

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

2019/2020 ACADEMIC YEAR

LPR 2910 LEGAL PROCESS AND LEGAL WRITING
LPR 2920 THE LAW OF CONTRACT
LPR 2930 LAW OF TORTS
LPR 3115 EMPLOYMENT LAW
LPR 3920 LAND LAW AND PROPERTY RELATIONS
LPR 3930 COMMERCIAL LAW
LPR 3940 FAMILY LAW AND SUCCESSION
LPR 3952 CIVIL AND CRIMINAL PROCEDURE
LPR 4155 ALTERNATIVE DISPUTE RESOLUTION
LPR 4930 BUSINESS AND CORPORATE LAW
LPR 6130 EMPLOYMENT LAW
LPR 6530 COMMERCIAL LITIGATION
LPR 6550 GENERAL PRINCIPLES OF CONTRACT DRAFTING
LPU 2940 CRIMINAL LAW
LPU 2951 CONSTITUTIONAL LAW
LPU 2962 ADMINISTRATIVE LAW
LPU 3085 GENDER AND THE LAW
LPU 3911 LAW OF EVIDENCE
LPU 3975 HUMAN RIGHTS LAW
LPU 4041 INTERNATIONAL LAW
LPU 4061 INTERNATIONAL TRADE LAW

LPU 4072 INVESTMENT LAW

LPU 4085 ENVIRONMENTAL LAW

LPU 4165 INTELLECTUAL PROPERTY LAW

LPU 6420 COMPARATIVE CONSTITUTIONALISM IN AFRICA

LPU 6430 ELECTIONS AND ELECTRAL SYSTEMS IN AFRICA

LPU 6440 AFRICAN HUMAN RIGHTS LAW



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

LEGAL PROCESS AND LEGAL WRITING - LPR- 2910

END OF YEAR EXAMINATION

MONDAY 21st DECEMBER, 2020

TIME: 14:00-17:00 HRS

VENUE: SPORTS HALL

INSTRUCTIONS:

1. Answer **Four 4 Questions**.
2. The Examination is divided in two parts; **PART A** and **PART B**. **PART A** is Legal Process and **PART B** is Legal Writing. Candidates must complete **BOTH PARTS** of the Exam. **Question 1 in PART A** and **Question 4 in Part B** are both compulsory. In addition to completing the compulsory questions, candidates must answer **one (1) other question in Part A** and **one other question in PART B**.
3. Time Allowed: **Three (3) hours**.
4. The examination carries a total of **60 Marks**.
5. Mobile telephones, tablets or any other form of computing or electronic instruments are **not** allowed into the examination room.
6. Candidates are **permitted to bring** the Constitution of Zambia 1991 (including all amendments) in the examination.

PART A: LEGAL PROCESS

Question 1 (COMPULSORY)

- (i) You are a Legal Researcher in the Ministry of Justice. The newly appointed Minister of Justice is preparing to appear before the Parliamentary Select Committee on Justice and Law Reform and he requests your legal opinion on the proposition that “Laws in Zambia must be based on and guided by Christian morals and the Bible, since Zambia was declared a Christian nation”.

Prepare a reasoned opinion for the Minister to respond to Parliament on what considerations it should take into account when promulgating laws in this context.

[10 Marks]

- (ii) As a member of the international community Zambia regularly participates in promulgation of international protocols and treaties on a variety of issues such as climate change, prevention of international money laundering and proliferation of certain type of weapons of war. In 2015 the Zambian Government ratified a *Protocol on the Prevention of Global Pandemics* and committed itself to be bound by the protocol. The Government’s only follow up action since the ratification was the preparation of a Policy Framework and a National Strategy.

Following the outbreak of the Corona Virus Pandemic (Covid -19) in late 2019 which has claimed many lives in Zambia, a prominent and outspoken Zambian activist Mr Yalita Fyaluchi sues the Zambian Government in the High Court for breaching international law and specifically failing to adhere to the *Protocol on Prevention of Global Pandemics*.

