

**THE UNIVERSITY OF ZAMBIA**  
**SCHOOL OF LAW**  
**2005 FIRST SEMESTER EXAMINATIONS**

<b>COURSE/CODE</b>		<b>COURSE/TITLE</b>
L	141	Criminal law 1
L	211	Legal Process
L	231	Law of tort 1 introduction to the law of tort
L	251	Constitutional Law I
L	251	Constitutional Law II
L	311	Law of Evidence
L	341	Administrative Law
L	351	Human Rights Law
L	411	Jurisprudence (classic and traditional theories of Jurisprudence)
L	421	The General principles of the Law of Business Associations
L	431	International Law II: Elements of International Law
L	451	International Trade Law
L	451	International Trade Law (Deferred)
L	461	Intellectual property Law
L	481	ADR

**-THE UNIVERSITY OF ZAMBIA**  
**UNIVERSITY FIRST SEMESTER EXAMINATION**

**L211 – LEGAL PROCESS**

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**INSTRUCTIONS:**

- 1     **ANSWER: Any four questions.** Each question carries 25 marks
  - 2     You are allowed to refer to relevant unmarked statutes during the examination
  - 3     You are strictly not allowed to refer to any class notes or text books
  4.     **TIME:** Three (3) hours (Plus five minutes to read through the question paper)
  - 4     Please ensure that you indicate your computer number on all your answer scripts
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**Question One:**

The Zambian legal system has since independence relied on English law as a valuable source of law. This has involved the application of the principles of common law, the doctrines of equity, judicial precedents, and statutes prior to 1911 and those post 1911 which maybe made applicable to Zambia.

- a)     With the help of decided cases outline **ALL** the statutory provisions dealing with the application of English law in Zambia.
- b)     Using relevant case law discuss the extent of application of English statutes both prior to and post 1911 in Zambia.

**(25 Marks)**

**Question Two:**

Discuss the following aspects of customary law showing clearly the extent of application in Zambia:

- a)     Rules for proof of the existence of customary law
- b)     Ascertainment of customary law through assessors

**(25 Marks)**

**Question Three:**

The adversarial system of justice is one of the important pillars of the Zambian Legal System regulating legal practice and procedure. Discuss.

**(25 Marks)**

**Question Four:**

The doctrine of Judicial Precedent is the corner stone of the legal system in Zambia. With the help of decided cases, critically discuss this system bearing in mind the application of both foreign and local case law in this country.

**(25 Marks)**

**Question Five:**

Using appropriate authorities, write short notes on the following rules of statutory interpretation:

- a) The Literal rule
- b) The golden rule
- c) The mischief rule
- d) The context rule
- e) The fringe meaning rule

**(25 Marks)**

**Question Six:**

- a) Briefly outline the court system in Zambia
- b) With the help of decided cases, discuss the appellate jurisdiction of the Supreme Court of Zambia.

**(25 Marks)**

**Question Seven:**

Zambia operates a dual legal system incorporating statutory law and local customary law designed to work simultaneously. Critically discuss the operation of this system bringing out arguments for and against it.

**(25 Marks)**

-----END OF EXAMINATION-----

**THE UNIVERSITY OF ZAMBIA**

**SCHOOL OF LAW**

**UNIVERSITY FIRST SEMESTER DEFERRED EXAMINATION JULY 2005.**

**L231 – LAW OF TORT 1: INTRODUCTION TO THE LAW OF TORT**

**DURATION:**                      **THREE HOURS (3 HOURS) PLUS FIVE (5)  
MINUTES FOR READING THE QUESTION PAPER**

**INSTRUCTIONS:**              **ANSWER ANY FOUR (4) QUESTIONS**

**STATUTES AND ANY MATERIALS ARE NOT  
PERMITTED IN THE EXAMINATION ROOM**

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1. “.... Does the law of Tort consist of a fundamental general principal that it is wrongful to cause harm to other persons in the absence of some specific ground of justification or excuse or does it consist of a number of specific rules prohibiting certain kinds of harmful activity and leaving all the residue outside the sphere of legal responsibility....” Discuss  
(25 marks)

2. Bancroft Milling Company Limited employed independent contractors who were apparently competent to construct a reservoir on their property to provide water to the mill. In the course of the work the contractors came upon some old shafts and passages on Bancrofts Milling Company Limited’s land. The old shafts and passages connected with the mines of Kandabwe Gold Mines Limited neighbours to Bancroft Milling Company Limited. The shafts and passages appeared to be filled with earth. The contractors did not block them up and when the reservoir was filled with water the water from the reservoir burst through the old shafts and passages and flooded the mines of Kandabwe Mines Limited.

With the aid of decided cases discuss the liability of Bancroft Milling Company Limited and the contractors.

(25 marks)

3. With the aid of decided cases state and discuss the tort of false imprisonment?

(25 marks)

4. Write short Notes on the following:

- a.) Reasonable Condition
- b.) Distinction Between Tort Law and Criminal Law
- c.) Act of God
- d.) Meaning of force
- e.) Powers of arrest

**(25 marks)**

5. The expression “vicarious liability” signifies the liability, which A may incur to C for damage caused to C by the negligence or other tort of B.

With the aid of decided cases illustrate the conspicuous sun rules, which are employed to establish vicarious liability?

**(25 marks)**

**END OF EXAMINATION**

**“GOODLUCK”**

# **THE UNIVERSITY OF ZAMBIA**

## **UNIVERSITY EXAMINATIONS 2005 ACADEMY YEAR**

### **L.241, CRIMINAL LAW 1.**

**INSTRUCTIONS:** Answer question one and three of these seven questions. Question one is compulsory. You are therefore required to answer question one and any other three questions. You may make use of the penal code (cap. 87), the criminal procedure code (cap.88) and the constitution of Zambia, in answering the questions. Question one carries 18 marks and each of the other three questions carries 14 marks.

**TIME:** Three hours, plus 5 minutes to read the question paper.

### **QUESTION ONE**

While addressing a public meeting of his party, the INDIGENOUS ZAMBIANS PARTY, Mr. GENUINE ABORIGINAL, the party's secretary general uttered the following words;

“ When we get into power next year, 2006, we shall flush out of our native land all fictitious Zambians, particularly those of Asian, European and Chinese descent who have deprived us of control of our economy. We shall only retain those born from couples where one of them is an indigenous Zambian.”

