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THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

Final exams 2014

1. L. 5302 international law, international trade and investment law
2. L. 5400 Law of labour relations
3. L. 5500 Law of jurisprudence
4. L. 5709 Legal research methodology
5. LPR 2920 the Law of contract
6. LPR 2930 Law of Tort
7. LPR 3115 Employment Law
8. LPR 3920 Land Law
9. LPR 3952 civil and Criminal procedure
10. LPU 2962 Administrative law
11. LPU 4092 international humanitarian law

# THE UNIVERSITY OF ZAMBIA

## SCHOOL OF LAW

### L.5302 – INTERNATIONAL LAW, INTERNATIONAL TRADE AND INVESTMENT LAW

2014 ACADEMIC YEAR

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#### INSTRUCTIONS:

- a) This examination carries a total of **60 marks**
- b) Part A is compulsory and carries **20 Marks**
- c) Answer One question from **PART B AND** and answer One from **PART C**. Each question carries **20 Marks**
- d) No statutes, treaties or other reference materials are allowed for this examination.
- e) You have **five (5) minutes** to read through the paper and a total of **Three (3) hours** within which to answer all the three questions
- f) Clearly indicate the question numbers for all questions attempted

## PART A

1 (a) The Uruguay Round was completed in 1993. Its results are embodied in nearly 30 legal agreements and a large number of supplementary decisions all signed in April 1994 in Marrakech Morocco by 100 countries. Since then the total number of countries which have signed the agreements and which therefore are members of WTO, has reached more than 150. About 2/3 of these countries are developing countries with nearly 30 of these classified by the United Nations as being among the 48 least developed countries in the World.

In a global trading system that brings together the poorest and richest countries in the World there have to be special provisions to ensure that all countries are able to benefit from the agreements they have signed. Likewise the implementation of obligations by the signatory countries has to account for the same disparities.

Discuss the above statement.

[10 Marks]

(b) A state may place conditions on the entry of an alien on its territory and may restrict acquisition of certain kinds of property by aliens. Protection of investment against expropriation is a centuries old principle of foreign investment law. International law does provide that states as sovereign entities can expropriate assets of a foreign investor in certain situations provided that a number of conditions outlined in international law are met. But the meaning and scope of these conditions have attracted much attention in both jurisprudence and foreign investment law literature.

Discuss the above statement.

[10 Marks]

## PART B

2. The World Bank has had a long standing interest in promoting foreign investment for economic development and has associated itself with a number of initiatives in this area.

Discuss the various initiatives by the World Bank in the promotion of foreign direct investment in developing countries.

[20 MARKS]

3. Letters of Credit are the most common method of payment for goods in the export trade.

With the aid of case law discuss the two fundamental principles upon which the law relating to letters of credit is founded.

[20 Marks]

## PART C

4(a) The 1994 Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), one of the main outcomes of the Uruguay Round (1986—1994) of Multilateral Trade Negotiations which is administered by the World Trade Organization (WTO) establishes enforceable global minimum (and high) standards of protection and enforcement for virtually all the most important intellectual property rights.

Developing country representatives continue to express concern that TRIPS raises the prices of drugs and education materials in poor countries, legitimizes the bio-piracy of genetic resources and knowledge and blocks the transfer of much needed technologies.

Critically discuss the above statement. Apart from addressing the issues raised, your discussion should also bring out the core principles under the TRIPS Agreement and how the Agreement can be reviewed to take into account the interests of developing countries.

[14 Marks]

(b) Discuss the sources of the international law on foreign investment.

[6 MARKS]

5 (a) Discuss the mechanisms that WTO members are permitted to use to offset unfair trade practices of firms or other governments.

[10 Marks]

(b) Bilateral Investment Treatises (BITs) are the most important source of contemporary International Investment law. It is estimated that that close to 3,000 BITS are in existence worldwide.

Discuss the basic characteristics of BITs in terms of contents and nature of protection extended to foreign Investors under BITS.

[10 Marks]

End of Examination

**THE UNIVERSITY OF ZAMBIA**

**SCHOOL OF LAW**

**2013/14 SESSIONAL EXAMINATIONS**

**L5400 – LAW OF LABOUR RELATIONS**

**17<sup>TH</sup> JULY 2014**

**INSTRUCTIONS:**

1. This examination has **THREE PARTS**, A, B and C. You **must answer** the question in PART A and **ONLY one** Question in PARTs B and C.
2. Time allowed: **Three (3) hours** plus **five minutes** to read through the examination paper
3. This examination paper carries a total of **60 marks**.
4. Candidates are **permitted to bring the following statutes in the examination room**: ALL LABOUR LAW STATUTES PRESCRIBED FOR THE COURSE
5. Candidates **must not turn this page** until the invigilator tells them to do so.

**PART A:** This **ONE** question is **COMPULSORY** and must be attempted.

### **QUESTION 1**

The role of the state in labour relations is reflected in the kind of the labour legislation it enacts.

Discuss this statement in relation to Zambia in the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Republics.

**(20 Marks)**

**PART B:** Answer **ONE** question only

### **QUESTION 2**

Modern Health and Safety legislation tends to shift the enforcement of health and safety standards in the workplace away from the traditional inspectorates to elected committees of employees.

Discuss the justifications that have been given for this shift in policy.

**(20 marks)**

### **QUESTION 3**

The National Pensions Scheme Authority and the Workers Compensation Control Board were created under their respective Acts to administer different aspects of social security in Zambia.

Fully discuss the sources of worker vulnerability leading to these interventions and assess their success and failures in Zambia's industrial system.

**(20 Marks)**

**PART C:** Answer **ONE** question only

### **QUESTION 4**

The Industrial and Labour Relations Act in Zambia is a double edged sword, at once securing and undermining workers' and employers' Freedom of Association

Discuss this appraisal with support of relevant provisions of the Act.

**(20 Marks)**

### **QUESTION 5**

The attempt in Zambia to offer employee protection rights in different statutes is a very serious weakness leading to duplication, overlap and inconsistencies in the law.

Evaluate this criticism of Zambia's employee protection laws.

**(20 Marks)**

**END OF EXAMINATION**



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

**JURISPRUDENCE L5500**  
**FINAL EXAMINATION**

**JULY 2014**

**INSTRUCTIONS:**

1. Answer **THREE (3) questions**, one from each Part.
2. Time allowed: **Three (3) hours plus five (5) minutes** to read through the examination paper.
3. This examination paper carries a total of **60 marks**.
4. Candidates **are permitted to bring the current Republican Constitution** into the examination room.
5. Candidates must **not turn this page** until the invigilator tells them to do so.



