NOTE: 1. This is an opened book examination

THIS EXAM CONTAINS TWO QUESTIONS. YOU ARE REQUIRED TO ANSWER BOTH OF THEM.
In 2015, an Angolan journalist named Peter (a fictitious character) wrote a book revealing endemic corruption, huge labor violations and systemic human rights transgressions within the diamond industry in his home country of Angola. Diamonds have fueled bloodshed in Angola for a number of decades, and Peter’s book was an important exposé of the current woes of the industry in Angola.

In various places, the book revealed that:

(a) foreign diamond mining companies were paying very substantial bribes to corrupt state officials for access to diamond mining concessions. Although corruption is not explicitly enumerated as a human right in international conventions, it is an emerging right. Some courts, like the Indian Supreme Court, have recognized a corruption free society as a human right;

(b) foreign diamond mining companies were benefiting from the forced labor provided by a state-run entity called AngolaWork, which forcibly recruited street children to work in diamond mines. AngolaWork explained that although they did not pay these children, and technically they were not free to leave, they were fed and educated by the company, which made the street children better off than on the streets;

(c) with respect to their own employees, foreign diamond mining companies were paying local workers at the equivalent of CA$ 0.07 per hour. The book also revealed that health and safety were abominable within the diamond mining sector, leading to many injuries. Finally, companies had banned unions altogether, prohibiting collective bargaining.

When Peter’s book was published, powerful diamond mining companies immediately called in favors with their elite partners in the Angolan government. These foreign mining firms wanted a swift response to these allegations, which risked undermining public confidence in their operations globally, driving down the price in global diamonds immediately before Valentine’s Day.

Jack, a CEO of a major Canadian diamond mining company named SPARKLING STONES Inc., which was one of the foreign companies mentioned in Peter’s book, told the Angolan President, “you need to simultaneously explain these allegations away publicly and make an example of this Peter, so that no-one dares do this again.”

Accordingly, the Angola Government publically declared that (a) the foreign mining companies were in full compliance with Angolan law; (b) that any departures from international human rights law were covered by the doctrine of a “margin of appreciation;” and (c) that Angola was in a state of emergence at the time these acts took place. Diamonds were a key means for it to make enough money to purchase weaponry to
fight off a brutal rebel group. Therefore, any violations of human rights were justified in the circumstances.

In addition, following CEO Jack’s advice, the Angola government arrested Peter and detained him in solitary confinement for six months, without taking him before a judge or informing his family of his arrest. When Peter was ultimately charged, he stood trial for the crime of “publishing outrageous allegations that undermine the national economy.” Peter was convicted of the crime and sentenced to thirty years in prison.

Assess: (a) whether foreign diamond mining companies have violated human rights; (b) whether Peter has a claim against either the Angola State or SPARKLING STONES Inc. for violating his human rights; and (c) which fora could hear these complaints. Please recommend a best course of action from these options. You may assume that both Angola and Canada are parties to the International Covenant on Civil and Political Rights.
QUESTION 2

MARKS

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

Essay Options:

(a) What are the strengths and weaknesses of making human rights (a) legal; and (b) a part of international law? Critically discuss using materials from our class;

(b) Samuel Moyn says that international human rights law only really developed in 1977, not centuries earlier as others always believed. Assess this claim based on materials we reviewed in class, indicating why this might matter for international human rights law as a field;

(c) “The margin of appreciation is conceptually incoherent, and undermines the fundamental philosophical tenets of human rights as well as their purpose in the world.” Critically discuss this provocative claim;

(d) What are the strengths and weaknesses of the current system for enforcing human rights violations? Answer by pointing to differences in international, regional and domestic institutions capable of hearing human rights cases;

(e) What are the arguments for and against extending human rights protections to corporations? What is your opinion about this debate?

END OF EXAMINATION