After reading this speech from a newspaper the police have detained Mr. GENUINE ABORIGINAL, and are considering charging him with a criminal offence. What do you think, under the Zambian criminal law, would be the most appropriate and fitting charge against Mr. GENUINE ABORIGINAL?

Mr. GENUINE ABORIGINAL is also a Christian fanatic and is obsessed by the constitutional provision that declares Zambia as a

Christian nation. He has also formed a gang of hooligans who go about breaking up gatherings and prayer – groups of other religious organisations in the country. The police are also intending to charge him with a second offence relating to this hostile attitude towards non – Christian religious groups. What would be the correct charge? Cite the relevant sections in the penal code.

### **QUESTION TWO**

Briefly cite the facts and the court decisions of the M’Naghten’s case (1843) and the case of Woolmington V. DPP (1935). Point out any two distinctions between these two cases.

### **QUESTION THREE**

Morris Pinto has been charged with the offence of Reckless Diving, when he drove along Kafue road at a highly excessive speed of 140 kilometres per hour, and crashed into a road – side tree near Munda Wanga Botanic Gardens, after failing to negotiate a corner. He has put up the defence of intoxication at his trial.

Discuss the essence of this defence and cite any two judicial precedents on it.

### **QUESTION FOUR**

Margaret Nzowa met Timothy Chola last week at a Garden party at Mr. George Chinondo’s house in Sunningdale, Lusaka and they became friends. They never shared a bed and never sat at less than a metre from each other in their five – day relationship. Yesterday at 10.00 hrs Margaret decided to visit Timothy at his house in Avondale and found him entertaining another woman, Betty Zulu. She found Timothy cuddling Betty, and felt upset and betrayed by Timothy. Without waiting for any greetings from Timothy, she turned away and drove back to her house in Chudley Township,

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Lusaka. When she reached her house she went into her bedroom and cried for one full hour and fell asleep. At 16 00hrs she woke up, washed her face and later loaded her pistol. At 18:00hrs, She drove to Timothy's house and found him still entertaining Betty on the lawn, in the frontage of his house. Without saying a word to either of them she shot both of them dead with her automatic pistol. Police have arrested her for the murders of the two persons, but she intends to advance the defence of provocation.

Discuss this defence and indicate whether it is validly available to Margaret in this case, and cite one Zambian decided case and one foreign decided case in your answer.

### **QUESTION FIVE**

The Director of Public Prosecutions of the Republic of Mwanawesu, Mr. Choolwe Kamuchange, has entered a nolle prosequi in the case of professor Kashebe Kabulaya, thereby bringing the criminal proceedings to an end.

- a) What is a nolle prosequi and what is the effect of its entry?
- b) Can the Attorney General of Zambia initiate a nolle? In giving your answer to these two questions, cite the relevant sections of the law in the appropriate statutes.

### **QUESTION SIX**

Gordon Bwalya, Patrick Phiri and six other persons organised themselves to break into Kafue Shoprite and steal therefrom. But unknown to them, a day before the date of the intended burglary, the stock of the shop had been shifted to a new store, many kilometres away, near the Kafue bridge. When Bwalya, Phiri and their fellow gangsters broke into the shop, they found it empty. Before they could come out of the empty shop, they were arrested

and taken to Kafue police station. At the police station they were charged with some criminal offence.

- a) What criminal offence do you think the Kafue police arraigned the eight men on?
- b) What possible defence or defences do you think they are likely to raise at their trial?

### **QUESTION SEVEN**

Nchushi Mukulu a Kabwe resident is aged ninety-one years old, and leads a life of destitution. His wife died twenty-six years ago, and his only son, a secondary school teacher died in<sup>a</sup> traffic accident five years ago. An illiterate daughter, who has turned herself into a sex worker to find money for looking after her aged father, survives him.

The police in Kabwe have charged Nchushi Mukulu with some criminal offence relating to his means of lively-hood.

- a) What offence do you think the Kabwe police have charged Nchushi Mukulu with? Take note that there is no offence in Zambia called “prostitution”
- b) What is the men rea of the offence that you have named?

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**END OF EXAMINATION**

## **SECTION B**

ANSWER AT LEAST ONE QUESTION FROM THIS SECTION.

### **QUESTION TWO**

The protection of fundamental human rights is the most important duty of any government. It is not only important to protect human rights by way of a Bill of Rights but also by setting up certain institutional safeguards.

Explain how the concepts of a bill of rights, constitutionalism, separation of powers and Judicial review, serve to ensure effective protection of human rights.

**[20 Marks]**

### **QUESTION THREE**

During the months of May and June the nation's attention has been captured by the DPP's entering of a *nolle prosequi* in the case of the *People v. Bulaya*. This decision has attracted a lot of criticism from Civil Society, the Church and opposition parties. The President is accused of having instigated the entering of the *nolle* as Dr. Bulaya had given evidence in his favour in the presidential petition case. In response to this, the Attorney General published a letter, which he had allegedly written to the former DPP instructing her to enter a *nolle*. He refused to publish the letter from the DPP which he had allegedly responded to, on national security grounds. MMD women cadres, stung by the harsh criticism directed at the president by the Post Newspaper, appeared on ZNBC TV and demanded that the Post should be banned within twenty-four hours, failure to which they would go on the streets and ban the paper themselves. The next day newspaper vendors selling the POST were attacked by MMD cadres and hundreds of copies of the paper were confiscated. In addition, women cadres marched to the office of the Minister of Information, where they demanded that the Post be banned. The Minister fully endorsed their cause and stated that the president needed to be protected from insults. The procession by the MMD cadres did not comply with the Public Order Act but the police did nothing about it. Moreover, although the POST lodged a complaint over the violent behaviour of the MMD cadres, the police made no attempt to arrest the culprits. The Lusaka Province Police Commanding Officer accused the

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**POST of exaggerating the number of copies of the newspaper that had been stolen/confiscated by the MMD cadres. It was later reported that the police had started summoning for questioning prominent citizens who had criticised the president's conduct over the Bulaya affair.**

Discuss the constitutional implications of this case in light of the constitutional concepts and doctrines you have learnt.

[20 Marks]

### **SECTION C**

ANSWER AT LEAST ONE QUESTION FROM THIS SECTION

#### **QUESTION FOUR**

The Independence Constitution marked a major break from the past. Discuss the major changes that were introduced by the Independence Constitution 1964.

**[20 Marks]**

#### **QUESTION FIVE**

What were the objectives of the constitutional changes of 1959, and what mechanisms were embodied within the constitutional arrangement to achieve these objectives?

