

# **THE UNIVERSITY OF ZAMBIA**

## **TABLE OF CONTENTS**

### **DEFERRED EXAMS SCHOOL OF LAW- 2022**

1. LPR 2910: Legal Process and Legal Writing
2. LPR 2930: Law of Tort
3. LPR 3920: Land law and Property Relations
4. LPR 4155: Alternative Dispute Resolution
5. LPR 4930: Business and Corporate Law
6. LPU 3911: Law of Evidence
7. LPU 4072: Investment Law
8. LPU 6430: Elections and Electoral Systems in Africa



**THE UNIVERSITY OF ZAMBIA**

**SCHOOL OF LAW**

**LEGAL PROCESS AND LEGAL WRITING – LPR 2910**

**DEFERRED AND SUPPLEMENTARY EXAMINATION**

**DATE: Friday 25<sup>th</sup> March, 2022**

**TIME: 09:00 – 12:00 Hours**

**VENUE: DRGS Lecture Room 2**

**INSTRUCTIONS:**

1. Answer **Four (4) questions in total**, two from each Section. Question 1 is compulsory in each Section.
2. Time Allowed: **Three (3) hours plus five (5) minutes** to read through the examination paper.
3. This examination paper carries a total of **100 marks**. This accounts for 50 Marks for each Section.
4. Mobile telephones, tablets or any other form of computing or electronic instruments are **not** allowed into the examination room.
5. Candidates are permitted to bring into the examination room clean and unmarked copies of the **Constitution of Zambia**.

## **SECTION ONE LEGAL PROCESS**

### **Part A**

#### **QUESTION ONE compulsory**

Winston L Church in his book “An Introduction to the law of Zambia” writes:

“it is nearly everywhere agreed that a successful, modern legal system must make the law relatively certain. One of the functions of the law is more often than not, punishment for indicated behavior or action.”

Therefore, if the behavior in question is ambiguous, it will definitely be difficult to regulate it. Countries around the world have adopted different legal systems. Zambia too has its own legal system. This legal system has certain attributes which make it suitable for the needs of the nation.

With the help of **both case and other authorities**, identify and discuss five attributes of the Zambian legal system showing their relevance and applicability in the current legal dispensation.

**30 Marks**

### **Part B**

#### **QUESTION TWO**

The Constitution Amendment Act No. 2 of 2016 has brought about a number of innovations in several provisions. For example, article 128 (1) provides that subject to article 28, the Constitutional Court has original and final jurisdiction ...

Further article 128 (4) provides that ‘a decision of the Constitutional Court is not appealable to the Supreme Court’.

With the help of suitable **case and other authorities**, discuss the importance of these provisions showing how they have been used in the Zambian legal system and highlighting the effect, if any, on justice delivery. **20 Marks**

#### **QUESTION THREE**

With the help of **suitable case and statutory authorities and examples in each case**, clearly identify and discuss five sources of law in Zambia showing how such sources have been used in the Zambian legal system over the years. **20 Marks**

## SECTION TWO LEGAL WRITING

### Question One (1) Compulsory

(a) The trend towards achieving Gender-Neutral writing seems to hold sway among many legal scholars. Richard Wydick and Bryan Garner have written extensively on the importance of need to eliminate sexist language from legal writing. This entails that legal writing must be free of the bias towards one gender over the other. The United Nations Women Division has also added its voice on the importance of gender parity in legal documents. This movement gained further traction at the Beijing Fourth UN World Conference on Women 1995. Presently, the UN through its Sustainable Development Goal 5 has echoed this concern that laws that refer only to the male gender do not espouse gender neutrality.

Prepare a brief outlining the historical and sociological underpinnings of this movement towards gender-neutral writing in the context of legal writing. Why is gender-neutral writing important?

**(18 marks)**

(b) Rewrite the following sentences to reflect gender-neutral writing:

(i) The chairman of the board shall be elected by the members. **(3 Marks)**

(ii) No one can serve as Republican President before he/she has attained the age of 35.

**(3 Marks)**

(iii) The test is whether the man in the street would have acted in a similar manner.

**(3 Marks)**

(iv) The founding fathers of the Civil Rights Movement were two brave women: Rosa Parks and Harriet Tubman. **(3 Marks)**

**(12 marks)**

**Total 30 marks**

### Question Two (2)

Mable Zulu, a graduate from UNZA school of law is eagerly looking for employment. She decides to send an application to a prestigious law firm in Lusaka. After organizing all the needed documents for the application, she is struggling to decide on what to include in her cover letter. Eventually, she decides to be as detailed as possible and include as much as she can in the letter such as her experiences in primary school, her hobbies and her favourite experiences from law school such as the DLA Piper Legal Writing Training Week. In the final paragraph of the letter, she mentions that she was the best law student from second year and maintained that position until she graduated. She ends by stating her personal strengths and how much she would like to get the job. The cover letter is 6 pages long.

Mable asks Lisele Wamundila, her former class mate to read her letter before she sends it. Immediately he concludes reading the document he exclaims, “Mable, this is great! I’m sure you will get the job! There are no spelling errors or punctuation problems; it’s perfect!”