## PART A

### Question 1

The study of jurisprudence enables you to gain deeper insights into the form and function of the Zambian Constitution. Link the relevant constitutional provisions to the applicable jurisprudential sources to **briefly critique** the following features of the Zambian legal system:

- a) Legal dualism in relation to domestic and international law (5 marks)
- b) The dominance of the presidency (5 marks)
- c) The abrogation of the Barotseland Agreement (5 marks)
- d) The retention of the common law system (5 marks)

**(20 marks)**

## PART B

### Question 2

The Zambian Bill of Rights appears to be heavily biased in favour of the rights of offenders hence the thrust of the criminal justice system. You are the new Minister of Justice and wish to see a system in place that balances protection for victims of crime with the rights of offenders.

- a) What changes would you propose to the Bill of Rights? (8 marks)
- b) Which theory (ies) of law would you rely on for support and why? (8 marks)
- c) How should the proposed changes be orchestrated? (4 marks)

**(20 marks)**

### Question 3

Constitutionalism is a manifestation of Locke's concept of a social contract between the governed and the governors. The current Zambian Constitution has a chequered history that some attribute to the ongoing search by Zambians for a truly autochthonous document.

- a) **Briefly review this history** taking care to explain the ways in which the various constitutions preceding the current document have reflected or departed from Locke's thesis. (10 marks)
- b) By examining:
  - i) The right to be free of torture

ii) The requirement that a presidential candidate must be a Zambian citizen

**Discuss whether each specific change to the Constitution was truly people driven? (10 marks)**  
**(20 marks)**

## **PART C**

### **Question 4**

'...Hart's discussion of the "internal" aspect of law, constitutes a radical break with the thought of his positivist predecessors Austin and Bentham, and that of his near contemporary Kelsen... Law Hart points out, depends not only on the external social pressures which are brought to bear on human beings, but also on the inner point of view that such beings take towards rules conceived as imposing obligations. In the case of a society with no more than a set of primary rules, it is necessary for its members not only to obey these rules but also consciously to view them as common standards of behaviour, violations of which are to be criticised, such criticisms being regarded as legitimate both by the offender and other members... What is necessary he writes, is "there should be a critical reflective attitude to certain patterns of behaviour as a common standard, and that this should display itself in criticism (including self criticism) demands for conformity, and in acknowledgments that such criticisms and demands are justified, all of which find their characteristic expression in the normative terminology of 'ought', 'must', and 'should', 'right' and 'wrong'. Discuss in relation to:

- a) The so called gap between the 'is' and the 'ought' which is explained as the distinction prescribing a course of conduct and making a statement of fact. (12 marks)
  - b) The legality versus the legitimacy of stating in the Preamble to the Constitution that Zambia is a Christian nation (8 marks)
- (20 marks)**

### **Question 5**

Compare and contrast the following when constituted as systems of distributive justice:

- a) Rawls theory of justice as opposed to Bentham's utilitarianism (6marks)
- b) Marx's socialism as opposed to customary law (6marks)

Which **one** of the four is closest to our socio-legal system and which provisions in the Constitution would you say support your view? (8 marks)

**(20 marks)**

**END OF EXAMINATION**



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

**LEGAL RESEARCH METHODOLOGY L5709**  
**FINAL EXAMINATION**

**JULY 2014**

**INSTRUCTIONS:**

1. Answer **THREE (3) questions**, one from each Part.
2. Time allowed: **Three (3) hours** plus **five (5) minutes** to read through the examination paper.
3. This examination paper carries a total of **60 marks**.
4. Candidates **are not permitted to bring any materials** into the examination room.
5. Candidates must **not turn this page** until the invigilator tells them to do so.

## **PART A**

### **Question 1**

The Minister of Justice would like to carry out research to establish whether the process of preparing a draft constitution undertaken by the Annel Silungwe led Technical Committee on Drafting the Zambian Constitution resulted in a people driven constitution. He knows that you have just concluded a course in legal research methodology offered by the University of Zambia, School of Law. He contacts you to provide him with a framework to enable him to prepare a detailed research proposal, and successfully carry out the research. Draft the following sections for him:

- a) Statement of the problem (4 marks)
  - b) Research objectives (4 marks)
  - c) Research questions (4 marks)
  - d) Methodology (4 marks)
  - e) Limitations of the study (4 marks)
- (20 marks)**

## **PART B**

### **Question 2**

“Epstein and King raise an important issue in terms of the quality of legal research which has been, and continues to be, undertaken at law schools by both graduate students and academics. Their contention is that many law academics are simply untrained and lacking in experience when it comes to empirical research and the general rules applicable to such research. This is largely due to a deficiency in their education as graduate research students. Many academics are accordingly limited in the extent to which they can train future graduate students in the requirements of empirical research. This they rightly say is of considerable concern given the importance of legal research in informing policy and law reform” (Dobinson and Jones “Qualitative Legal Research’ in McConville *Research Methods for Law*, p.17)

**Discuss from the point of view of the University of Zambia Research Policy**

**(20 marks)**

### **Question 3**

Qualitative approaches are distinct from quantitative ones in that ‘Technically a “qualitative observation” identifies the presence or absence of something in contrast to “quantitative

observation” which involves measuring the degree to which some feature is present...’ Consequently, qualitative research does not depend on statistical quantification, but attempts to capture and categorise social phenomena and their meanings. (Webley ‘Qualitative approaches to empirical legal research’ in *Oxford Handbook of Empirical Legal Studies*, p.927) Discuss particularly in relation to designing a research project on law reform.

**(20 marks)**

## **PART C**

### **Question 4**

Write short notes on the following research concepts:

- a) Literature review (4 marks)
- b) Conceptual framework (4 marks)
- c) Doctrinal research (4 marks)
- d) Case study method (4 marks)
- e) Scientific/academic research (4 marks)

**(20 marks)**

### **Question 5**

Bias is often given as one of the reasons that social science research, including legal research, fails to meet the requisite standard of knowledge generation. Explain the concepts of bias and objectivity and their relevance for research. (4 marks)

Describe 5 distinct forms of bias that can arise in the research process and how each can be minimised (10 marks)

How would you avoid partiality in the following research topics?