**[20 marks]**

### **SECTION D**

ANSWER AT LEAST ONE QUESTION FROM THIS SECTION

#### **QUESTION SIX**

Accountability of the rulers to the governed is indispensable in a functioning democracy. Parliament has the responsibility of ensuring that the executive is accountable. To what extent was the executive accountable to the National Assembly during the one-party era. What factors impacted on the National Assembly's ability to effectively make the executive accountable.

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**[20 Marks]**

### **QUESTION SEVEN**

The decision to introduce a one-party state created a lot of anxiety as it presaged, in the minds of many people, the establishment of authoritarian rule. Discuss some of the recommendations of the Chona Commission meant to provide checks and balances in the system, which the government rejected on account of the "geo-political situation in Southern Africa."

**[20 Marks]**

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**END OF EXAMINATION**



**THE UNIVERSITY OF ZAMBIA**  
**SCHOOL OF LAW**

**UNIVERSITY FIRST SEMESTER EXAMINATIONS, JUNE 2003**

**L251: CONSTITUTIONAL LAW II**

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**INSTRUCTIONS:**

1. **TIME:** THREE(3) HOURS [PLUS 5 MINUTES TO READ THE QUESTION PAPER]
  2. **ANSWER:** QUESTION ONE and THREE(3) OTHER QUESTIONS.
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**SECTION A**

**QUESTION ONE**

Zambia has been embroiled in a serious debate on the best way of making a Constitution which will stand the test of time. The Civil Society, the mainstream churches and the opposition are advocating that the new Constitution should be adopted by a Constituent Assembly.

However, the government's position is that the Constitution should be adopted and enacted by Parliament. The Mungomba Constitutional Review Commission has just submitted its Interim Report to the President and also published it for public comments. The Commission has strongly recommended that the constitution should be adopted by a Constituent Assembly followed by a referendum.

There is fear that the government might once again ignore public opinion and go the parliamentary route as has happened in the past. A group of NGOs under the umbrella of "Constitution Coalition" approach you for advice on what measures, if any, they can take to prevent the government from having its way.

With the aid of appropriate authorities, write a reasoned opinion advising the Coalition accordingly.

**[40 Marks]**

## **SECTION B**

### **QUESTION TWO**

The protection of fundamental human rights is the most important duty of any government. It is not only important to protect human rights by way of a Bill of Rights but also by setting up certain institutional safeguards.

Explain how the concepts of a bill of rights, separation of powers and Judicial review, serve to ensure effective protection of human rights.

**[20 Marks]**

### **QUESTION THREE**

The proponents of one party rule described the Second Republic as a “one party participatory democracy.” With appropriate illustrations, discuss to what extent presidential and parliamentary elections met the requirements of democracy in the Second Republic.

**[20 Marks]**

### **QUESTION FOUR**

The United National Independence Party (UNIP) was considered supreme in the Second Republic. How did this supremacy manifest itself both in law and practice?

**[20 Marks]**

### **QUESTION FIVE**

The Independence Constitution represented a major break from the past. Discuss the major changes that were introduced by the Independence Constitution in order to ensure constitutionalism.

**[20 Marks]**

### **QUESTION SIX**

*"The 1964 Independent Constitution created neither a Westminster Parliamentary System nor an American style Presidential System."*

Discuss, supporting your answer with appropriate illustrations.

**[20 Marks]**

### **QUESTION SEVEN**

The British government, in declaring Northern Rhodesia a Protectorate, saw itself as exercising a sacred trust to protect Africans and prepare them for self-rule. How were the rights of Africans protected under the various constitutional arrangements? How effective were these protections in practice?

**[20 Marks]**

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**END OF EXAMINATION**

**THE UNIVERSITY OF ZAMBIA  
SCHOOL OF LAW**

**FIRST SEMESTER EXAMINATIONS – JUNE 2005**

**L.311 LAW OF EVIDENCE**

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**INSTRUCTIONS**

**ANSWER QUESTION 1 AND ANY THREE OTHERS**

**EACH QUESTION CARRIES 20 MARKS**

**Time: 3 HOURS [Plus 5 minutes to read through the paper]**

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**Question 1**

“The importance of the presumption of innocence is such that, apart from insanity and express statutory reversals of the burden of proof, there should be no erosion of this principle.” Discuss.

**[20 marks]**

**Question 2**

A confession was made to the police at a Police Station following protracted periods of questioning without adequate refreshment breaks, during which various ill-defined threats were made to the accused by his interrogators. Discuss the admissibility or inadmissibility of the confession, illustrating your answer with cases.

**[20 marks]**

**Question 3**

What is the rationale for requiring corroborating evidence

- (i) in sexual offences
- (ii) sworn evidence of children
- (iii) accomplice evidence?

**[20 marks]**

#### Question 4

“Privilege relates to a certain person’s or class of people’s right to refuse to answer a question or supply information which would otherwise be relevant in determining an issue.” Discuss

[20 marks]

#### Question 5

The exceptions to the rule against hearsay are so numerous that much of the relevant law is concerned not with the exclusion but with the admissibility of hearsay as evidence. Discuss in the light of decided cases and statutory law.

[20 marks]

#### Question 6

Sodom is on trial for attempted buggery [sexual offence] of three [3] boys, Adam, Ben and Cain who are aged 8, 11 and 15. The three [3] boys all give evidence at the trial that Sodom, a Scout Leader at an annual scout event approached them in their respective tents in the early hours of the morning, invited them for tea in his tent and when each went he attempted to commit buggery with them.

Sodom denies these allegations and says that he called the boys to his tent because they had been smoking in their tents. He alleges that they have colluded and made up the stories.

The prosecution wishes to use the evidence of each of the boys to confirm the evidence of the others and wishes also to bring the evidence of three [3] other boy scouts who allege that similar events took place at the previous annual scout camping, although no actual attempts of buggery took place. Discuss.

[20 marks]

#### Question 7

Kabwe and Kosam were jointly charged with theft from Stan’s House. Kabwe has two previous convictions for fighting in public. Kosam has recently been dismissed from his job for insubordination.

Can Counsel cross-examine on these matters if:

- (i) Kabwe admits that he had been in Stan’s House on the day in question, but it was because they were having a homosexual relationship.

- (ii) The Police allege that Kabwe made a confession during questioning at the Police Station. Kabwe denies this, saying the Police are lying.
- (iii) In his evidence in chief [i.e. during examination in chief] Kosam says he has never previously been charged with an offence.