- a) List four (4) principles of effective legal writing. **(4 Marks)**
- b) Describe how any two (2) of the principles listed in (a) above should have influenced Mable Zulu’s writing. **(6 Marks)**
- c) Do you agree with the comment made by Lisele Wamundila? Justify your answer. **(10 Marks)**

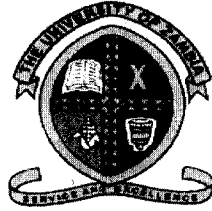
**(Total 20 Marks)**

**Question Three (3)**

- (a) The importance of planning one’s work before embarking to write helps to achieve good organisation, clarity and coherence. There are diverse planning methods that writers use to achieve these aims. These methods can be split into two broad categories. Name these two broad planning categories. **(5marks)**
- (b) Explain the importance of knowing your audience to become an effective legal writer. **(5 marks)**
- (c) Briefly outline the four-step writing process developed by Betty Sue Flowers. Highlight the salient role played by each of the four hypothetical characters that she elucidates in her work. **(10 marks)**

**(Total 20 marks)**

**End of Examination**



**THE UNIVERSITY OF ZAMBIA**

**SCHOOL OF LAW**

**LAW OF TORT, LPR 2930**

**DEFERRED AND SUPPLEMENTARY EXAMINATION**

**DATE: 25TH MARCH, 2022**

**TIME: 09:00 -12:00 HOURS**

**VENUE: DRGS, LECTURE ROOM 2**

**INSTRUCTIONS:**

1. This examination is divided in four (4) parts --A, B, C, and D
2. Question One is compulsory. Answer one question from parts B, C, and D each.
3. Time allowed: Three (3) Hours plus five minutes to read through the paper
4. This examination carries a total of 60 marks
5. Candidates are **NOT** permitted to bring any statutes in the examination room
6. Candidates must **NOT** turn this page until the invigilator tells them to do so.

## PART A

### QUESTION 1

Grey Matter Mining Limited (herein referred to as “Grey Matter”) is a company incorporated in Zambia and specialized in the mining of Gold and Cobalt in the North-Western Province of Zambia. On 14<sup>th</sup> December 2022, Grey Matter decided to hire modern Haul trucks equipment from Golden Mining Company Limited, another company specialized in the mining of Gold and Emerald on the Copperbelt Province of Zambia. The decision was arrived at as a way of enhancing its productivity and efficiency, which could only be achieved with modern equipment on the market. In its negotiations with Golden Mining Company Limited, Grey Matter realized that it did not have the expertise at its disposal to operate the Haul trucks it hired. In order not to stale production, Grey Matter also decided to hire five employees from Golden Mining Limited who would work for Grey Matter for a period of six months, commencing from 1<sup>st</sup> January through to 30<sup>th</sup> June 2022. During the period in question the five hired employees would work and be paid by Grey Matter. The five employees were equally tasked to orient selected Grey Matter’s workers on how to operate the hired Haul trucks equipment.

On 1<sup>st</sup> February 2022, during a training session, one of the five hired employees, Jelly Gumbo, issued erroneous instructions to Hyman Dube, one of trainees in his charge, on how to harness maximum power from a Haul truck equipment. Dube, acting on incompetently explained instructions, failed to deal with the excessive power and speed generated by the Haul Truck and ended up ramming into the nearby Zesco Limited installations. The damage caused to the Zesco installations was colossal, requiring millions of Kwacha to replace.

Perturbed by the unusual nature of the occurrence, Grey Matter Management did extensive findings as to what could have led to an experienced Haul Truck driver to issue incompetent instructions. The findings revealed that he had taken some intoxicating substances before reporting for work.

On 21<sup>st</sup> February 2022, Zesco Limited issued a demand letter to Golden Mining Limited, claiming a sum of Seventy-Million Kwacha as damages for the damage caused to its installation by its employee, Jelly Dumbo. Golden Mining Limited has repudiated responsibility and argued that Jelly Dumbo, at the time of the misconduct in question was not its employee, but Grey Matter’s. Golden Mining Limited has further contested that the damage

caused to the Zesco installation was much more extensive than any person could have reasonably foreseen hence it could not pay the damages demanded, even if it were established that Dube was its employee. Golden Mining Limited's letter of response read in part:

"...If the extent of damage suffered by the victim is more than was reasonably foreseeable, a person escapes responsibility for what was unforeseen, notwithstanding that the type of damage was reasonably foreseeable. And so is the case where the manner of occurrence of damage was not reasonably foreseeable."

Zesco Limited is deeply concerned about Golden Mining Limited's repudiation of liability, and has since approached your Law Firm for advice on the issues raised by Golden Mining Limited and the chances of success should the matter be taken to court.

With aid of authorities, advise Zesco Limited.

**(18 Marks)**

## **SECTION B**

### **QUESTION 2**

- (a) The case of *Donoghue v Stevenson* (1932) UKHL 100, is said to be one of the most important cases in legal history. Give a detailed account of the statement above. **(7 Marks)**
- (b) "From a disgraceful act, no action arises" What legal maxim accounts for this statement? What is the legal significance of the maxim in question? **(7 Marks)**

### **QUESTION 3**

"The concept of Occupiers liability is an offshoot of the tort of negligence, albeit esoteric in nature."

Discuss the above statement.