You are a researcher for the Hon. Justice Bythebook Mwale. With the aid of authorities, where possible, prepare a short brief for the Hon. Justice on the prospects of success of Mr Yalita Fyaluchi’s lawsuit against the Government.

[8 Marks]

[Total 18 Marks]

Question 2

Your friend Maurice did his legal studies from France. He is eager to learn about the Zambian legal system.

With the aid of authorities briefly explain to him the following attributes and/or legal concepts followed and/ or practiced in the Zambian legal system:

- i. Adversarial legal system.

[8 Marks]

- ii. Natural Justice in the legal context.

[4 Marks]

[Total Marks 12]

Question 3

- a. In *Abel Banda v. the People* (1986) Z.R. 105 (S.C), the Supreme Court held that it should, in some instances, abide by its own erroneous decisions.

Explain the court's reasoning and explain whether the position taken in *Abel Banda* is consistent with the Zambian Constitution.

[8 Marks]

- b. Discuss four ways in which the Constitutional Amendment of 2016 altered court structure and hierarchy in Zambia.

[4 Marks]

[Total 12 Marks]

PART B: LEGAL WRITING

Question 4 (Compulsory)

Pedophile Shamaali, aged 79, is a wealthy cattle farmer of the Ila tribe of Namwala District. Pedophile is married to six (6) women whose ages range from 19-70. While touring his vast farm in his Landcruiser in August, he spotted a pretty girl drawing water from one of his many handpumps on the farm. Upon making enquiries, Pedophile was informed that the girl is named Mutinta and is the adolescent daughter of one of his farm labourers called Hungry Man. Pedophile called for Hungry Man and offered to pay a very hefty dowry for him to marry Mutinta. Hungry Man convinced Mutinta that this union was her family's ticket to the good life. Mutinta tried to resist as she had just turned 13 and intended to continue with her studies at Nico Girls Secondary School but her father insisted that according to the Ila tradition, the moment a girl reaches puberty, she can be married off. On September 1, 2020 Pedophile settled the dowry by giving Hungry Man 200 herds of cattle, a brand-new Hino truck and a farm.

Pedophile took Mutinta as his seventh wife and had carnal knowledge of her on 2 September, 2020. Mutinta immediately conceived. During a routine medical examination at Namwala Hospital she confided in the nurse about the sexual contact she had with Pedophile. The nurse reported the

matter to the police. Hungry Man heard about the impending prosecution and vanished. Pedophile was arrested the following day but released on police bond the same day. The local prosecutor, Mozo Muzumu, is determined to ensure that Pedophile serves time in prison. Pedophile hired Counsel Kelenka as his lawyer to defend him in this matter before your court.

At the trial, Counsel Kelenka argued before your court that Pedophile could not be convicted of defilement because he had carnal knowledge of his wife after he had satisfied all the traditions of the Ila custom of marriage. Kelenka cites the Republican Constitution and the Local Courts Act to support his argument that customary law is recognized as a source of law in Zambia. Kelenka further submitted that Pedophile's custom permits him to marry and have carnal knowledge of a girl below the age of 16 provided that she has attained puberty and that he has married her in accordance with the Ila custom.

On the other hand, Mozo Muzumu insists that customary law is only upheld where it does not violate good conscience or any written law. He further argues that Pedophile cannot hide behind custom when he has violated a statutory provision of the Penal Code, Chapter 87 of the Laws of Zambia which enacts under section 138 (1) as follows:

138. (1) Any person who unlawfully and carnally knows any girl under the age of sixteen is guilty of a felony and is liable to imprisonment for life.

You are Resident Magistrate in Namwala District. You have listened intently to both lawyers on opposing sides and have read their submissions.

With the aid of authorities render your reasoned judgment. Will you convict or acquit Pedophile?

[Total 18 Marks]

Question 5

- (a) Explain what you understand by Plagiarism and why is plagiarism frowned upon?

[2 Marks]

- (b) List four (4) ways of how to avoid plagiarism in our writing.