**[20 marks]**

**END**

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

EXAMINATION: FIRST SEMESTER JULY 2005

L341: ADMINISTRATIVE LAW

Instructions:

1. Answer FOUR (4) QUESTIONS: One (1) Question in each Part. Question One in Part One is COMPULSORY.
  2. Time THREE (3) Hours and Five (5) Minutes to Read the Questions.
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PART ONE

ANSWER QUESTION ONE

1. The Constitutional Review Commission appointed by the President in 2003, has completed its work and published its Report and Draft Constitution. The Draft Constitution has provided for the creation of a Supreme and Constitutional Court, which will be able to seat as a Constitutional Court in all constitutional matters and as a Supreme Court in all other matters. Article 205(1) provides for the jurisdiction of the Supreme and Constitutional Court when sitting as a Constitutional Court. It provides:

The Supreme and Constitutional Court, when sitting as the Constitutional Court, has original and final jurisdiction -

- (a) in all matters of interpretation of this Constitution;
- (b) to determine a question of violation of any provision of the Bill of Rights;
- (c) to determine whether an Act of Parliament, a Bill or statutory instrument made before or after the commencement of this Constitution, contravenes a provision of this Constitution;
- (d) to determine disputes between State organs or institutions at central or local government level concerning their constitutional status, powers or functions;
- (e) to determine whether or not a matter falls within the jurisdiction of the Court; and
- (f) in any constitutional matter provided for by this Constitution or prescribed by an Act of Parliament.

Article 205(3) provides:

A person or group of persons who alleges that -

- (a) an Act of Parliament, a Bill of the National Assembly or any other law or anything done under the authority of any law; or
- (b) any act of or omission by any person or group of persons or authority; is inconsistent with or is in contravention of a provision of this Constitution, may petition the Constitutional Court for a declaration to that effect, and for redress.

The rest of Article 205 provides:

- (a) Where in any proceedings in any court, a question arises as to an interpretation of a provision of this Constitution, the court shall refer the matter of the interpretation to the Constitutional Court for determination.
- (b) Where a question is referred to the Constitutional Court under clause (4), the Court shall give its decision on the question and the court in which the question arose shall dispose of the case in accordance with that decision.
- (c) Where a petition is submitted or a question is referred under this Constitution, the Constitutional Court shall proceed to hear and determine the petition as soon as possible and may for that purpose, suspend any other matter pending before it.
- (d) No security for costs shall be ordered by the Constitutional Court on matters relating to public interest litigation.

Given the provisions above, what is their likely impact on administrative law in Zambia if the Draft Constitution comes into effect.

## PART TWO

### ANSWER ONE QUESTION IN PART TWO

2. Moses Kaunjika is a bank teller in one of the banks in Zambia. He is also, by virtue of his employment, the Secretary General of the Bankers Institute of Zambia. On 1<sup>st</sup> April 2005, he was arrested by the police on allegations that he and the Chairman of the Association, Charles Mwila, had misappropriated the Institute's funds to the tune of K50,000,000.

When he appeared before Court for plea he, through his advocate, applied for bail, and the court granted him a cash bail in the sum of K5,000,000. Kaunjika did not have this amount money. He applied for a loan from his employer, which was granted. The money was paid and Kaunjika was released.



The following day after his release Kaunjika reported for work and continued to work normally until 1<sup>st</sup> July 2005, when he received a letter from his employer, which reads as follows:

Dear Mr. Kaunjika

We refer to the recent developments, which have resulted in you being charged with the offence of theft of the sum of K50 million belonging to the Bankers Institute of Zambia. In line with the provisions of Section 31(2)(b) your employment with the Bank has been terminated with immediate effect. Please contact the accounts department who have instructions to compute and pay the money due to you.

I wish you all the best in your future endeavours.

Yours faithfully

Astridah Chisha  
Managing Director.

Prior to the receipt of the said letter there was no indication whatsoever that management was going to take such a decision.

Section 31(2) of the Banking and Financial Services Act, reads:

Any person who is a director or an officer concerned in the management of a bank or incorporated financial institution shall forthwith cease to hold office upon-

- (a) becoming bankrupt, suspending payments or compounding or proposing a compromise with that person's creditors generally;
- (b) being charged with a felony or any offence involving dishonesty;
- (c) being declared or otherwise adjudged in any official proceedings to be mentally incompetent to manage affairs; or
- (d) being suspended or removed from office by order of the Bank of Zambia under this Act.

Kaunjika has consulted the firm of MABONGA, LITANA & ASSOCIATES for advice. The two partners in the firm have discussed the case and they are not agreed on the merit of the case. Even if they were to agree on the merit, they are not agreed either on whether this has to be pursued as an administrative law or constitutional law case.

You are an associate in the firm and the partners have decided to ask to prepare your opinion on the matter, which will be binding on them. You are therefore asked to state, with reasons:

- (a) Whether Kaunjika has a case and
- (b) If he does, state whether this would fall in the area of Constitutional Law or Administrative Law.

Prepare your opinion.

3. Article 73 of the Draft Constitution published by the Constitutional Review Commission recently provides:

- (1) Every person has the right to administrative action that is expeditious, lawful, reasonable and procedurally fair.
- (2) Every person whose rights have been affected by administrative action has the right to be given written reasons for the action.
- (3) Parliament shall enact legislation to give effect to rights in clauses (1) and (2), which shall -
  - (a) provide for the review of administrative action by a court or, where appropriate, independent and impartial tribunal; and
  - (b) promote an efficient administration.

What is the possible implication of the said provision on Administrative Law in Zambia if the Draft Constitution came into force.

### PART THREE ANSWER ONE QUESTION IN THIS PART

4. Francis Mabonga is the Executive Director of a non-governmental organisation called "Foundation Against Corruption" based in Kasama. He has come across information that his Member of Parliament has not declared all his assets as required under Part II of the Ministerial and Parliamentary Code of Conduct Act.

He wrote to the Chief Justice providing all the information as required under Section 13 of the said Act and requested the Chief Justice to appoint a tribunal to investigate the Member of Parliament. On 1<sup>st</sup> July 2005, he received a letter from

the Chief Justice to the effect that he had examined his complaint and he found it to be frivolous and that if he was to appoint a tribunal for every complaint he received he will have no time to do his work as Justice Chief of the Republic of Zambia. He did not therefore see the need to appoint a Tribunal.