**(14 Marks)**



## SECTION C

### QUESTION 4

- (a) With the aid of examples, discuss how the concepts of *damnum sine injuria* and *injuria sine damno* aid in establishing tortious liability. (7

Marks)

- (b) Common Law Courts, once upon a time, regarded nervous shock claims as fanciful and superficial. Briefly explain why. (7 Marks)

### QUESTION 5

- (a) Discuss the relationship between malicious prosecution and the rule of law. (7 Marks)
- (b) Radical changes are said to have happened to the defences of common employment and contributory negligence in relation to master/servant relationship which have mitigated or depleted the common law sting that was once associated with these defences. Discuss. (7 Marks)

## SECTION D

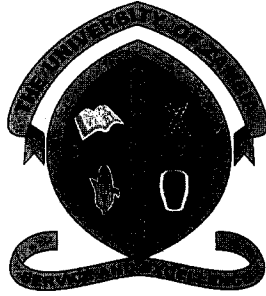
### QUESTION 6

The dichotomy between contract for employment and contract of employment is intractably linked to the concept of *Respondeat Superior*. Discuss. (14 Marks)

### QUESTION 7

Bodily integrity enjoys presumptive inviolability. Discuss how the Law of Tort ring fences this concept. (14 Marks)

THE END



**THE UNIVERSITY OF ZAMBIA  
SCHOOL OF LAW  
LAND LAW AND PROPERTY RELATIONS (LPR 3920)**

**SUPPLEMENTARY EXAMINATION**

**DATE: 23 MARCH, 2022**

**TIME: 09:00 HOURS**

**INSTRUCTIONS:**

1. Answer **Four (4) questions**, one from each part. Question One (1) is compulsory.
2. Time allowed: **Three (3) hours** plus **five (5) minutes** to read through the examination.
3. This examination carries a total of **60 marks**.
4. This subject is for candidates in the 3<sup>rd</sup> year of the LL. B. programme.
5. Candidates are **permitted to bring unmarked copies** of the following statutes in the examination room:
  - (i) Lands and Deeds Registry Act, 1914 (Cap. 185, Laws of Zambia);
  - (ii) Lands Act, 1995 (Cap. 184, Laws of Zambia); and
  - (iii) Landlord and Tenant (Business Premises) Act, 1972 (Cap. 193, Laws of Zambia).

**DON'T TURN THE PAGE UNTIL INSTRUCTED!**

## PART A

### COMPULSORY QUESTION

#### QUESTION 1

Compare and contrast the following:

- (i) The rule in *Walsh v. Lonsdale*, [1882] 21 Ch D. 14 (C.A) and (ii) the landmark decision in *O. H. Sundi v. Burney*, LRNR [1949-54] 759, per Robinson, J. **(10 Marks)**
- (ii) The plaintiff, *Luangwa River Ltd.*, was the 99-year leasehold owner of a parcel of land divided into a number of lots, one of which (“Unit F”) was occupied by the defendant, *Mr. Zambezi River*. A bungalow had been erected on each lot. The main structure of the bungalow rested on its own weight on concrete pillars that were attached to the ground and the bungalow could only be removed by being demolished. The chattel/fixture status of the bungalow arose in the context of the claim by the *Mr. Zambezi River* that the bungalow formed part of the land and that he was therefore the tenant of a dwelling-house under the *Rent Act, 1972* protected tenancy. The bungalow was never annexed to the land.  
Using relevant case-law and legislation, advise whether, the bungalow remained a chattel or it had become part of the land. **(8 Marks)**

## PART B

#### QUESTION 2

Write brief notes on the following:

- (1) Effect of a lease that is “void at law” and a *voidable* trust (5 Marks);
- (2) *Bona fide* Purchaser of a legal estate for value and without notice (4 Marks); and
- (3) Unenforceable contract under the *Statute of Frauds, 1677* versus illegal contracts relative to sale and purchase of land (5 Marks).

#### QUESTION 3

Mr. *Dada Taata* is a very wealth Zambian aged 99 years and a respected resident of the city of Livingstone. A year ago, his behaviour suddenly became erratic to the surprise of his 4 mid-aged

sons, all in their mid-forties. When he was brought to the newly refurbished and ultra-modern Maina Soko Hospital in Lusaka, the principal resident doctor there quickly secured a psychiatric report from the country's premiere psychiatrist at Chainama Hills Hospital-Zambia's leading psychiatrist facility. Mr. *Taata* was promptly diagnosed of dementia, which had set in a month before he settled a trust through his last will and testament. The will gave his entire ZMW 10 million estate, scattered across 5 of Zambia's 10 beautiful provinces to his youngest son aged 45 in consideration of his empathy, familial support, spiritual support and care throughout his hospitalisation when his health began to speedily fail following his widowhood 3 years ago.

The other 3 sons are all resident expatriates in Shenzhen, Shanghai, and Beijing, China respectively where they all work for the world-smart phone leader, Huawei of Shenzhen in mainland China. They have established themselves in their adopted homelands are all regarded as noblemen.

The 3 expatriate sons have just had their father's last will publicly read to them by their family's renowned city lawyer, who was paid ZMW 200,000.00 by the deceased Mr. *Taata* for drawing his last will, 4 weeks into the deceased old man's demented state or mental infirmity.