[2 Marks]

- (c) What is a citation and what information does it a full citation contain?

[4 Marks]

Give an example of a full citation of a book using the Chicago Referencing Style.

[4 Marks]

[Total 12 Marks]

Question 6

Bryan Garner in his book *Legal Writing in Plain English* advocates for planning one's paper before beginning to write. Garner states that planning methods can be separated into two broad categories:

- (i) Visual plans (mind maps) such as a Spider diagram or a whirlybird; and
- (ii) Linear plans/bullet points.

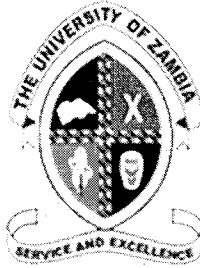
- (a) Briefly state four reasons why it is important to plan your paper before embarking to write.

[4 Marks]

- (b) Garner proceeds to cite Betty Sue Flowers' works on this topic. Discuss the four-step process of writing using the hypothetical characters as developed by Betty Sue Flowers, formerly of the University of Texas.

[8 Marks]

[Total 12 Marks]



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

THE LAW OF CONTRACT – LPR 2920

END OF YEAR EXAMINATIONS – DECEMBER 2020

DATE: 23rd December 2020

TIME: 14:00 – 17:00

VENUE: Library Basement

INSTRUCTIONS:

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

Question One

- (a) On the 1st December 2020, Pilato saw an advertisement in the *Daily Observer Newspaper* by Raymond Car Limited advertising for offers to be made for a second-hand Prado car. Believing that the Prado will assist him with his business, Pilato responded to the advert by sending a WhatsApp message to the phone number on the advert to enquire about the Prado. On the same day he received a reply from Sakhile who informed him that Raymond Car Limited believed the car was worth four hundred thousand Kwacha (ZMW400,000.00).

Pilato replied to Sakhile's message and offered three hundred thousand Kwacha (ZMW300,000.00) for the Prado. Sakhile received the message but did not respond. Pilato then sent another message stating he will make a bank transfer and will come pick up the car by the 4th December 2020. Sakhile does not respond to this message either.

Pilato makes a bank transfer of ZMW300,000.00 to Raymond Car Limited on the 4th of November 2020. When he went to collect the car, Sakhile told him that the car was sold on the 3rd December 2020 to Kaoma and that his payment will be refunded. Pilato is upset because he believes he has lost out on a car of great value.

With the aid of relevant authorities advise Pilato on the legal position arising from the above facts. **[12 Marks]**

- (b) Discuss the main principles established in the case of *The Rating Valuation Consortium and Another v. Lusaka City Council and Another* (2004) Z.R 109 (S.C). **[6 Marks]**

Total [18 Marks]

PART B

Question Two

- (a) On 4th October 2020, Domingo buys a ticket on CJC Bus Services Limited to travel from Lusaka to Kitwe to see his fiancée. When he pays for his trip, he is given a ticket. He was also given a receipt. The back of the receipt contains printed conditions that exclude liability for all negligence on the part of the bus company and its employees or agents.

Moses, arrived at the bus station in Lusaka 30 minutes before departure. He was not given a receipt. He asked for a copy of the conditions but was told by the staff that there was shortage of copies and one could not be found. Moses boarded the bus without having seen the conditions. During the trip to Kitwe, the bus was involved in an accident caused by the negligence on the part of the driver who was over-speeding. Both Domingo and Moses are injured and they both lose their bags that are stolen by by-standers. The bus company denies any liability.

With the aid of relevant case law, advise both Domingo and Moses on their legal position. **[9 Marks]**

- (b) Compare and contrast the decisions of Lusaka City Council and National Airports Corporation v Grace Mwamba and 4 Others SCZ Judgment 21 of 1999. and Muliwana Muliwana v Lusaka City Council and Christopher Mulala SCZ Judgment 1 of 2002.