- a. A study on the quality of legal education in Zambia (2 marks)
- b. A study on gender equality (2 marks)
- c. A study on customary land tenure (2 marks)

**(Total 20 marks)**

**END OF EXAMINATION**



**THE UNIVERSITY OF ZAMBIA**

**SCHOOL OF LAW**

**THE LAW OF CONTRACT – LPR 2920  
FINAL EXAMINATION**

**18<sup>TH</sup> JULY 2014**

**INSTRUCTIONS:**

1. Answer **FOUR (4)** questions, one from each Part.
2. Time Allowed: **Three (3) hours plus five (5) minutes** to read through the examination paper.
3. This examination paper carries a total of **60 marks**.
4. Candidates are **not permitted to bring any statutes** into the examination room.
5. Candidates must **not turn this page** until the invigilator tells them to do so.

## PART A

### Question 1

Tinashe is an antique dealer and one Saturday in June 2014 he put a Picasso drawing in the window of his shop with a sign which stated:

“Exceptional piece of 19th century – on offer for K5,000. If interested, call 099555121 or write to P.O. Box 21333, Ridgeway, Lusaka.”

Sepiso happened to notice the Picasso drawing as she walked past the shop and thought she would like to have it. Unfortunately, at the same time, she saw a friend across the hall and walked over to say hi. By the time the two were done chit chatting, Sepiso felt too lazy to walk back. So she wrote to Tinashe agreeing to buy the Picasso drawing for the stated price of K5,000. The letter was posted at 11:30 a.m. on Saturday.

Later on the same day, Natina visited Tinashe's shop and said she would like the Picasso drawing but was only willing to pay K4,000 for it. Tinashe replied that she would accept K4,500 for the Picasso drawing, but Natina insisted that she was only willing to pay K4,000; and she left the shop. On her way home however, Natina realised that K4,500 was actually a very good price for the Picasso drawing. She immediately wrote to Tinashe agreeing to buy it for that price; and her letter was posted at 12:30 p.m.

Just before closing time at 5 p.m., Mwansa came into Tinashe's shop and she also offered K4,000 for the Picasso drawing. This time, Tinashe agreed to sell the Picasso drawing at that price; and Mwansa promised to return the following Monday with the money.



On Monday morning, Tinashe received the two letters from Sepiso and Natina before Mwansa could arrive to pay and collect the Picasso drawing. Advise Tinashe as to his legal relations with Sepiso, Natina and Mwansa.

**(18 marks)**

## **PART B**

### **Question 2**

Discuss the rule of remoteness of damages, with reference to the following cases:

- *Hadley v Baxendale* (1854) 9 Exch 341;
- *Horne v Midland Railway* (1873) LR 6 CP 131;
- *Victoria Laundry (Windsor) Ltd v Newman Industries Ltd* [1948] 2 KB 528; and
- *Koufos V.C. Czarnikow Ltd (The Heron II)* [1967] UKHL 4.

**(14 marks)**

### **Question 3**

Discuss the concept of 'restraint of trade'. In your discussion, make reference to the cases of:

- *Fitch v Dewes* [1921] 2 AC 158;
- *Nordenfjelt v Maxim Nordenfjelt Guns and Ammunition Co. Ltd* [1894] AC 535; and
- *Scorer v Seymour Jones* [1966] 3 All ER 347.

**(14 marks)**

## **PART C**

### **Question 4**

Chipa is a security guard at the Ngozi Company Ltd. Although it was never part of his contract of employment, for many years Chipa has been paid a bonus for each recorded incident. The company is no longer as successful as

it was in the past, and it is no longer paying the bonus to Chipa. Chipa feels aggrieved as he has had a reduction in pay. He seeks your advice as to whether or not he is entitled to continue to receive the bonus payment. Advise Chipa.

(14 marks)

### Question 5

Mateyo is attending a wedding function at Chikokoshi Hotel. As he drives into the hotel's car park, he finds a boom gate and on it, he sees a sign which reads:

“All persons entering this car park do so at their own risk; and damage to persons or property is also entirely at their own risk. No responsibility or liability whatsoever will be accepted for losses as a result of damage to vehicles, their contents, moveable goods or to any persons however caused.”

After Mateyo reads the sign, he notices that he first has to insert money in the boom machine before it can open and let him drive through. Mateyo inserts the required K10 parking fee and the gate opens. Mateyo quickly parks and rushes into the hotel as he sees the bridal party motorcade approaching.

After spending a good four hours laughing and dancing, Mateyo leaves the wedding reception and returns to his car. As he approaches, he sees his car being vandalised by a group of three drunken youths. He also sees them pull his laptop and ipad from the car. Mateyo runs towards the youths and tries to stop them, but he gets injured instead; and the youths flee with his property. Mateyo is rushed to the nearest private hospital as he is bleeding profusely.

The next day, Mateyo returns to Chikokoshi Hotel and informs the manager of what happened; and that the hotel ought to compensate him. The hotel refuses to pay damages. Advise Mateyo as to what redress, if any, he may have against Chikokoshi Hotel.

**(14 marks)**

## **SECTION D**

### **Question 6**

Compare and contrast the common law rule of estoppel with the equitable rule of promissory estoppel.

**(14 marks)**

### **Question 7**

Write short notes on the protection given to a buyer or consumer through the following legislation:

- The Misrepresentation Act;
- The Sale of Goods Act; and
- The Competition and Consumer Protection Act.

**(14 marks)**

**TOTAL: 60 MARKS**

**END OF EXAMINATION**



# **THE UNIVERSITY OF ZAMBIA**

## **SCHOOL OF LAW**

### **LAW OF TORTS, LPR 2930**

#### **FINAL EXAMINATION**

**JULY, 2014**

#### **INSTRUCTIONS:**

- Students must answer a total of four questions, one from each part. Part A (Question One) is compulsory.
  - Time allowed: Three (3) Hours plus five (5) minutes to read through the paper.
  - This examination carries a total of 60 marks.
  - Candidates are not permitted to bring any statutes in the examination room.
  - Candidates must NOT turn this page until the invigilator tells them to do so.
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## PART A (COMPULSORY)

### Question One

Pleasure Land is an entertainment park owned and operated by MadeByFwebene Limited. One of the attractions offered is a ride on 'the Cobra', a notoriously frightening car ride which for part of its route travels underground. At the entrance to the Cobra ride there is a notice which states: "All possible precautions are taken in the interest of safety. However, people taller than 1.7 metres should not join in this ride." Big Joe is 1.8 metres tall, he decides that a difference of 0.1cm cannot make any difference and bends his knees as he passes the height checking device regulating entry into the Cobra. During the ride, the Cobra turns sharply into the underground route and as it turns, skids off the rail track and Big Joe suffers a blow to his head. Pretty and Handsome, employees of PremiumCare Limited, a first aid agency which operates at Pleasure land are immediately called to attend to Big Joe.