While the youngest son has contested his late father's said legal bill from the family's established lawyer, the elder 3 sons have also challenged the trust created by the last will for the exclusive benefit of their youngest brother, *Mapanza Kalabo Taata*-a distinguished Oxford University-trained accountant.

Advise all 4 on the prospects of succeeding in their legal challenges, and strictly use relevant statutes and case-law to resolve the legal controversy. **(14 Marks)**

## PART C

### QUESTION 4

*WX Moonlight* and *YZ Sunlight* formed a business partnership in December 1995. After a decade together, they dissolved their partnership. Their business grew exponentially during their time together and the proceeds acquired were reinvested in a joint account at the Zambia National Commercial Bank (ZANACO) Plc, Arcades Elite Clients Branch. In December 2020, their joint cheque account stood at ZMW 65,000,000.00, and a further USD 57,000.00 was also held jointly in their USD Forex Account at ZANACO Plc.

Among the several real estate properties bought by the two prudent businessmen was a commercial property at Manda Hill Shopping Mall that was let at a quarterly rent of USD 15,000.00 to one big foreign commercial bank. The property was registered in their strange, exotic names "*WX Moonlight* and *YZ Sunlight*". The Certificate of Title for the Manda Hill Shopping Mall property is in the custody of *WX Moonlight*. However, *Sunlight* contributed 99% of the cost for the purchase of the Manda Hill Shopping Mall leased commercial property. Nonetheless, the property was bought and registered in the joint names of the former business partners during the subsistence of their highly profitable and successful partnership; though the contribution of *Moonlight* was self-evidently minimal.

Although the aforementioned commercial property was jointly owned by the said two former wealthy business associates, *Sunlight* claimed that he held a 99% stake in the Manda Hill Shopping Mall let property, reflecting the value and extent of his personal investment in the venture; and the rentals accrued therefrom for a decade must be shared accordingly, with him taking 99% of the rental proceeds after a reconciliation of the accounts. As stated, that property was held on a joint lease.

Advise the feuding former acquaintances on how their conflicting claims should be conclusively resolved, and in particular, whether *Sunlight's* claims are justified in law. **(14 Marks)**

## QUESTION 5

Using relevant case-law and legislation (if necessary), evaluate the assertion “*cuius est solum, eius est usque ad coelum et ad inferos*” (the owner of the soil owns also everything up to the sky and down to the centre of the earth) in the context of land ownership in Zambia. **(14 Marks)**

## PART D

## QUESTION 6

Using relevant case law and statutes, if applicable, compare and contrast the following:

- (i) Equity of redemption; and
- (ii) Equitable right to redeem. **(14 Marks)**

## QUESTION 7

(A) Name 5 easements and write very brief explanatory notes regarding them; **(8 Marks)**

(B) Describe two (2) of the ways by which an easement is created. **(6 Marks)**

**END OF EXAMINATION!**



# THE UNIVERSITY OF ZAMBIA

## SCHOOL OF LAW

### ALTERNATIVE DISPUTE RESOLUTION (LPR 4155)

### DEFERRED AND SUPPLEMENTARY EXAMINATION

**DATE: 22nd March 2022**

**TIME: 14:00 hours – 17:00 hours**

**VENUE: DRGS Lecture Room 2**

#### **INSTRUCTIONS:**

1. Section A: **Question One** in Section A is compulsory.
2. Sections B, C and D: Answer **one** question from each of these sections.
3. Time Allowed: **Three (3) hours plus five (5) minutes** for reading through the examination paper.
4. This examination paper carries a total of **60 marks**.
5. Candidates are **not permitted to bring any statutes** into the examination room.
6. Candidates must **not turn this page** until the invigilator tells them to do so.
7. The subject is for candidates in the 4th year of the LL.B. programme.

## **SECTION A**

### **Question 1 – Compulsory**

The Lusaka Stock Exchange (LuSE) has a number of public listed companies and trading in the securities takes place on a daily basis. Longhorn has been investing his savings in buying and selling shares through a stockbroker. In the second quarter of 2021, Longhorn had discovered that his dividends had not been remitted to his Bank and the statement of shares had shown a sharp decline in the number of shares he has been holding. Longhorn suspects that fraud has taken place and decides to have the dispute arbitrated on. The parties being the Stockbroker and Longhorn choose an arbitration panel consisting of an Advocate, an Accountant, and an Economist. The panel appoints a chairperson to consider the dispute.

Referring to the above facts:

- (a) Discuss the doctrine of Kompetenz – Kompetenz. **(6 Marks)**
- (b) State the main rules of evidence that the arbitrators must consider. **(5 Marks)**
- (c) Explain the seven (7) main duties of the Advocate in an ADR process. **(7 Marks)**

**[Total: 18 marks]**

## **SECTION B**

### **Question 2**

Feminist and critical thinkers have demonstrated the impossibility of neutrality in the practice of mediation. Using the feminist approach explain the role, meaning and significance of neutrality in mediation. Your answer should include the challenges faced by the mediators to “do neutrality”.

**[Total: 14 marks]**



### Question 3

Section 19 of the Arbitration Act No. 19 of 2000 sets out the grounds upon which an arbitral award may not be recognised or enforced. With reference to decided cases, outline the grounds stated in the Act that amounts to refusal to recognise or enforce an arbitral award.

