the very heart of every legal system. Explain how the European Court of Human Rights applies this core concept in European Human Rights Law.

UNIVERSITY OF MALTA

FACULTY OF LAWS

LLD III

SEPTEMBER 2014 SUPPLEMENTARY EXAMINATION SESSION

**EXAMINATION:** PBL5017 – DUE PROCESS IN INTERNATIONAL HUMAN RIGHTS  
LAW

**DATE:** FRIDAY 5<sup>TH</sup> SEPTEMBER 2014

**TIME:** 9.15AM – 10.15AM

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*Answer any two questions.*

*All questions and sub-questions carry equal marks.*

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- 1) Explain what is meant by “due process protection”. Illustrate your answer by giving examples to show that you have a clear idea of what this protection involves.
  
- 2) A drug addict is undergoing trial by jury on a wilful murder charge. He is unable to keep his head straight and his eyes open as he keeps dozing off each day of the trial. His lawyer is able to communicate with him in a private room during the interval between hearings.
  - a) How is due process protection affected in this particular setting?
  - b) Who has a duty to attend to this situation? What are the implications if it is not attended to?
  - c) Is the trial in conformity with European Convention requirements? Explain.
  
- 3) In what spheres or contexts does the concept of Due Process apply?

**UNIVERSITY OF MALTA**  
**FACULTY OF LAWS**  
**LL.D. III YEAR**  
**SEPTEMBER 2015 EXAMINATIONS**

**EXAMINATION: PBL5017 – Due Process in International Human Rights Law**

**DATE: FRIDAY 4<sup>TH</sup> SEPTEMBER 2015**

**READING TIME: 10:00AM – 10:05AM**

**DURATION OF EXAM: 10:05AM – 11:05PM**

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Answer any **TWO** of the following questions

**ALL Questions Carry EQUAL Marks**

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1. Analyse art 6 of the European Convention of Human Rights. How has the *general* right to a fair hearing been interpreted to include specific rights not mentioned in the Convention? (50 marks)
  
2. Discuss the concept of " criminal charge " under art 6(1) of the European Convention of Human Rights .(50 marks)
  
3. Write short notes on the following judgments of the European Court of Human Rights:
  - (i) *Engels vs Neherlands* (8th June 1976)(17 marks)
  
  - (ii) *Teixeira vs Portugal* (1998)(16 marks)(17 marks)
  
  - iii) *Kafkary vs Cyprus* (2008)(16 Marks)

4. Describe the *specific* rights enjoyed by a person charged with a criminal offence under art 6. Illustrate your answer with reference to the jurisprudence of the European Court of Human Rights (50 marks)

5. At the height of the Cold War, Mr Justice Jackson of the U.S. Supreme Court once stated that " it might be preferable to live under Russian law applied by common law procedures than under the common law enforced by Russian procedures". Discuss. (50 marks)

UNIVERSITY OF MALTA  
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JANUARY 2017 EXAMINATIONS

PBL4015

**Examination: Due Process in International Human Rights Law**

DATE: FRIDAY 20<sup>th</sup> JANUARY 2017

READING AND NOTING TIME: 11.30AM TO 11.35AM

DURATION OF EXAMINATION: 11.35AM TO 12.35PM

Writing is permitted during the Reading and Noting Time

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**INSTRUCTIONS TO STUDENTS:**

Answer **ONE** from the following questions. Every question carries equal marks.

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- Q.1. The role of the judge in directing the criminal judicial process is crucial in ensuring that due process is provided. Discuss.
- Q.2. Analyse two elements of 'equality of arms' and indicate how they ensure due process.
- Q.3. Due process includes the right to defend oneself in person or through legal assistance. Consider how this right may be exercised and implemented.