After 30 minutes of trying various techniques to resuscitate him, Pretty and Handsome call the local UNZA Hospital for reinforcement. At the Hospital, Big Joe is found to have suffered irreversible brain damage which may have been caused by either the blow to his head or the way in which he may have been treated by Pretty or Handsome. UNZA Hospital advises that there is a possibility that Big Joe's condition will worsen in future. MadeByFwebene Limited has been unable to explain why the Cobra skidded off the rail.

You are presently on vacation from UNZA and working at LegalEagle Advocates. Mr. Flashy Lawyer, the Managing Partner, is aware that you have just completed nine months of intensive training in the law of torts and asks for your views on this issue.

- (a) Briefly outline **ALL** the possible causes of action in tort that may arise from these facts.(5 marks)
- (b) Explain, with reference to applicable legislation and or decided cases, how **ONE** of the causes of action you have identified in (a) above can be pursued in the courts of law to enforce Big Joe's rights, clearly evaluating the likelihood of success of the action. (10 marks)

- (c) In your view, what legal remedies would be available to Big Joe, in the event that the courts of law find that he is entitled to succeed? Give reasons for your answer. (3 marks)
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## **PART B**

### **Question Two**

The case of *James Nyasulu and 2000 others v. Konkola Copper Mines Plc, Environmental Council of Zambia and Chingola Municipal Council 2007/HP/1286* was initiated in the Lusaka High Court by the Plaintiffs, who were residents of Chingola, and whose source of water is a stream in which the first defendant was discharging effluent from its mining activities. In considering the claims presented, the Court held, *inter alia* that:

There is a distinction between negligence where something escapes and does harm, and product liability where a product for consumption is released on the market and does harm...these are two different concepts..." (At J15-J16)

- (a) Do you agree that there is a distinction, or not? Give reasons for your answer. (4 marks)
- (b) In relation to the response you have given in (a) above, explain, with the aid of decided cases, how the two issues being distinguished in the quotation operate. (10 marks)

### **Question Three**

- (a) Discuss the origin, meaning and rationale for a 'tort'? (4 marks)
- (b) What is tortious liability? (4 marks)
- (c) With specific reference to decided Zambian cases, explain 'damages' and 'injunctions' as legal remedies in the law of torts generally. (6 marks)
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## PART C

### Question Four

Mwansa has just won a game of pool at the UNZA Students' Centre. As he returns to his seat, he is cheered on by friends, while his opponent Mutale slaps his shoulder in a hearty fashion to congratulate him on his victory. Mwansa was off balance at the time and tumbled over, injuring himself. Mwansa shouted at Mutale, "You loser, you did that on purpose, just wait and see!"

BaMudala, the Bar Manager at the UNZA Students' Centre, senses danger and moves to restrain Mwansa by his collar and drags him to his office. Mwansa resists violently, tries to punch BaMudala but misses. BaMudala manages to calm Mwansa and persuades him to remain in the office in order to avoid further trouble. Having left the office, BaMudala asks two security guards to ensure that Mwansa does not leave the ground floor room. Four hours later, BaMudala called the police. In the meantime, Mwansa slept in drunken stupor and was unaware that the two guards were there.

With the aid of decided cases, explain the following:

- (a) Whether or not any causes of action in tort are revealed by these facts. (4 marks)
- (b) Clearly outline whether the causes of action mentioned in (a) above will succeed or not. (10 marks)

### Question Five

With the aid of decided cases, discuss the rationale, operation and effectiveness of the following:

- (i) Contributory negligence (4 marks)
  - (ii) Prescription (2 marks)
  - (iii) Act of God (2 marks)
  - (iv) Fair comment (3 marks)
  - (v) *Ex turpi causa oritur non actio* (3 marks)
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## **PART D**

### **Question Six**

Beautiful Limited, a local constructing firm, has employed Lulu as a driver and KasKas as a salesperson. One day, KasKas has to call on a customer but because her car is being serviced, she asks Lulu to drive her to the customer's premises in Chilanga. Lulu agrees, but when they are in the car, Lulu tells KasKas that they will first call at Lulu's private house in Northmead to collect a suit and take it to the dry cleaners. Whilst on the way to the house, Lulu sees a patch of oil that has been spilt along Great Dust Road. Lulu then said to KasKas "let's see if this car can skid over there." Lulu then drove over the oil patch, the car skidded and lost control and eventually hit into a wall fence, severely injuring KasKas and damaging her wrist watch valued at K10, 000. KasKas wishes to commence an action in the Lusaka High Court.

Advise KasKas on the following:

- (a) What cause of action is disclosed by these facts? (7 marks)
- (b) Who are the possible parties to this cause of action and why? (7 marks)

### **Question Seven**

One day, while walking home, Anita trips and falls, damaging her knee. Several days later, while driving her car to work, she sees Linda crossing the road and brakes to avoid hitting into her. Unfortunately, due to the pain in her knee, she cannot fully press the brake pedal and, as a result, she runs into Linda. The collision occurs at a fairly slow speed and a normal person would only have suffered bruising as a result. Linda, however, has brittle bones and suffers two broken legs and a number of broken ribs. Linda is taken to the nearby UNZA Hospital, where, due to staff constraints, an office orderly causes an administrative mix up which leads to Linda having her right arm amputated.

Advise Linda on her legal rights and the likelihood of her succeeding with her claims in the courts of law. (14 marks)

**TOTAL EXAMINATION MARKS- 60**

**END OF EXAMINATION**

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**The University of Zambia**

**School of Law**

**Employment Law – LPR 3115**

**2013/2014 Academic End of Year Examinations**

**16 July, 2014**

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**Instructions**

1. Answer four (4) questions, one from each part.
  2. Time allowed is three (3) hours plus five (5) minutes to read through the examination paper.
  3. The examination paper carries a total of 60 marks.
  4. Candidates are not permitted to bring any texts into the examination room other than clean copies of the Employment Act Chapter 268, the Industrial and Labour Relations Act, Chapter 269 and the Minimum Wages and Condition of Employment Statutory Instruments No. 1, 2 and 3 of 2011.
  5. Candidates must not turn this page until the invigilator tells them to do so.
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## PART A

### Question One

John Smith, a British national, joined a Zambian bank, the African Merchant Commercial Bank (the “**Bank**”) as an accounts clerk in June 1997. In addition to the personal terms which John agreed with the Bank, his employment was regulated by a collective agreement which was concluded between the Bank and the Bankers Union of Zambia, to which he belonged.