[Total: 14 marks]

## SECTION C

### Question 4

Rosie is heading home from work in her brand new Toyota Rav4, it is raining and the evening is pretty dark. Due to low visibility, Rosie is not driving very fast. She changes lanes on Great East Road and knocks into a Toyota Allion that is speeding in the lane next to her. An accident arises and both cars are damaged. The Rav4 is dented on the passenger's side and the headlight is broken. The Allion is badly damaged on the driver's side and the bumper has come off. The driver of the Allion, Fern, has sustained injuries resulting in his left hand being broken. Both Rosie and Fern have full comprehensive insurance coverage but do not want to report the incident to the police. Their reasons being that Fern has been charged with several counts of careless and reckless driving while Rosie feels they will spend the whole night at the police station which she does not want to do. The estimated damage to both cars is above ZMW 30,000.

You have been approached by Rosie and Fern to resolve the above dispute through the process of negotiation.

- (a) Using the eight (8) negotiation stages, explain how you would resolve the above dispute through negotiation. **(8 Marks)**
- (b) Your answer should include both damage to the vehicles as well as the personal injuries sustained by Fern. **(6 Marks)**

[Total:14 marks]

### Question 5

Orchid owns a flower boutique and employs four assistants. The flower boutique is located in the picturesque town of Beautyland. One of her employees, Lilly, is having trouble at home and does not report to work on time several days in a week. Orchid is concerned about Lilly's performance

as an employee and the effect it is having on her growing business. Orchid arranges for a meeting with all her employees to determine the cause of Lilly's absenteeism. During the meeting, Petal, a close friend of Lilly's, discloses that Lilly has been a victim of gender-based violence (GBV) and has been visiting the Victim Support Unit on a daily basis to get help. While Orchid understands the nature of Lilly's problem she feels that her business should not be affected by her employee's personal problems. Orchid decides to dismiss Lilly on the ground of absenteeism. The other employees feel uncomfortable about the situation and would like Orchid and Lilly to discuss the possibilities of Lilly coming back to work.

(a) Which alternative dispute resolution (ADR) mechanism should Orchid decide to use in order to resolve the above dispute? **(4 Marks)**

(b) Using your answer for (a), explain the method and its advantages compared with court-annexed mediation. **(10 Marks)**

**[Total: 14 marks]**

## **SECTION D**

### **Question 6**

Write short notes on the following:

(a) UNCITRAL Model Law;

**(7 Marks)**

(b) *Lex Contractus* and *Lex Loci Contractus*.

**(7 Marks)**

**[Total: 14 marks]**

### **Question 7**

(a) Distinguish between conflict and dispute.

**(7 Marks)**

(b) Discuss the difference between the nature of justice accorded by means of litigation and means of ADR?

**(7 Marks)**

**[Total: 14 marks]**

**Total: 60 marks**

**THE END**

**UNIVERSITY OF ZAMBIA**

**SCHOOL OF LAW**

**BUSINESS AND CORPORATE LAW- LPR4930**

**DEFERRED AND SUPPLRMENTAY EXAMINATIONS**

**2020/21 ACADEMIC YEAR**

**DATE; TBA**

**TIME : 09 00 HOURS – 12 HOURS**

**VENUE- TBA**

**INSTRUCTIONS:**

1. Answer **Four Questions**, one from each part, **Question 1 is compulsory**.
2. Time allowed: **Three (3) hours** plus five minutes to read through the examination paper.
3. This Examination carries a total of **60 Marks**.
4. Mobile telephones, tablets or any other form of computing or electronic instruments are not allowed in the examination room.
5. Candidates are permitted to bring the following statutes into the examination room:
  - i) Companies Act 2017
  - ii) Insolvency Act 2017
  - iii) Partnership Act 1890
  - iv) Registration of Business Names Act, 2011
  - v) Co-operative Society Act, 1998
6. This subject is for candidates in the 4<sup>th</sup> year of the LLB programme.
7. Candidates must not turn this page until the invigilator tells them to do so.

## PART A

### QUESTION 1

- a) Tendai is a shareholder in Kombi Limited, a company running a fleet of buses in Ndola. The articles of Kombi Limited did not limit the transfer of shares in the company. All the shares in the company were fully paid.

The shareholders of Kombi Limited met and agreed for each one of them to contribute K500,000 to the ruling party in view of elections coming the following year. The money was to come from the dividends to be declared at the end of the month in which the decision was made. All other shareholder honoured their obligations except Tendai who was intent on moving away from supporting the ruling party.

Upset by the negative talking in the company, Tendai decided to sell his shares to Moyo. However, the company refused to transfer the shares to Moyo claiming a lien on the shares arising from the debt which Tendai owed to the ruling party as was resolved by the company. Tendai was more annoyed, especially that the money he received from Moyo had already been used to pay for school fees for his daughter studying in America.

Tendai has approached you with red eyes. He informs you that he is stressed, and wants to know whether Kombi limited can exercise a lien on his shares. He also wants to be informed how to manage himself in relation to Moyo whose money he has spent.

With the aid of authorities, advise Tendai on his legal position in the situation that has arisen at Kombi Limited.