Section 13 of the Act provides:

- (1) An allegation that a Member has breached Part II may be made to the Chief Justice by any person, in writing giving particulars of the breaches or breaches alleged, signed by the complainant and giving the complainant's name and address.
- (2) Where a Member considers that a statement made in the press or through the other public media alleges, directly or by implication, that he has breached Part II, he may report the particulars of the breach or breaches alleged, in writing, to the Chief Justice and request that the matter be referred to a tribunal.
- (3) The Chief Justice shall notify the President and the Speaker of the allegation and shall appoint a tribunal in accordance with section fourteen to investigate the allegation.
- (4) The tribunal shall, within forty-five days after it being appointed, submit a report on its findings to the President and to the Speaker and shall furnish a copy to the Member concerned.
- (5) The Speaker shall, not later than seven sitting days after the first sitting of the National Assembly next after receiving the report, cause a copy of the report to be laid before the National Assembly.

Mabonga has to come to you for advice. He wants to reply to the letter from the Chief Justice. He wants to know your opinion on the response by the Chief Justice. Please give him your opinion.

5. Charles Mwila has read what Professor A.V. Dicey said about the concept of rule. He wants to know why it is imperative in any country to observe the concept of rule of law.

#### PART FOUR ANSWER ONE QUESTION IN THIS PART

6. Define and justify any of the three (3) concepts hereunder:
  - (a) Local Governance
  - (b) Deconcentration
  - (c) Devolution

(d) Delegation

7. Lazarous Mwewa is a lecturer in the School of law of the University of Zambia. He is known to be an expert in local government administration. He has been recruited by the Constitutional Review Commission appointed by the President in 2003. The Chairman of the Commission has asked him to prepare a brief for discussion by the Commissioners. He has been specifically asked to advise them on:

(a) what the role of local government should be and how

(b) How local government should relate to central government.

Mwewa has recruited you as his research assistant and has asked you to prepare the said brief for the attention of the Commissioners. Prepare the brief.

----- END OF EXAMINATION -----

**THE UNIVERSITY OF ZAMBIA  
SCHOOL OF LAW**

**FIRST SEMESTER EXAMINATIONS - MONDAY 20<sup>TH</sup> JUNE, 2005.**

**L 351 – HUMAN RIGHTS LAW**

**ATTEMPT ANY FOUR QUESTIONS**

1. "The 1235 and 1503 procedures widely differ in many respects, but have a common feature."
  - i) Explain the 1235 procedure (5 Marks)
  - ii) Explain the 1503 procedure (5 Marks)
  - iii) How do the two procedures differ? (3 Marks)
  - iv) What is the common feature in the two procedures? (2 Marks)
2. Two techniques are often used to expand human rights normative range, additional protocols and optional protocols.
  - i) What is a protocol? (3 Marks)
  - ii) With the help of examples, explain what an additional protocol is. (6 Marks)
  - iii) With the aid of examples, explain what an optional protocol is. (6 Marks)
3. Write short notes on:
  - i) Treaty-based mechanisms (3 Marks)
  - ii) Cultural relativism (4 Marks)
  - iii) The Inter-American Commission on Human Rights (4 Marks)
  - iv) The Helsinki Final Act (4 Marks)
4. Show how the structure of the human rights system at international and regional levels is about the same. Illustrate your answer with examples. (15 Marks)
5. Critically discuss the claimed uniqueness of the African Charter on Human and Peoples' Rights. (15 Marks)
6. Generally speaking, when a communication is filed with a relevant human rights implementing body it goes through three stages.
  - i) Name these three stages (3 Marks)
  - ii) Explain what happens at each of the three stages you have identified. (12 Marks)

**\*\*\*\*\*END OF EXAMINATIONS\*\*\*\*\***

**By Prof. C. Anyangwe**

# THE UNIVERSITY OF ZAMBIA

## SCHOOL OF LAW

### FIRST SEMESTER EXAMINATION PAPER, JULY, 2005 ON L411: JURISPRUDENCE (CLASSIC AND TRADITIONAL THEORIES OF JURISPRUDENCE)

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TIME: THREE HOURS (Plus 5 Minutes to read through the paper)

#### INSTRUCTIONS

1. Statutes are allowed in the examination room.
  2. Answer question **ONE** in Part A which is compulsory and **ONE** Question from each of the following parts.
- 

#### PART A

##### QUESTION ONE

*"The perennial problem of Jurisprudence, however, is firstly, to know where to draw the line between what is law and what is not and, secondly, to discover according to what definite criteria this line is to be drawn. Various suggestions have been made. The 'imperative' school, whether of the Austinian 'sovereign's command' type or of the 'judicial enforcement' brand of Salmond and Gray, will recognise as law only what goes by that name in Western political systems. Duguit's 'social solidarity', while not being so unreasonable in its attitude towards customary law, remains essentially an a priori approach to the fundamental problems of the law. Savigny's backward longing for the romantic past of the law, useful as it is in ensuring an honourable place for customary law in the scheme of legal thought, is handicapped as much by its speculative optimism as by its nationalistic interpretation of law. Nor is Pound's idea of law as a process of control exercised authoritatively by the body politic a universal criterion for determining what is a rule of law in any given human society; its main purview, though greatly enlightened by the brilliant doctrine of 'social engineering' is still limited to advanced societies of the Western type.*

T. O. Elias, *The Nature of African Customary Law*, Manchester University Press, 1956 at P. 53

**Discuss the Concept of Law in a Legal System.**

## **PART B**

### **QUESTION TWO**

What role does physical control and intention play in defining the Concept of Possession?

*Discuss in the light of judicial decisions.*

### **QUESTION THREE**

*"For mature legal systems it is possible to make a larger claim. In them certain important legal incidents are found, which are common to different systems. If it were not so, 'He owns that umbrella', said in a purely English context, would mean something different from 'He owns that umbrella', proffered as a translation of 'Ce parapluie est lui'. Yet, as we know, they mean the same. There is indeed, a substantial similarity in the position of one who 'owns' an umbrella in England, France, Russia, China, and any other modern country one may care to mention. Everywhere the 'owner' can, in the simple uncomplicated case, in which no other person has an interest in the thing, use it, stop others using it, lend it, sell it or leave it by will. Nowhere may he use it to poke his neighbour in the ribs or to knock over his vase. Ownership, dominium, propriete, Eigentum and similar words stand not merely for the greatest interest in things in particular systems but for a type of interest with common features transcending particular systems. It must surely be important to know what these common features are?"*

A. M. Honore in **Oxford Essays in Jurisprudence**

A. G. Guest, (edited) Oxford University Press, 1961 at p. 108

***What are the universal common features in the Concept of Ownership?***

***Discuss.***

## **PART C**

### **QUESTION FOUR**

You are a member of the Zambian Parliament. There is a proposal to legalise the consumption of dagga because the use of the drug is rampant in society and many traditional healers use the drug for health purposes. Should this law be passed? Why or why not? Will you vote for it? According to Bentham, how should such a law be examined? What factors should you take into consideration when trying to determine if the law should pass or not?