[5 Marks]

Total [14 Marks]

Question Three

- (a) Mwaka and Billy a businessman from Malawi agree to enter into a contract for the sale of toy aeroplanes in Zambia. The two sign a document in which they agree that Billy will pay Mwaka K40,000.00 for the toy aeroplanes. Billy does not know that to sell these products in Zambia, one must apply to obtain a permit to sell and buy toy aeroplanes. This permit was not applied for, even though Mwaka knew that this has to be done. After receiving the money, Mwaka refuses to give Billy the products. Billy wants to sue Mwaka for breach of contract.

With the aid of appropriate authorities advise Billy on his legal position and any remedies that might be available to him. **[9 Marks]**

- (b) Discuss the principle of promissory estoppel.

[5 Marks]

Total [14 Marks]

PART C

Question Four

You are a Research Assistant to Professor Mbizo. Professor Mbizo is researching on the topic of damages under Contract Law. Professor Mbizo has requested a write up from you on the subject of consideration which must be supported by relevant authorities.

The write up must cover the purpose of damages and the various rules of damages that have been developed by the courts. **[14 Marks]**

Question Five

Papa is a 5th year Engineering student at the University of Yunza. You happen to meet Papa at the student centre. Papa is fascinated with your mastery of legal concepts especially in Contract Law. Papa tells you that he has heard that a contract may be discharged under the doctrine of frustration but does not know what this means or entails.

With the aid of relevant authorities, advise Papa on how parties to a contract may be discharged of their obligations under the doctrine of frustration. [14 Marks]

PART D

Question Six

Write short notes on the following:

- (i) Counter-Offer. [4 Marks]
- (ii) Specific performance. [4 Marks]
- (iii) Quantum Meruit. [6 Marks]

Total [14 Marks]

Question Seven

Compare and contrast:

- (i) Acceptance of partial performance and acceptance of substantial performance. [4 Marks]
- (ii) Common and unilateral mistake. [4 Marks]
- (iii) Representations and terms of the contract. [6 Marks]

Total [14 Marks]

TOTAL EXAMINATION MARKS: 60 Marks
END OF EXAMINATION



THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW
LAW OF TORTS, LPR 2930
END OF YEAR EXAMINATIONS
16TH DECEMBER 2020

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.

PART A

Question 1 (Compulsory Question)

Professor Besa was invigilating an examination in the University of Zambia Sports Hall, when Mweemba began to talk in a loud voice outside the examination hall. Annoyed at the disturbance, Professor Besa ran out, grabbed Mweemba by the arm, spun him round and demanded that he go elsewhere to continue his conversation. Mweemba was embarrassed and left.

Later that afternoon Mweemba saw Professor Besa on his own in his office marking exam scripts. Mweemba locked the door. Professor Besa was so busy that he did not even realise what had happened until he was told by the cleaning lady who unlocked the door.

Professor Besa telephoned Mweemba and pretended to be a policeman. He informed Mweemba that he was under investigation for fraud whereupon Mweemba collapsed and had to be rushed to hospital. Dr. Kapijimpanga wanted to carry out a blood transfusion. Mweemba refused and said he simply did not trust the reliability of the blood. When Mweemba lapsed into unconsciousness Dr. Kapijimpanga ordered a blood transfusion which was carried out when Mweemba was unconscious.

Consider the liability of Besa, Mweemba and Dr. Kapijimpanga under Trespass to the Person.

[18 Marks]

PART B

Question 2

Masela worked at Chongwe Nuclear Power Plant. Due to the negligence of their employer, Prakash, many of the employees were exposed to a radiation leak. As soon as this was discovered, Prakash arranged for a medical team of international experts to be flown in to assess the impact of radiation on the work force. The Russian doctor who examined Masela did not appreciate the significance of the headaches Masela mentioned because of the inadequate translation given by an interpreter. Although Masela thought the interpreter might have made a mistake, he said nothing because he did not want to make a fuss.