(10 Marks)

- b) Where is the right of possession between the lender and borrower in each of the following securities:

- |               |            |
|---------------|------------|
| i) Mortgage   | (2 Marks)  |
| ii) Charge    | ( 2 Marks) |
| iii) Lien and | ( 2 Marks) |
| iv) Pledge    | (2 Marks)  |

**Total [18 Marks]**

## PART B

### QUESTION 2

- a) Sister Makala is a registered auditor practicing her trade in the firm of Michael Space and Associates. She was appointed a receiver by the creditors of Kafue Tomato Packaging Company Limited. Her initial assessment was that it would take four years before the assignment would be completed.

In the second year of the assignment, Sister Makala met Smith, a Zimbabwean farmer who was looking for a tomato packaging plant in Zambia. Reasoning that as a receiver appointed by the creditors, she was responsible to and accountable to the creditors, she struck a deal with Smith and sold off the tomato packaging plant to Smith. She paid off all the creditors and paid herself ten times her entitlement. She then took off to Ireland for her PhD studies.

Alarmed by the behavior of Sister Makala, the Chairman of Kafue tomato Packaging Company, who is also the majority shareholder, has called on you with a view to learning the extent of wrongs done by Sister Makala. The Chairman also wants to explore his possible remedies.

With the aid of authorities, advise the Chairman on what wrongs have been committed and how to deal with them.

( 8 Marks)

- b) In relation to the operations of cooperative societies, what is the importance of the 6<sup>th</sup> principle regarding co-operation among co-operatives?

( 6 Marks)

**Total [14 marks]**

### QUESTION 3

- a) Without the consent of partner Adam, the majority of the partners decided to close the business of running a restaurant that had been going on for more than ten years. Adam was in the country's main referral hospital suffering from COVID 19. His fellow partners gave him no chance prior to his miraculous recovery. They reasoned that since government had restricted operations of restaurants, partners were better off to close the business; sell off the assets; pay off the creditors and share the balance.

This turned out to have been a bad gamble on the part of the majority partners. Adam objected strongly to the course of action taken by the majority. It also happened that a major creditor whom Adam dealt with before he fell sick was omitted on the list of creditors paid by the firm. This creditor had to be paid off a huge sum of K600 000 by Adam because he was being pestered for the payment.

Adam has approached you for legal advice.

With the aid of authorities, advise Adam on what is possible legally under the circumstances.

( 7 Marks)

- b) The people of Chief Sekute in Kazungula District have found business in selling grass known to the locals as *mwange*. *Mwange* is the grass that thatchers use in Botswana and South Africa to roof restaurants and lodges in national parks. At first a few people who harvested this grass registered a company, Kazungula Mwange Company Limited. Due to the growing demand for *mwange* in the new markets of Zimbabwe and Namibia as well as Zambia, the local leadership has resolved that the *mwange* business should be conducted under a co-operative business in order to benefit as many people as possible. Under the consultations underway, Kazungula Mwange Company Limited shall be transformed into a cooperative to be known as Kazungula Mwange Cooperative Society.

You are the Legal Officer at Kazungula District Council assigned to explain the steps required for the Registrar of Cooperatives to issue a certificate of registration. Prepare a memorandum showing what shall be required to transform the limited company into a cooperative Society.

(7 Marks)

**Total [14 Marks]**

## PART C

### QUESTION 4

- a) Abel and Amos run an accounting firm in the name and style of A & A Associates. Both are Chartered accountants with a good reputation in the market. A & A Associates applied for an assignment as receivers of Mungule Ranching Limited which was publicly advertised.

When the bids were opened, A & A Associates were eliminated for being non-responsive, an expression which means one is disqualified from further participation in the tender process.

A & A Associates have been consulting to understand the reason for their disqualification as a firm. Amos understands you are a fresh graduate from the university who has studied Business and Corporate Law. He is therefore asking for advice.

Advise Abel and Chanda on what you think was the reason for the disqualification of A & A Associates as possible receivers of Mungule Ranching Limited.

(8 Marks)

The companies Act of 2017 uses the following nomenclature when referring to companies operating in Zambia:-

- i)       Zambian Companies
- ii)      Non-Zambian companies
- iii)     Foreign Companies

State the distinction brought to the companies by these designations.

( 6 Marks)

**Total [ 14 Marks]**

### **QUESTION 5**

- a) The Articles of Association of Mwembeshi Mining Company Limited did not provide for meetings of the company to be conducted by electronic devices.

The Chairman of Mwembeshi has duly called for a meeting of shareholders of the company to be conducted by ZOOM, one of the electronic platforms in use by many organisations.

Three shareholders, including Mrs. Bwacha, refused to participate in the meeting. The meeting was quorate and important resolutions were passed.

Mrs. Bwacha and her friends are attacking the resolutions because they were passed at an illegal forum not authorized by the articles of association.

You are the Legal Counsel for Mwembeshi Mining Company Limited.

With the aid of authorities, prepare your grounds of defence to justify the meeting.

( 7 Marks)

- b) State and fully explain the doctrine of fraud on the minority.