## QUESTION FIVE

Zambia passes a law requiring all those people who are Asian or of Asian descent to leave the Country and forfeit all of their property to the government. This law is put into effect but after five years the old regime falls and a new regime takes over. Some Asians sue for the right to get their property back and want the people responsible to be held accountable. The Minister who ran this programme on behalf of the old regime is brought up on charges and his defence is that he was just following the law at the time.

***Discuss the viability or otherwise of this defence using Kelsen's principle of the validity of a legal regime.***

## **PART D**

### QUESTION SIX

A hotel resident after having spent two weeks at the hotel, left the premises with cutlery meant for use by residents. When confronted by the hotel's security guards, the resident said he collected the cutlery as souvenir. This he said was customary practice in most reputable hotels. The resident was reported to the local police who are considering charging him with theft of the cutlery.

***Advise the Police.***

### QUESTION SEVEN

***"Custom is useful to the lawgiver and codifier in two ways. It provides the material out of which the law can be fashioned – it is too great an intellectual effort to create law de novo Psychologically, it is easier to secure reverence for a code if it claims to be based on customs immemorially observed and this is true even though historically the claim cannot be substantiated. There is inevitably a tendency to adopt the maxim 'whatever is is right' – what has been followed in the past is a safe guide for the future....."***

Paton, ***A Text – Book of Jurisprudence***, 3<sup>rd</sup> ed, at p. 163

***Discuss Custom as a Source of Law both under the English and Zambian Legal Systems.***



**THE UNIVERSITY OF ZAMBIA  
SCHOOL OF LAW**

**JULY 2005 UNIVERSITY FIRST SEMESTER DEFERRED EXAMINATION  
L421: THE GENERAL PRINCIPLES OF THE LAW OF BUSINESS  
ASSOCIATIONS**

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**INSTRUCTIONS**

**TIME:**        **THREE HOURS** (plus 5 minutes to read through the paper)

**ANSWER:**   **FOUR QUESTIONS:** Question ONE is compulsory.

You may bring in the examination room **CLEAN Partnership Act of 1890, The Registration of Business Names Act and the Cooperative Societies Act**

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**Question 1: COMPULSORY (21 Marks)**

- (a) Discuss and illustrate in your own words the circumstances under which a partnership may come to an end.
- (b) You intend to go into business with another person of your choice. Prepare a simple partnership agreement.
- (c) Explain the liability position of partners to creditors dealing with the firm.

**Question 2:**

- (a) Discuss the concept of '**unlimited liability**' of business owners. (7 Marks)
- (b) Write brief notes on various kinds of ownership structures for operating a small business in Zambia. (6 Marks)

**Question 3:**

Discuss whether the following are partners within the Partnership Act 1890.

- (a) The Committee of a tennis club.
- (b) Mr. Bwalya and his son Kangwa, who take turns in driving Mr. Bwalya's van to deliver flowers and vegetables from a market garden to retail grocers' shops. (13 Marks)

**Question 4:**

What are the rights of partners

- (a) to expel a partner;
- (b) to dissolve the partnership;
- (c) to admit a new partner? (13 Marks)

**Question 5:**

Explain briefly the meaning of the following:-

- (a) Separate legal personality;
- (b) Ultra vires; and
- (c) A minor. (13 Marks)

**Question 6:**

Discuss the principle that “**All partners are entitled to be heard.**” (13 Marks)

**Question 7:**

Describe briefly in your own words the procedure for registration of :-

- (a) Cooperative Society;
- (b) Sole Proprietor; and
- (c) Partnership (13 Marks)

**END OF EXAMINATION**

**THE UNIVERSITY OF ZAMBIA**

**UNIVERSITY FIRST SEMESTER EXAMINATIONS –JUNE 2005.**

**L431**

**INTERNATIONAL LAW II : ELEMENTS OF INTERNATIONAL LAW**

**TIME:        THREE (3) HOURS PLUS FIVE (5) MINUTES FOR READING  
THE QUESTION PAPER**

**ANSWER:    QUESTION ONE (1) AND ANY OTHER THREE QUESTIONS**

**UNMARKED STATUTES ARE PERMITTED IN THE EXAMINATION HALL**

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1. Write short notes on the following:

- a.) Pacta Sunt Servanda and Jus Cogens
- b.) General Principles of Law and Judicial Decisions
- c.) The calvo clause and Estrada Doctrine
- d.) Defacto and Dejure Recognition
- e.) The Territorial Sea, the Contiguous Zone and exclusive economic zone
- f.) Expropriation and compensation
- g.) Territorial and extra territorial Asylum
- h.) Juis sanguinis and Juis soli
- i.) Statelessness and Double Nationality
- j.) Extradition and Rendition
- k.) Acquisition of Territory
- l.) Ambassador and Charge-d- Affairs
- m.) Five Freedoms of the Air

**(40 Marks)**

2. The government of Muzambia was invited to participate in the negotiation of the Multilateral Treaty on Fish Consuming Countries in the city of Salmon the Capital of Tutembaland. The government sent an Assistant Director in the Ministry of Foreign Relations and Development to attend to the negotiation of the treaty. The said Assistant Director signed the treaty at the conclusion of the negotiation even though he had no mandate to do so. The Government of Muzambia has since ratified the Treaty on Fish Consuming Countries. However the neighbouring country of Lubunda has accused Muzmabia of breaching the terms of the said Treaty. Lubunda was not a party to the negotiation but acceded to the Treaty. The Government of Muzambia has argued that they did enter a reservation to the provisions alleged to have been violated and Lubunda has no rights under the Treaty as it was not a party to the negotiation. You are a senior State Advocate in the Ministry of Justice in Muzambia and the Attorney General is seeking your advice? Please advise.

**(20 Marks)**

3. Outline the historical development of International Law showing the Influence of Naturalist, positivist and Grotian theories?