In 2011, John was promoted to the position of manager and was sent to head the newly opened Livingstone branch. In June 2012, while he was still manager for the Livingstone Branch, John was suspended from his duties after the police arrested and charged him with a case of fraud against the Bank. The criminal prosecution before the court went on until June 2014 when he was acquitted. During the suspension John was not paid his wages and the Bank stated that while the criminal matter remained ongoing, it could not discipline John administratively for fear of prejudicing the criminal proceedings.

Upon his acquittal, the Bank decided to reinstate John without bringing any disciplinary charges against him. Coincidentally, on 1<sup>st</sup> July 2014, John Smith attained the retirement age of 55 years and was accordingly retired.

In 2010 the Bank had introduced a Senior Staff Retirement Scheme (“**the SSRS**”) pursuant to which a retiring senior employee would be offered a lump sum payment and monthly payments until death as retirement package. John Smith is also retired in accordance with the SSRS and the retirement package is accordingly effected in his favour.

On 15<sup>th</sup> July, 2014, John through his lawyers issued court process against the Bank stating that, whereas his retirement was lawful, the settlement of the retirement benefits under the SSRS was unlawful by reason of the fact that the said SSRS was not an

approved Pension Scheme in terms of paragraph 8(2) of the Minimum Wages and Conditions of Employment (General) Order, 2011, Statutory Instrument No. 1 of 2011 (“SI No. 1”).

John Smith claims the following relief:

- (i) an order for payment of 3 months salaries for each of the 10 completed years of service as his retirement benefits in accordance with paragraph 8(1) of SI No. 1;
- (ii) an order for payment of salaries for the period he was on suspension; and
- (iii) an order for payment in lieu of all the leave days that accrued during his suspension.

Using appropriate authorities, render an opinion to John on not only the three issues above but also on all other legal issues that this case raises.

**18 Marks**

## **PART B**

### **Question Two**

Mike and Ross are the two sole partners of a firm named M & R Legal Practitioners. The firm has only one employee, Paul employed on an oral contract. Marc is interested in purchasing the firm and enters into negotiations with Mike and Ross, both of whom are keen to sell. A price is agreed, but Marc states that he does not want Paul to work for the firm as Marc intends to bring in his own employees. Accordingly, a day before the sale of the firm goes ahead, Mike and Ross dismiss Paul with immediate effect. The sale goes ahead and Marc becomes the new sole partner and owner of M & R Legal Practitioners.

Using appropriate authorities, render an opinion to Paul.

## **14 Marks**

### **Question Three**

Mr Lumbalesa Katwishi is employed as a driver by Natasha Chola under an oral contract to drive one of her cars as a metered taxi. Lumbalesa keeps the car at his house and has a right to decide times to attend to his duties but the total number of hours the car should be on the road in a 6 days working week should not exceed 60.

Lumbalesa is obliged to cash at least K480.00 per week and his monthly salary is K400.00. However, in addition to his monthly salary, Lumbalesa is entitled to 20% commission for the cashing in excess of his weekly target of K480.00.

One day, while Lumbalesa was driving the car, he crashed into a parameter wall-fence of a private clinic after the brakes failed. The car was extensively damaged and had to be repaired at a great cost under a comprehensive insurance cover.

Natasha instantly dismisses Lumbalesa for breach of contract. Natasha argues that Lumbalesa was negligent because had he acted as a professional driver he purported to be when he was employed, he would have realised much earlier that the brakes needed attention and would accordingly have caused them to be attended to and thereby avoiding the accident. Natasha also refuses to pay for the repair of the parameter wall-fence arguing that that was not her responsibility but of Lumbalesa.

Using the appropriate legal authorities, fully advise Lumbalesa.

## **14 Marks**

## PART C

### Question Four

Zibazako Chileshe was employed on an oral contract as a cashier in a family shop run by Beauty Maluba for three years earning K320 per month. One day a police officer from a local police station walked into the shop and said to Zibazako:

***“You see Ziba! There is life after prison after all. I am happy you are fitting well back into society. I hope you will now marry so that you do not fall for the temptation of committing another rape and go back to prison.”***

Beauty overhears the conversation and is terrified. After the police officer left the shop, Beauty interrogated Zibazako who then confessed that he had served 12 years imprisonment for raping his former employer. He assured Beauty not worry as he received the Lord while in prison. Beauty instantly dismisses Zibazako.

Fully advise Zibazako as regards the following:

- (a) the legality or otherwise of the actions taken by his employer;
- (b) what cause of action he has against his employer, if any;
- (c) what remedies he would be entitled to, if any; and
- (d) what the appropriate forum is, if he decides to issue process

**14 Marks**

### **Question Five**

The law on redundancy in Zambia is extremely problematic. Discuss.

**14 Marks**

### **PART D**

#### **Question Six**

Article 4 of the ILO Convention 158 which Zambia ratified on 9<sup>th</sup> February, 1990 provides:

***“The employment of a worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.”***

Discuss how this provision can be reconciled with the decision in the case of ***Kamayoyo v. Contract Haulage (1982) ZR 13*** and the Zambian statutory law right of an employer to terminate a contract of employment by notice.

**14 Marks**

#### **Question Seven**

Carl Max in his theory on industrial relations argued that the concept of equal bargaining power is a fallacy with respect to a contract of employment. Discuss 4 instances in which Zambian statutory and case law attempts to address this fallacy.

**14 Marks**

**End of Examination**

## PART A

1. (a) Five years ago, Chief Mfumu died. Following his death, there has been an increase in land disputes in Mfumu chieftdom.

Kiki, an investor from Barotseland, is building a cattle farm on a 200 hectares land that was allocated to him by the current chief Mfumu. Kiki has fenced off the land and has begun a process to convert the land to leasehold tenure. The allocation of the land is contested by Tiki, a local farmer who claims that the land in issue was all ocated to his late father by the late chief Mfumu. Tiki claims that as a result of fencing the villagers are now unable to gather firewood, fruits and plants, graze their animals as their families have always done.