( 7 Marks)

**Total [ 14 Marks]**

### **PART D**

### **QUESTION 6**

Write short notes on the following;

- i)       The Registrar of Companies ( 4 Marks)
- ii)      Transmission of interest in real property owned by a partnership ( 3 marks)

- iii) Powers of management in a partnership that has no Partnership deed (4 Marks)
- iv) Liability of a company auditor in negligence (3 Marks)

**Total [14 Marks]**

### **QUESTION 7**

- a) With the aid of decided cases, discuss the Business judgment rule .

(8 Marks)

- b) The company and Registrar of Companies are obliged to maintain a Register of beneficial owners.

- i) Who are the beneficial owners?

(2 Marks)

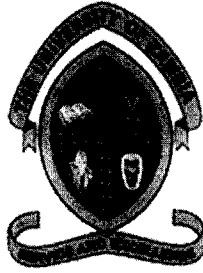
- ii) What is the interest and rationale of the state to demanding the details of beneficial owners of companies?

(4 Marks)

**Total [ 14 Marks]**

**END OF EXAMINATION**





**THE UNIVERSITY OF ZAMBIA**

**SCHOOL OF LAW**

**LAW OF EVIDENCE – LPU 3911**

**DEFERRED AND SUPPLEMENTARY EXAMINATION - MARCH, 2022**

**DATE: 21<sup>ST</sup> MARCH, 2022**

**TIME: 09:00 HOURS**

**VENUE: DRGS LECTURE THEATRE**

**INSTRUCTIONS:**

- 1. Answer Four (4) questions, one from each part. Question 1 is compulsory.**
  - 2. Time allowed: Three (3) hours plus five (5) minutes to read through the examination paper.**
  - 3. This examination carries a total of 60 marks for Deferred and 100 marks for Supplementary.**
  - 4. Candidates are not permitted to bring any statutes into the examination room.**
  - 5. Mobile phones, Tablets or any other form of computing or electronic instruments are not allowed in the examination room.**
  - 6. Candidates must not turn this page until the invigilator tells them to do so.**
  - 7. This subject is for candidates in the 3<sup>rd</sup> year of the LLB programme.**
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## **PART A (COMPULSORY)**

### **Question 1**

Yali, an accountant at the Ministry of Works and Supply, was prosecuted by the Anti-Corruption Commission on charges relating to failure to follow procedure. At the close of the trial, Yali was acquitted.

Following his acquittal, Yali commenced an action in the High Court for malicious prosecution against the Anti-Corruption Commission and the Attorney General.

You are representing Yali in the High Court. Yali has requested you to make an application before the trial Judge for the defendants to produce a number of documents and records relating to his investigations.

With the aid of relevant authorities, advise Yali concerning his request to you.

**[18 Marks]**

## **PART B**

### **Question 2**

In legal proceedings, it is necessary to determine which party has the burden of proving the facts in issue and what standard of proof is required.

With the aid of relevant authorities, discuss the above statement.

**[14 Marks]**

### **Question 3**

Identify and discuss the three stages involved in questioning a witness in criminal and civil trials in the High Court.

**[14 Marks]**

## **PART C**

### **Question 4**

Dido is a 2<sup>nd</sup> year law student at the University of Lund. Dido is fascinated by your mastery of legal concepts in the law of evidence. Dido tells you that he has heard of the concept of Dying Declaration in the law of evidence but does not know what it means.

With the aid of relevant case law, explain to Dido the meaning of dying declaration, the basis and reason for admitting dying declaration into evidence.

**[14 Marks]**

**Question 5**

With the aid of relevant authorities, discuss the circumstances under which a court may convict on the basis of circumstantial evidence.

**[14 Marks]**

**PART D**

**Question 6**

With the aid of relevant authorities, discuss the Hearsay Rule and its common law exceptions.

**[14 Marks]**

**Question 7**

With the aid of relevant authorities, discuss the circumstances under which a court may be entitled to take Judicial Notice of certain matters.

**[14 Marks]**

**END OF EXAMINATION**



# THE UNIVERSITY OF ZAMBIA

## SCHOOL OF LAW

### INVESTMENT LAW (LPU 4072)

### DEFERRED/SUPPLEMENTAY EXAMINATION PAPER

**DATE: 23<sup>rd</sup> March 2022**

**TIME: 14:00 – 17:00 HOURS**

**VENUE: DRGS Lecture Room 2**

#### **INSTRUCTIONS:**

1. Section A: **Question One** in Section A is **compulsory**.
2. Sections B, C and D: Answer **one** question from each of these sections.
3. Time Allowed: **Three (3) hours** plus **five (5) minutes** for reading through the examination paper.
4. This examination paper carries a total of **60 marks**.
5. Candidates are **not permitted to bring any statutes** into the examination room.
6. Candidates must **not turn this page** until the invigilator tells them to do so.
7. The subject is for candidates in the 4th year of the LL.B. programme

## **PART A**

### **Question 1 (Compulsory)**

Tele-Fund Corporation (TFC) is a South African Corporation which wants to invest in the Zambian Telecommunication sector by acquiring a stake in the local bank listed on the Lusaka Stock Exchange. The Corporation is initially skeptical about considering the various laws that would affect its business. The corporation proceeds to conclude an agreement with the Zambian government in 2018. In the 4 years from 2018, the corporate invested large sums of money in MAZ Bank Limited.