Three months later, Masela was found to be suffering a degenerative brain disorder, one of the possible causes of which was nuclear radiation. His chances of recovery at that stage were said to be 30%, whereas proper diagnosis at the first examination would have given him a 60% chance. Masela was so upset by the news that he drank two bottles of Nikolai Vodka and set off in his car to Prakash's house in order to attack him. On the way, he crashed into a lamp post and was killed.

Consider the legal principles relevant to the issues of causation and remoteness under the Tort of Negligence and any defences that might be available.

[14 Marks]

Question 3

The New Kasama Aero Club owned an airstrip next to land owned by Musakanya, a dairy farmer. For many years, Musakanya had wanted the club to buy his land but the club declined to do so. Because of this persistent refusal, Musakanya obtained planning permission and erected a tall windmill at the very edge of his field. The windmill obstructed the flightpath of outgoing and incoming planes and severely restricted the club's flying activities. Musakanya also erected a large wire mesh fence which he knew would have the effect of interfering with the radar equipment of the club.

During a foot and mouth disease epidemic, Musakanya's herd of dairy cattle had to be culled and their bodies burnt to prevent the further spread of disease. During the disposal of the carcasses, greasy smoke and strong smells drifted over the airfield with the result that a three-day summer festival including aerial displays and a barbecue had to be abandoned.

Consider the relevant legal principles in private nuisance.

[14 Marks]

PART C

Question 4

Critically evaluate whether the Occupiers' Liability Act thoroughly protects anyone who comes upon the land of another.

[14 Marks]

Question 5

Explain the tests used to determine whether or not the defendant has breached his duty of care. In your view do those tests provide a clear and satisfactory way of establishing whether or not the defendant is at fault?

[14 Marks]

PART D

Question 6

Write short notes on the following:

- (i) Contributory negligence
- (ii) *Ex turpi causa oritur non actio*

(7 marks)

(7 marks)

[Total: 14 Marks]

Question 7

Write short notes on the following:

- (i) Libel

(4 Marks)

- (ii) Slander
- (iii) Defamation in general terms
- (iv) Qualified Privilege

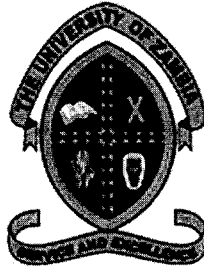
(4 Marks)

(2 Marks)

(4 Marks)

[Total: 14 Marks]

END OF EXAMINATION



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

EMPLOYMENT LAW – LPR 3115

END OF YEAR EXAMINATIONS – NOVEMBER 2020

DATE: 16TH NOVEMBER, 2020

TIME: 14HRS

VENUE: LIBRARY BASEMENT

INSTRUCTIONS:

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

PART A (COMPULSORY)

Question 1

- (a) You are employed as Legal Counsel at Zambia Federation of Employers. Bulaka Investments Limited is one of the affiliate member of the Zambia Federation of Employers. This morning Mr. Bulaka, the Managing Director of Bulaka Investments Limited, has called on you for Legal Advice. Mr. Bulaka tells you that his company intends to vary or make changes to the employees, terms and conditions of service.

With the aid of relevant authorities, advise Mr. Bulaka on the position of the law relating to variation of terms and conditions of employment.

[10 Marks]

- (b) With the aid of relevant authorities, discuss the various remedies that a dismissed employee may seek from the courts in Zambia clearly pointing out in each case the circumstances under which the courts may grant each particular remedy.

[8 Marks]

[Total Marks 18]

PART B

Question 2

The express terms of the contract of employment governs any aspect of the relationship between the parties which fall within those terms. But in practice, many aspects of the relationship will be left to implied terms which the parties must have intended to be incorporated into the contract.

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

[14 Marks]

Question 3

Discuss the major International Labour Organization Conventions that Zambia has ratified and/or domesticated.

[14 Marks]

PART C

Question 4

- (a) Section 108 of the Industrial and Labour Relations Act provides for restriction on discrimination in employment.

Discuss the major cases that have been brought out under Section 108 of the Industrial and Labour Relations Act clearly pointing out the holding in each case.