You are an assistant advocate at the Legal Aid Chambers. This afternoon Mr Tiki has called on you for advice on what has transpired.

Advise him.

[8 MARKS]

- (b) The English concept of land ownership does not present itself with much complications or misconceptions as the African concept of land ownership or holding.

Discuss the various views that have been advanced on the nature of land holding under African Customary tenure. Your discussion should also bring out the similarities and differences between the English concept of landholding and the African Customary tenure.

[10 MARKS]

## PART B

2. Before there existed any public control over the use and development of land, land owners were free to use their land in any way they wished subject only to any limitations in their grant under which they held it and to obligations placed upon them at Common Law.

Today most societies require not only that this freedom be restricted for the public good but also the use to which land is put should be determined by the long term interests of

# **THE UNIVERSITY OF ZAMBIA**

**SCHOOL OF LAW**

**LAND LAW---LPR 3920**

**FINAL EXAMINATION**

**JULY, 2014**

## **INSTRUCTIONS:**

- **STUDENTS MUST ANSWER A TOTAL OF FOUR QUESTIONS, ONE FROM EACH PART. PART A (QUESTION ONE) IS COMPULSORY**
- **TIME ALLOWED: THREE (3) HOURS PLUS FIVE (5) MINUTES TO READ THROUGH THE PAPER**
- **THIS EXAMINATION CARRIES A TOTAL OF 60 MARKS**
- **CANDIDATES ARE NOT PERMITTED TO BRING ANY STATUTES IN THE EXAMINATION ROOM**
- **CANDIDATES MUST NOT TURN THIS PAGE UNTIL THE INVIGILATOR TELLS THEM TO DO SO**



the community as a whole rather than as a consequence of the incidence and spread of individual land ownership.

With the aid of case law discuss this statement within the general framework of the law relating to planning in Zambia. [14 MARKS]

3. In *Naik and Naik motors Ltd v. Chama* (1985) Z.R 227, the Supreme Court observed, *inter alia*, that the purpose of the Rent Act as well as the Landlord and Tenant (Business Premises) Act was for the protection of tenants.

With the aid of case law analyse and discuss the protection a tenant enjoys under both the Rent Act and the Landlord and Tenant (Business Premises) Act. [14 MARKS]

### PART C

4. (a) In *Kayoba and Another v. Ngulube and Another* [2003] Z.R 182, the Supreme Court observed and commented thus:

“...in purchasing real properties parties are expected to approach such transactions with more serious inquiries to establish whether or not the property in question has no encumbrances. Buying real property is not as casual as buying household goods or other personal property.”

With the aid of case law, discuss the essential features of the doctrine of notice clearly bringing out the forms in which notice may take under the doctrine. [7 MARKS]

(b) Ian Mpweto is a law student at the recently opened Paul Mushindo University in Chinsali. You happen to meet Mpweto at the Student Centre and he is fascinated with your mastery of legal concepts. Mpweto tells you that he has heard of the concept of the right or power of “*eminent domain*” but does not know whether or not this power exists under the *Zambian legal regime*.

Explain to Mpweto the meaning of the power of *eminent domain* and with the aid of case law discuss the legal regime regulating the power or right of *eminent domain* in Zambia clearly bringing out the principles established in each case. [7 MARKS]

5. (a) You are a research assistant to Professor Sangwapo who is writing a case book on Land law. Professor Sangwapo has requested you to contribute a section on the case law relating to caveats in Zambia.

Proceed.

[7 MARKS]

(b) Although property rights in relation to land are usually held by one person only at a time, it is, of course, possible for two or more persons to own land together.

Discuss the two types of co-ownership bringing out the essential features of each and the distinction between the two.

[7 MARKS]

#### PART D

6. (a) A contract for sale of land or any interest in land will be unenforceable by action unless there is either a sufficient memorandum or note in writing or a sufficient act of part performance.

Discuss the above statement with the aid of case law.

[5 MARKS]

(b) Compare and contrast:

(i) A lease and a licence

(ii) Tenancy at will and a tenancy at sufferance

(iii) Forfeiture or re-entry and compulsory acquisition.

[9 Marks]

7. (a) You are the legal counsel for the Bank of Barotseland. Your new managing director, Mr. Reza, would what to know what a mortgage is, the types of mortgages and the remedies available to the bank in case of default on a mortgage.

Advise him.

[7 MARKS]

(b) Identify the institutions responsible for land administration, delivery and allocation in Zambia clearly pointing out the roles played by each institution.

[7 MARKS]

END OF EXAMINATION



# **THE UNIVERSITY OF ZAMBIA**

## **SCHOOL OF LAW**

### **CIVIL AND CRIMINAL PROCEDURE LPR3952 END OF YEAR EXAMINATION**

**24<sup>th</sup> July 2014**

#### **INSTRUCTIONS:**

1. Answer **FOUR (4) questions**, one from each Part.
2. Time Allowed: **Three (3) hours plus five (5) minutes** to read through the examination paper.
3. This examination paper carries a total of **60 marks**.

Candidates are permitted to bring clean copies of the following statutes into the examination room:

- i) **Subordinate Courts Act, Cap 28 of the Laws of Zambia;**
  - ii) **State Proceedings Act, Cap 71 of the Laws of Zambia;**
  - iii) **Criminal Procedure Code, Cap 88 of the Laws of Zambia;**  
**and**
  - iv) **Penal Code, Cap 87 of the Laws of Zambia.**
4. Candidates must **not turn this page** until the invigilator tells them to do so.

## **PART A**

### **Question one (Compulsory)**

Julian Zombe, a 2<sup>nd</sup> year student in the school of education comes to you for legal advice. She wants to take legal action against her boyfriend Isaac Chipulu. The couple went out to Northmead to have some drinks with other mutual friends on 4<sup>th</sup> July 2014. She says while at Northmead, she was greeted by a male patron at the club upon which Isaac demanded to know why the man had greeted her. She says when she failed to give a satisfactory response to Isaac, he punched her in the face and caused her a deep cut across her forehead. She says, the following day she visited Victoria Hospital where she spent a sum of K600.00 on medical expenses. She further says she is very distraught by the incident and would like to teach Isaac a lesson.