Zambia has experienced a change of regime and the new government has decided to compulsorily acquire TFC's shares in MAZ Bank Limited. The CEO of TFC wants to challenge the Zambian government's decision on the basis that it is not supported under any law.

Advice TFC on the following:

- (a) The compulsory acquisition of its shares in MAZ Bank Limited (9 marks)
- (b) The effect of the agreement signed between the Zambian government and TFC on its investments. (9 marks)

**[Total 18 marks]**

## **PART B**

### **Question 2**

On the 29<sup>th</sup> of October, 2021, Honourable Dr. Situmbeko Musokotwane, MP, Minister of Finance and National Planning delivered the 2022 budget address to the National Assembly.

With the aid of authorities, discuss the factors that determine Foreign Direct Investment in respect of the 2022 budget.

**[Total 14 marks]**

### **Question 3**

Discuss how the activities of MIGA and ICSID help in fostering a good investment climate in Zambia.

**[Total 14 marks]**

## **PART C**

### **Question 4**

You are an investment legal expert working in the firm of Consultancy Limited. You have been approached by a Chinese investor interested in investing in the mining sector in Zambia. The investor is uncertain as to how the investment should be initiated. Advice your client on the following:

- (a) The difference between portfolio and direct investment stating the advantages and disadvantages of each. (6 marks)
- (b) Prepare a brief for your client outlining the legal framework and supporting authorities for portfolio investment in Zambia (8 marks)

[Total 14 marks]

### Question 5

Discuss the following ways of resolving investment disputes outlining the advantages and disadvantages of each:

- (a) Arbitration (5 marks)
- (b) Diplomatic intervention (5 marks)
- (c) State responsibility (4 marks)

[Total 14 marks]

## PART D

### Question 6

*“It is a fundamental principal of law ... that contractual undertakings must be respected.”*

**Sapphire International Petroleum Ltd v. National Iranian Oil (1970) 9 L.L.M. 152**

Discuss this quote in the context of the State’s liability for breach of stabilization clauses in concession agreements. [Total 14 marks]

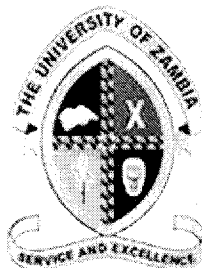
### Question 7

Many developing countries have enacted statutes intended to attract foreign investors. The major concessions provided in such statutes pertain to taxes.

With the aid of relevant authorities, discuss how successful such investment codes have been and what changes, if any, could be made to them.

[Total 14 marks]

**END OF EXAMINATION**



**UNIVERSITY OF ZAMBIA**

**SCHOOL OF LAW**

**2020/2021 ACADEMIC YEAR**

**ELECTIONS AND ELECTORAL SYSTEMS IN AFRICA – LPU6430**

**DEFERRED AND SUPPLEMENTARY EXAMINATION**

**WEDNESDAY, 23 MARCH 2022**

**TIME; 09 00 – 12.00 HOURS**

**VENUE: DRGS LECTURE THEATRE 2**

**INSTRUCTIONS;**

1. Answer **THREE** questions, one from each part. **Question 1 is compulsory.**
2. Time allowed is **THREE (3) HOURS plus** five minutes to read the examination paper.
3. This examination carries a total of **60 marks** for deferred and **100 marks** for Supplementary
4. Mobile telephones, tablets or any other form of computing or electronic instruments are **NOT** allowed in the examination room.
5. Candidates are **NOT** permitted to bring any materials in the examination room.
6. Candidates must **NOT** turn this page until the invigilator tells them to do so.
7. This subject is for candidates in the Taught LLM Programme.

## **PART A (COMPULSORY)**

### **QUESTION 1**

Kandala is a native of Mwinilunga who spent his youth in the Democratic Republic of Congo. He studied Philosophy and Politics at the University of Lubumbashi. He is now back in Mwinilunga working hard to study his native Lunda language and to understand the dynamics of competitive politics in Zambia.

Kandala has been told that Zambia follows a majoritarian electoral system. It is a system he has met previously in his studies.

Critically analyse the main features of the majoritarian system and discuss its advantages and disadvantages at different levels of the Zambian electoral system.

**(20 marks)**

## **PART B**

### **QUESTION 2**

Zambian elections are characterised by various contentious issues.

Discuss any 4 such contentious issues prevalent in Zambian elections.

**(20 Marks)**

### **QUESTION 3**

The EU, UN system, AU and SADC among others spend considerable financial and intellectual resources on monitoring Presidential and Parliamentary elections in Africa.

Critically discuss and evaluate the purposes of election monitoring to the democratisation agenda for Africa.

**(20 Marks)**



## PART C

### QUESTION 4

Jeff Fischer ( 2002) asserted that “an electoral process is an alternative to violence as a means of achieving governance.”

Examine the above statement and discuss the main causes of violence in African elections.

**(20 Marks)**

### QUESTION 5

Daniel Posner and Daniel Young (2007) stated that “ the combination of term limits and regular elections has displaced the *coup d'état* as the primary mode of regime change and leadership succession in contemporary Africa.”

Discuss the extent to which the above statement is contemporaneous with events in Africa of 2022.

**(20 Marks)**

**Total [ 60marks ]**

END OF EXAMINATION