[8 Marks]

- (b) Discuss the High Court decision in Kelvin Mambwe (suing as General Secretary of the University of Zambia Lecturers and Researchers Union v. The Attorney General and the University of Zambia Council 2020/Hp/0246.

[6 Marks]

[Total Marks 14]

Question 5

- (a) It is fundamental to employment law to identify who is an employee and who is an independent contractor.

With the aid of relevant authorities, discuss the various tests that have been constructed by the courts in determining who is an employee.

[9 Marks]

- (b) Discuss the sources of employment law in Zambia.

[5 Marks]

[Total Marks 14]

PART D

Question 6

Compare and contrast the following:

- (a) A Contract of Employment and a Contract of Apprenticeship
(b) Collective Agreement and a Recognition Agreement
(c) Wrongful Dismissal and Unlawful Dismissal

[5 Marks]

[5 Marks]

[4 Marks]

[Total Marks 14]

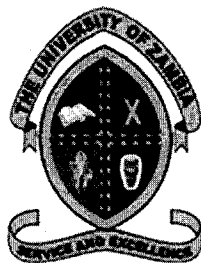
Question 7

Write short notes on the following:

- | | |
|--|-----------|
| (a) Termination of a Contract of Employment by redundancy | [5 Marks] |
| (b) Termination of Contract of Employment by payment in lieu of notice | [4 Marks] |
| (c) The Conflict theory of Industrial Relations | [5 Marks] |
| [Total Marks 14] | |

TOTAL EXAMINATION MARKS: 60

END OF EXAMINATION



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

FINAL EXAMINATION PAPER

LAND LAW AND PROPERTY RELATIONS – LPR 3920

Friday 4th DECEMBER 2020

TIME: 09:00 HOURS

VENUE: SPORTS HALL

INSTRUCTIONS:

1. Answer **Four (4) questions**, one from each part. Question 1 is compulsory
2. Time allowed: **Three (3) hours plus five (5) minutes** to read through the examination paper.
3. This examination carries a total of **60 marks**.
4. Mobile telephones, tablets or any form of computing or electronic instruments are **not** allowed into the examination room
5. Candidates **are permitted to bring** the following statutes into the examination room:
 - (i) Lands Act Chapter 184 of the Laws of Zambia
 - (ii) Lands and Deeds Registry Act Chapter 185 of the Laws of Zambia
 - (iii) Lands Acquisition Act Chapter 189 of the Laws of Zambia
6. This subject is for candidates in 3rd Year of the LLB programme.
7. Candidates must **not turn this page** until the invigilator tells them to do so.

PART A

Question 1 (Compulsory)

Bwalya a well-known entrepreneur in Lima district decides to open one of his retail branches in the district. He negotiates with More who is the owner of a property next to the market known as shop 185, plot 124 Lima to rent the shop so that he could conduct his business. The two enter into a lease agreement dated 1st June 2013 for a period of 3 years. The commencement date of the lease is indicated as 1st March 2013. The reason for the commencement date being 1st March was because Bwalya had started renovating the building before setting up his business and had taken possession of the premises. It was also stated that the lease would terminate on 28th February 2016. The monthly rental stated in the lease agreement was K15, 000:00 per month payable quarterly in advance.

The lease agreement was not registered at the Lands and Deeds Registry. Bwalya continued to operate his business from shop 185 until January 2017 when the Landlord More approached him and told him that she needed the property since she was going to set up her own business. At the meeting she served Joseph with a one months' oral notice to terminate the lease agreement. Bwalya refuses to vacate the property.

(a) With the aid of relevant authorities advise both parties as to their rights and liabilities under the lease agreement. **(10 marks)**

(b) Explain the four (4) main differences between an equitable and legal lease **(8 marks)**

[Total 18 Marks]

PART B

Question 2

Land tenure is the term used to refer to the legal relationships pertaining to land. The term embodies the institutional and legal understanding of "how land and its associated natural resources are held and utilized." (Gray and Gray, Elements of Land Law, (2004) Oxford University Press 5th ed, p5).