- (a) Advise Julian Zombe on the likely causes of action against Isaac Chipulu and recommend the form of the proceedings she should commence.

8 Marks

- (b) Based on your recommendation in (a) above, explain the steps she will take to commence the proceedings.

10 Marks

**18 Marks**

## **PART B**

### **Question two**

You are an advocate in the Attorney General's Chambers. You have been presented with a Judgment in default dated 25<sup>th</sup> June 2014 in favour of John Bwalya for the sum of K20, 000.00 being the debt due to John Bwalya for the supply of stationery to the Ministry of Education. On perusal of the file, you notice that although your office was duly served with the Default Writ of Summons on 5<sup>th</sup> June 2014, no appearance was entered on behalf of the Defendant. You also discover a letter dated 2<sup>nd</sup> June 2014 in which the Plaintiff agreed to receive payment of the debt on 31<sup>st</sup> July 2014 in response to letter written by the Permanent Secretary requesting for a grace period within which to pay the debt.

**Using relevant authorities, explain the action you will take on behalf of the Attorney General.**

**14 Marks**

### **Question three**

You have been retained by Betty Mususku, the Plaintiff in a matter that is pending before the Subordinate Court. She hands you a copy of a default writ of summons which she filed before the Subordinate Court claiming the sum of K29, 500.00, refund of medical expenses. She says she incurred the expenses as a result of a road traffic accident in which she was run over by Motor Vehicle, Registration Number ABC 1234, owned by Jane Kanwa, who was also the driver of the vehicle on the fateful day. She explains that in addition to the medical expenses, she incurred, she would like Jane Kanwa to compensate her for loss of earnings. This is because she suffered permanent damage on her right thumb. Betty says that as a result of the said accident, she is not able to knit anymore. Knitting is her main source of income. She wants your help in proceeding with the case.

**Write a legal opinion explaining the steps you will take in prosecuting your client's case going forward.**

**14 Marks**

## **PART C**

### **Question four**

Discuss the powers of the High Court when determining a case stated by the Subordinate Court highlighting the differences between the procedure under case stated and Article 28(2) of the Constitution of Zambia. **14 Marks**

### **Question five**

You act for John Mamba who is being tried by the Subordinate Court for the offence of defilement of a child, contrary to Section 138 of the Penal Code, Cap 87 of the Laws of Zambia. When the matter came up for hearing on 26<sup>th</sup> June 2014, you applied for bail which was denied by the Court. The magistrate court refused bail based on the submission by the Prosecutor that the accused is likely to continue defiling the child as he is the father of the child and that the accused and the child live in the same house. Your client is dissatisfied with the ruling of the court.

**Write a reasoned opinion to your client concerning his rights. In the opinion, explain the steps you will take on behalf of your client following the denial of bail by the magistrate court. 14 Marks**

## **PART D**

### **Question six**

Discuss the rule against "forum shopping" and its practical application in the Zambian courts. **14 Marks**

### **Question seven**

Discuss three safeguards that the Criminal Procedure Code puts in place to protect the constitutional rights of an accused person during criminal proceedings. **14 Marks**



# **THE UNIVERSITY OF ZAMBIA**

## **SCHOOL OF LAW**

### **ADMINISTRATIVE LAW LPU2962 END OF YEAR EXAMINATION**

**1<sup>st</sup> August 2014**

#### **INSTRUCTIONS:**

1. Answer **FOUR (4) questions**, one from each Part.
2. Time Allowed: **Three (3) hours plus five (5) minutes** to read through the examination paper.
3. This examination paper carries a total of **60 marks**.
4. Candidates are permitted to bring clean copies of **the following** into the examination room:
  - i) **Constitution of the Republic of Zambia, Cap 1 of the Laws of Zambia;**
  - ii) **Order 53 of the Rules of the Supreme Court of England, 1999 (White Book); and**
  - iii) **The Commission for Investigations Act, Cap 39 of the laws of Zambia.**
5. Candidates must **not turn this page** until the invigilator tells them to do so.

## **PART A**

### **Question 1**

You have been retained by Teka Mining company to represent them in a matter in which their license to import explosives has been cancelled by the inspector of Mines. Your client's managing director, Mrs. Joy Tembo, says the company was not given any reasons for the cancellation nor was the company invited to make any representations before the decision to cancel the licence was made. The managing director hands you a cancellation notice which shows that it was issued pursuant to section 5(3) of the Explosives Act, Cap 115 of the Laws of Zambia. Mrs. Tembo says the decision will affect their company adversely as they use explosives for mining.

#### **Relevant provisions in the Explosives Act, cap 115 of the Laws of Zambia**

##### **Section 5(3):**

An Inspector of Explosives and an Inspector of Mines shall also have the power to issue, refuse, suspend or cancel any licence, authorisation, sanction or permit for which provision is made by or under this Act, and to give notice thereof to the party affected by such refusal, suspension or cancellation.

##### **Section 6(1)**

Any person aggrieved by any refusal, suspension or cancellation made under sub-section (3) of section *five* (other than a refusal, suspension or cancellation by the Chief Inspector under that sub-section) may appeal in writing, within fourteen days of receiving notice of such refusal, suspension or cancellation, to the Chief Inspector who shall, after considering any written or oral representations which such person may wish to make in that behalf, give his decision thereon.

**Advise your client concerning available mechanisms for redress. 18 Marks**



## **PART B**

### **Question 2**

You are a High Court Judge sitting to determine an application for leave to apply for Judicial Review filed by Joyce Maambo. The applicant seeks an order of certiorari to quash the decision of the President of the Republic of Zambia to gazette John Chumbu as Senior Chief Mulopa of the Chiipele village. The applicant alleges that she is the lawful heir to the throne, being the niece to the immediate past chief as tradition demands. The gazette by the president is dated 15<sup>th</sup> January 2014.

In addition to the prescribed Notice of Application for leave and accompanying Affidavit, Joyce has also filed an application seeking your leave to file the application outside the prescribed 3 months as stated in Order 53 of the Rules of the Supreme Court of England, 1999. In her affidavit in support of the application to extend time, she states that she was unable to file the application immediately as she had been assured by the District Commissioner, Isaac Mulopwe, that the matter is being resolved. This was by letter dated 17<sup>th</sup> March 2014 written by the District Commissioner in response to her letter dated 22<sup>nd</sup> January 2014 in which she complained over the decision of the President to Gazette John Chumbu as Senior Chief Mulopa. She has exhibited both letters in her affidavit.