**(20 Marks)**

4. The Ambassador of Malindi to Tuganda entered into a contract with one Mr Stephen Jones a local businessman for the purchase of a beach house. The Ambassador has however failed to pay the full purchase price. Mr Jones has commenced an action against the Ambassador in the Tuganda High Court for the recovery of the purchase price. Furthermore the 1<sup>st</sup> Secretary at the Malindi Embassy whilst over speeding in his motor vehicle under the influence of alcohol hit and killed a pedestrian, the Tuganda Inspector general of Police would like the to arrest and prosecute the said 1<sup>st</sup> secretary for causing death by dangerous driving. The Ambassador has been informed that you are a student of International Law at the University of Zambia and has come to seek your counsel. Kindly advise him.

**(20 Marks)**

5. With the help of decided cases and clear illustrations discuss the sources of international Law?

**(20 Marks)**

6. a.) Show the Extent to which the position of the Individual as an object of international Law has undergone changes since the end of the Second World War?

b.) How does International Law deal with genocide, terrorism, drug trafficking and counterfeiting of currency?

**(20 Marks)**

7. a) Explain the Concept of hot Pursuit?

b) Discuss a states competence in its Domestic Jurisdiction?

c) Outer space is not capable for being apportioned it belongs to humanity. Discuss?

d) In what circumstances would an individual be criminally responsible in International Law?

**(20 Marks)**

8. The Following Cases are generally cited for what proposition?

a.) Aaland Island Case (1920)

b.) U.S Diplomatic & Consular Staff in Teheran (1980)

c.) Luther Vs James Sengor (1921)

d.) Alabama Claims Case (1872)

e.) The Paquete Habana (1900)

**(20 Marks)**

**“END OF EXAMINATION”**

# THE UNIVERSITY OF ZAMBIA

## SCHOOL OF LAW

### L451 – INTERNATIONAL TRADE LAW

#### FIRST SEMESTER EXAMINATION – JUNE 2005

#### INSTRUCTIONS:

1. TIME: **THREE HOURS PLUS FIVE MINUTES** TO READ THE QUESTION PAPER
  2. STUDENTS MUST ANSWER **QUESTION ONE** AND ANY THREE OTHER QUESTIONS
  3. NO STATUTES OR TREATIES ARE ALLOWED
- 

#### **QUESTION ONE**

- (a) Arrangements that reduce or eliminate trade barriers between two or more political units while maintaining barriers against imports from outside regions date back to the 19<sup>th</sup> Century. Before the establishment of GATT there were Customs Unions between European, African and South American States. Since the formation of GATT regional economic groups have continued to flourish.

## Discuss

- (i) The legal basis for the existence of regional economic groups within GATT/WTO regimes as well as the conditions that need to be satisfied in general.

[15 marks]

- (ii) The forms in which regional economic groups within GATT/WTO regimes can exist.

[15 marks]

- (iii) Whether the regional economic groupings within GATT/WTO regimes promote or undermine multilateral trading system.

[10 marks]

## **QUESTION TWO**

The objective of the multilateral system of trade in goods by GATT is to provide industries and business enterprises from different countries a secure, stable and predictable environment in which they can trade with one another under conditions of fair and equitable compensation. This open and liberal trading system is expected to promote trade by allowing goods, from one member country to another, to move freely without discrimination of whatsoever, except by use of tariffs only.

With the aid of relevant authorities, discuss four ways under which a GATT/WTO member is permitted under GATT to discriminate against or restrict imports from other GATT/WTO members entering its market.

[20 marks]

### **QUESTION THREE**

Historically the developing world was dissatisfied within GATT. It felt that it had little influence in GATT decisions, that the dispute settlement system was not particularly useful for them and that some fundamental GATT principles were unsuited for trade involving developing countries. As a result for many years developing countries pressed for special treatment in GATT and attempted to create new rules, not related to GATT, to embody their concept of how the world economy should operate particularly in the United Nations and related organizations such as UNITAD.

Discuss how GATT/WTO system has attempted to integrate developing countries into that system.

[20 marks]

### **QUESTION FOUR**

Write brief notes on the following.

- |   |           |
|---|-----------|
| (a) Escape clause                       | [5 marks] |
| (b) The theory of comparative advantage | [5 marks] |
| (c) UNCTAD                              | [5 marks] |
| (d) Commodity Agreement                 | [5 marks] |

### **QUESTION FIVE**

Livingstone is to host a high profile meeting of trade ministers and officials from 39 least developed countries (LDCs) to discuss their trade negotiating positions with the World Trade organization (WTO) following the failed Cancun meeting in 2003.



The meeting which will be held from June 25 to 27 is in preparation for the sixth WTO Ministerial meeting in December, 2005 and will be chaired by Commerce, Trade and Industry Minister, Dipak Patel. Also invited are nine, none LDC countries like Argentina, Canada, Hong kong, Japan, Kenya, Mexico, Pakistan, Brazil and Sweden. The WTO will be represented by its director general, as well as representatives from the common market for Eastern and Southern Africa (COMESA), Commonwealth Secretariat, European Union, the World Bank and ACP. *[Daily Mail, Wednesday, June 22, 2005, page 1).*

(a) Outline the four functions of World Trade Organisation  
[5 marks]

(b) Discuss five ways in which the World Trade Organisation acts as a forum of negotiations.  
[15 marks]

### **QUESTION SIX**

“For a multilateral trading system to function properly and without friction, it is not enough to have an agreed set of rules. The rules have to be supplemented by other rules giving countries the right of redress when infringements occur and for settling their differences and disputes. The establishment of a strong multilateral dispute settlement mechanism which removes some of the weaknesses of the earlier GATT system is therefore one of the most critical achievements of the Uruguay Round talks”.

Critically discuss the GATT/WTO dispute settlement mechanism including how it implements its decisions.  
[20 marks]

## **QUESTION SEVEN**

- (a) Discuss the advantages and disadvantages of subsidies. What measures, if any, has GATT put in place to prevent or discourage its members from using subsidies.

[12marks]

- (b) Mozageta is a bicycle manufacturing company based in Namibia which is a member of GATT/WTO. It sells its bicycles in Namibia at a cost of \$500 each. Mozageta has found a lucrative market in Zambia for its bicycles. It sells its bicycles in Zambia at the cost of \$400 each. However, Luangwa Industries, a Zambia bicycle manufacturer complains to the Minister of Commerce and Trade that its company has been seriously threatened by the cheap bicycles from Namibia and that if nothing will be done it will be forced to close.