With the aid of relevant authorities in light of the above statement analyse the dual land tenure in Zambia. **[Total 14 Marks]**

Question 3

- (a) Prima facie there seems to be a contradiction between s65 of the Lands and Deeds Registry Act and the position of Common Law regarding mortgages.

With the aid of relevant authorities outline to what extent is the Common Law position regarding mortgages still applicable in Zambia. **(8 marks)**

- (b) Explain three main differences between the creation of a legal mortgage and an equitable mortgage. **(6 marks)**

[Total 14 Marks]

PART C

Question 4

Soso has lived in town for the past ten years and has worked as an IT expert for 10 years. Her desire has been to settle on a small holding where she would live a stress free life. She had been considering an opportunity to grow her own food, keep domestic animals and be self-sufficient in terms of her daily needs. She saw the opportunity to achieve this dream when she was asked to retire from her position as IT manager in light of the COVID19 pandemic. She consulted her friend an estate agent to help her search for a property in the area known as Healthy Living.

The estate agent took Soso to view a property for sale that would meet her specific needs. Soso was pleasantly surprised when they reached the area known as Healthy Living. The first thing she noticed was a small stream forming the frontage of the property. She noticed several people from the neighbourhood walking towards the river and fetching the water from it. She also noticed that the four bedroom house on the property looked like a simple stone structure with thatched roof. She was informed by the estate agent that the building was designed in this manner so that the property was self-sufficient in terms of energy and remained off the grid. The estate agent pointed out the solar panels that would supply power to the house.

On the four hectare plot there was a large structure on one side constructed from old wooden logs used to plant vegetables and fruits for consumption. In addition there was a small shed, elevated

on a row of blocks used as chicken run. Soso noticed that some of the structures needed to be more secured.

The kitchen in the main house was built with storage shelves and a fireplace with stones. All around the main walls there were several hanging baskets with herbs and small vegetable plants grown in an eco-friendly environment. The rest of the house had built in wardrobes and furniture made with stones including the outdoor shower.

Soso wants to purchase the property and would like your advice regarding her rights to all the items both inside the property and outside. She would also like to know the position about the use of the river by the neighbours.

With the aid of relevant authorities advise Soso whether she would be entitled to all the items if she decides to purchase the property and if she could protect the river by fencing it off.

[Total 14 Marks]

Question 5

In Delta Vango, 30 people had been residing as a community from time in memorial living of the land that they held under customary tenure in the country of Viva. The village was dominated by women and a duly elected feminist chiefteness who ruled her Kingdom well and always consulted her community members in matters relating to land.

Without the knowledge of the community the government of Viva decided that it should bring development to the Delta Vango community. In order to facilitate the process the government signed a development agreement with a multinational Company to prospect for oil that would bring about a lot of revenue for the developing country of Viva.

Officers from the government had visited the community on several occasions and had met with the chiefteness to inform them that the government would support the community by building a bridge across the main river to promote trading within the country. Approval to construct the bridge was obtained from both the chiefteness and the members of the community. The community had no idea that building the bridge was only part of the project and that the other part of the project which involved prospecting for oil was facilitated by clearing the forest on both sides of the bridge. The oil reserves were discovered but this information was kept as a well-guarded secret and the

government negotiated with the community members to sell their land to the multinational company on the assurance that they would be resettled on a different more productive piece of land. The community had no knowledge about the oil reserves and the chiefteness refused to give consent to sell the land in question. What the community did not know is that the government had already issued a certificate of title for that land in the name of the multinational company. The land laws of Viva country are the same as the ones in Zambia. Upon the production of the certificate of title for the land by the multinational company, the women of the community decided to camp in the forest to prevent the Company from accessing the land.

With the aid of relevant authorities as an activist supporting women's right to land, advice the women in the community and the Chiefteness on their rights to land and water that the community members held under customary law and under what circumstances can these rights be taken away.