**Write your reasoned ruling on the application for leave to apply for judicial review out of time.**

**14 Marks**

### Question 3

You are the Legal Counsel for Lusaka City Council. You have been served with a Court order granting Jane Musukwa and John Mpoto leave to commence judicial review proceedings. The Affidavit in support of Application served with the Order and Notice of Application shows that the Applicants are owners of 2 Bars in Kalingalinga Compound. They are seeking an order of certiorari from the court to quash the decision of the Lusaka City Council, to grant a bar liquor license to XYZ entertainment. They allege that the decision by the Council to award the bar liquor license to XYZ Entertainment was unlawful on the following grounds:

- a) that the said XYZ entertainment is owned by a rich man who is importing his liquor from Zimbabwe and selling it cheaply in the compound thereby denying the applicants a fair opportunity to compete; and
- b) that the grant of the bar licence to XYZ entertainment would be a threat to public order on the ground that there are already 2 existing bars within the locality.

You have been instructed to apply to the court to set aside the Ex Parte Order for leave to commence judicial review proceedings. **Write your arguments in support of the application.**

**14 Marks**

#### Relevant Legal provisions

Section 22(2) of the Liquor Licensing Act, Chapter 167 of the Laws of Zambia.

22(2) A Board may refuse to grant or renew any licence ....upon any of the following grounds:

(e) In the case of a bar license-

- (i) that, upon evidence given by the police, the Board is satisfied that the granting or renewal of such licence would be detrimental to public order; or
- (ii) where the application is for a new licence, that the applicant has not satisfied the Board that, having regard to all the circumstances of the case including the number of existing on-licences in the area concerned, there is a public need for such licence.

## **PART C**

### **Question 4**

Discuss the concept of discretion in administrative law.

**14 Marks**

### **Question 5**

Zambia's administrative law is largely a product of its constitutional development. Discuss.

**14 Marks**

## **PART D**

### **Question 6**

Critically discuss the role of the Zambian Parliament in controlling exercise of administrative authority.

**14 Marks**

### **Question 7**

Compare and contrast judicial and non-judicial means of control of administrative authority in Zambia.

**14 Marks**

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

**2013/2014 SECOND HALF YEAR FINAL EXAMINATION**

**LPU 4092**

**INTERNATIONAL HUMANITARIAN LAW**

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**INSTRUCTIONS:**

- a) PART A is compulsory and carries 18 Marks.
- b) Answer one question from each of the other parts. Each question is 14 marks.
- c) You are allowed to refer to clean and unmarked copies of the Four Geneva Conventions of 1949, the Two Additional Protocols of 1977, the Hague Conventions, the Rome Statute, the ICTY and ICTR Statutes and the United Nations Charter.
- d) No other statutes or reference materials are allowed for this examination.
- e) You have five minutes to read through the paper and a total of three (3) hours within which to answer all the four questions.
- f) Clearly indicate the question numbers for all questions attempted.
- g) Clearly indicate your computer number on all answer scripts.

## **PART A: QUESTION ONE COMPULSORY**

Zomba is a country in the southern region of the African continent. It was colonized by the British until 1981 when it got its independence under a multi party system of governance with Mr Ndimbe Mano as the first black president. The British also had a political party that regularly participated in the local government and general elections. In the 1986 elections, the British party won four seats in parliament. In order to ensure fast development but also threatened by possible re-colonisation, the President, Mr Mano, decided to turn the governance system into a one party participatory democracy where citizens voted for him every five years. With so much power in his hands, the President became a tyrant. There were rampant human rights abuses from all sections of government. There was an attempted coup in 1995. The president reacted by recruiting child soldiers so that in whatever event, he had a cadre of loyal army personnel to himself. The judicial system fell into disarray as judges were hired and fired at the will of the president. There were extra-judicial killings and no one was allowed to complain. There were rumours that physical attacks on large portions of the population were organized or at least had the blessings of the president. Clearly, the country was in a crisis and something had to be done. Some NGOs teamed up and tried to challenge the president but their leaders were all imprisoned. Some people within the nation and among the NGOs had heard about the Rwanda Tribunal and the Yugoslavia Tribunal and were contemplating taking a complaint before either of the two. They were also aware that the International Criminal Court had been created. Not knowing their best course of action, they rush to you for help.

Advise them on the following issues:

- a) The jurisdiction of the ICTY, ICTR and that of the ICC.
- b) The ways in which cases come before the ICC?
- c) The principles of criminal law relied upon by the ICC.
- d) The best course of action for the people of Zomba and why.

**18 Marks**

### **Section B**

#### **QUESTION TWO:**

An armed conflict is said to be a dispute that escalates into the use of armed force by the parties to the dispute. International Humanitarian Law recognizes three situations of war as armed conflicts.

Identify and briefly discuss the three situations referred to above highlighting the applicable legal regime in each case. How would you classify transnational armed conflicts and why? **14 Marks**

### QUESTION THREE

The Weapons Convention of 1980 has five protocols annexed to it.

- a) Clearly identify the five protocols stating what was added to the use of weapons in warfare by each protocol.
- b) Discuss the importance of the Ottawa Convention of 1997 in the regulation of the use of weapons? **14 Marks**

### PART C

### QUESTION FOUR

The four Geneva Conventions provide protection at two levels. Identify the two levels stating the reasons why such protection should be accorded.

With the help of relevant case and statutory authorities, outline the protective regime as contained in the 3<sup>rd</sup> Geneva Convention of 1949. **14 Marks**

### QUESTION FIVE

International Humanitarian Law is said to be a passive law. Discuss this statement showing the relevance of this body of law in modern warfare. **14 Marks**

### PART D

### QUESTION SIX

The ICJ in its **Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons** (ICJ Reports 1996 paragraph 78) stated that the parties to a conflict must always strike a balance between military necessity and humanitarian considerations.

- a) With the help of suitable case and statutory authorities, discuss the principles of international humanitarian law established for ensuring the achievement of this balance.
- b) What is the status of these principles? What does this mean?

**14 Marks**

### QUESTION SEVEN

Common article 3 of the 1949 Geneva Conventions outlaws discrimination of any kind for persons not taking part in hostilities. Paragraph 1 lists four acts that are specifically prohibited.

With the help of suitable case and statutory authorities, analyse the said prohibitions. **14 Marks**

*End of Examination*