Advise the Minister of Commerce and Trade the action, if any, he can take under the GATT to help Luangwa Industries.

[8 marks]

# THE UNIVERSITY OF ZAMBIA

## SCHOOL OF LAW

### L451 – INTERNATIONAL TRADE LAW

### FIRST SEMESTER DEFERRED EXAMINATION – JUNE 2005

#### INSTRUCTIONS:

1. Answer Question One and any three other questions.
2. You have Three Hours to write the Exam plus Five Minutes to read through the Exam paper.
3. No Statutes or Treaties are permitted.

#### QUESTION ONE

(a) You are an International Law expert in the Ministry of Trade and Industry. The Minister has asked you to prepare a detailed brief on what measures the government can take to protect its domestic industry and discriminate against goods coming from outside the country without contravening the general Agreement on Tariffs and Trade (GATT).

Please do so.

[20 marks]

(b) The most favoured nation (MFN) clause is the cornerstone of the international trade rules incorporated in the general Agreement on Tariffs and Trade.

Critically discuss the MFN principle including the exceptions to MFN

[20 marks]

## **QUESTION TWO**

A key rationale of the Multilateral trading system is to promote the growth of the economies of all participating countries through the free flow of goods and services. Developing countries in the trading system perceived the trading regime as only existed for the industrialized nations.

Critically examine how the multilateral trading system in particular the general Agreement on Tariffs and Trade has tried to accommodate the concerns of developing countries from its inception in 1947.

[20 marks]

## **QUESTION THREE**

(a) Discuss the legal basis for the existence of regional economic groups within GATT/WTO regimes as well as the conditions that need to be satisfied.

[12 marks]

(b) Discuss whether the regional economic groupings within GATT/WTO regimes promote or undermine multilateral trading system.

[8 marks]

## **QUESTION FOUR**

Discuss the GATT/WTO dispute settlement mechanism and how decisions are implemented.

[20 marks]

## **QUESTION FIVE**

Discuss the main features of two models of trade regulations. In your view which model is best suited for a developing country like Zambia?

[20 marks]

## **QUESTION SIX**

With the aid of examples and authorities, discuss five protective devices a government can use to protect domestic goods from competition from imports abroad.

[20 marks]

# **-UNIVERSITY OF ZAMBIA**

## **SCHOOL OF LAW**

### **L461 - INTELLECTUAL PROPERTY LAW EXAMINATION**

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**First Semester Examination**

**Time: Three (3) hours**

**Date: Monday 27<sup>th</sup> June 2005**

**Question one (1) is compulsory and you must answer any other three questions**

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#### **Question 1:**

You are a prominent Lusaka lawyer and your Clients Puma Ltd PLC a European company which manufactures sports wear has registered Puma as a Trademark under part A of the Trademark register of the Zambian Trademarks Act Cap 401 of the Laws of Zambia. The mark Puma is a well known mark world wide. It has come to the knowledge your clients that your clients mark is being infringement by another company registered in South Africa known as Dr. Khumalo ltd. Dr. Khumalo also manufacturers sport wear and uses the mark Pooma. Your clients have been reliably informed that Dr. Khumalo's products are enroute to Zambia via the Chirundu border. Your clients now approach you for advice on how they can stop Dr. Khumalo's products entering Zambia once Dr. Khumalo's Pooma products reach the Chirundu border post.

Using provisions of the law and decided cases draft the legal opinion advising your clients in relation to your client's requests and also high light the Orders you would apply for before the relevant court in order to secure your client's interests.

#### **Question 2:**

The chemical Acetic Acid commonly known as Vinegar is used as a preservative. A Chef employed by the Intercontinental hotel in Lusaka discovers that when Acetic Acid is applied to steaks the meat becomes tender and can be cooked more easily. Using decided cases discuss whether the chef can claim a patent in the discovery of the new property of Acetic Acid as a tenderizer.

#### **Question 3:**

Are lecturers delivered in a classroom and examination papers entitled to copyright protection? Discuss

#### **Question 4:**

Discuss and explain the remedies and defenses available at law in relation to intellectual property rights.

**Question 5:**

What is Intellectual Property and why is Intellectual Property important to the development of any country. Further analyze why some argue that Intellectual Property Law is only meant to retard development in third world countries.

**Question 6:**

Explain any four of the following –

- (a) process patent and product patent
- (b) complete specification and provisional specification
- (c) Fair dealing in Copyright
- (d) Novelty and originality in Registered designs
- (e) Moral rights
- (f) Traditional Knowledge/ information

**Question 7:**

You are a prominent lawyer in Lusaka. 2 weeks ago you had filled an application requesting leave to make a clerical correction on behalf of your clients Gamma Pharmaceuticals before the Patents registrar. However, another Pharmaceutical company ZAMCHEM Ltd wishes to oppose your request. Draft and complete the appropriate form that the lawyers for ZAMCHEM will file before the Patents registrar opposing your client's request. Also provide an explanation of the procedure laid down by law in relation to corrections.

**All the Best!!!!**

# THE UNIVERSITY OF ZAMBIA

## SCHOOL OF LAW

FIRST SEMESTER EXAMINATION  
2005 ACADEMIC YEAR  
ADR L481

### INSTRUCTIONS:

ANSWER QUESTION ONE AND ANY THREE OTHER QUESTIONS:

DURATION: THREE HOURS

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1. Negotiation has been defined as, "the process we use to satisfy our needs when someone else controls what we want."

Robert Maddux, "Successful Negotiation," 2<sup>nd</sup> Edition 1999, at P.5

Describe the basic strategies employed in seeking to satisfy the needs when someone else controls what we want.

2. Information is required by questioning, a process which should always reinforce the mediator's neutrality. Describe concisely the techniques of questioning.
3. Describe the essential characteristics of mediation.
4. "It is clear that there are disparities in the rules relating to mediation in the High Court and the Industrial Relations Court. There is really no justification for this disparity. In fact, this state of affairs is most unsatisfactory. There is therefore need to streamline the legal regime relating to mediation."

### Discuss

5. Distinguish Mediation from Litigation



6. "As Lawyers and former Judges have become mediators in large numbers, the classical non-directive model of mediation is no longer the predominant form."

**Discuss the relevance or otherwise of the preceding statement.**

7. Write short notes on any of the following:
- (a) Elements of argumentation
  - (b) The role of threats in negotiations.
  - (c) Med-Arb.
  - (d) Party Control and Empowerment
  - (e) Early Neutral Evaluation.