[Total 14 Marks]

PART D

Question 6

With the aid of relevant authorities explain the following components of the rule against perpetuities: contingent; certain that the interest will vest; within a life or lives in being and the perpetuity period.

[Total 14 Marks]

Question 7

Explain in brief the following land reform models:

- | | |
|------------------------------------|------------------|
| (a) The individualist Model | (3 marks) |
| (b) The Trusteeship model | (3 marks) |
| (c) Corporate Model | (4 marks) |
| (d) Co-ownership model | (4 marks) |

[Total 14 Marks]



THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW
COMMERCIAL LAW – LPR 3930
FINAL EXAMINATION
DATE: 20 NOVEMBER 2020
TIME: 09:00 -12:00
VENUE: UPPER DINING HALL

INSTRUCTIONS:

1. Answer **Four (4) questions**, one from each Part. Question 1 is compulsory
2. Time allowed: **Three (3) hours plus five (5) minutes** to read through the examination paper.
3. This Examination carries a total of **60 marks**.
4. Mobile telephones, tablets or any other form of computing or electronic instruments are **not** allowed into the Examination Room.
5. Candidates are permitted to bring the following statutes into the examination room:
 - a. The Sale of Goods Act 1893;
 - b. The Hire Purchase Act Chapter 399; and
 - c. The Bill of Exchange Act 1882.
6. This subject is for Candidates in the 3rd Year of the LL. B Programme.

PART A (COMPULSORY)

Question 1

On 21 January 2020, Mary insures her juicing factory against all business risks except theft. Her insurance policy is valid until 20 January 2021. On the 25th of October 2020, Mary orders 50kg of grapes from Simon for use in her juice business. Simon is relieved when he receives the order, since his fruit business suffered tremendously during the stoppage of in-house dining due to Covid -19. On 27 October 2020, Simon picks the grapes from his orchard and loads them on his canter truck. When he drops off the grapes at Mary's factory, Mary, who has a lot on her mind, forgets to put the grapes in the cold room and leaves them on the front lawn right by the entrance of the factory. Unfortunately, the grapes are stolen. Additionally, the thief that stole the grapes drops a lighted cigarette that sets a fire which destroys the factory.

With the aid of relevant authorities, advise Mary on whether she can successfully claim on her insurance policy for the destruction of her factory.

(18 marks)

PART B

Question 2

With the aid of relevant case law, discuss the elements required to prove agency by necessity.

(14 marks)

Question 3

Discuss the meaning of "subrogation" and "contribution" in insurance law.

(14 marks)

PART C

Question 4

Your former primary school classmate Dango, was until recently, an employee of Pambic Bank in Lusaka. On the 13th of September 2020, you read in the Ghost Newspaper that Dango has been fired by Pambic Bank for cashing a fraudulent cheque over the counter.

The article also quotes Pambic's Managing Director, Serious, as having stated the following:

“Despite extensive training, Dango was very careless. Pambic regrets the fact that the career of such a promising young man has been dented in this way. However given his carelessness, Pambic had no choice but to get rid of him. We hope our remaining employees will remain vigilant in their handling of cheques.”

With the aid of relevant authorities, discuss what Serious may have meant when he stated that Dango was “careless”.

(14 marks)

Question 5

You have recently been employed as in-house legal counsel for Dupreme Furnishers, a new furniture store on the market. On your first day of work, your supervisor informs you that Dupreme Furnishers has embarked on an advertising drive for their Hire Purchase option. Your supervisor asks you to prepare a short presentation to potential customers, educating them on the main features of Hire Purchase Agreements.

With the aid of relevant authorities, write your presentation to potential Dupreme Furniture customers on the main features of Hire Purchase Agreements.

(14 marks)

PART D

Question 6

With the aid of relevant authorities, define and discuss the following concepts:

- (a) Deliverable state (7 marks)
- (b) Market overt (7 marks)

(Total: 14 marks)

Question 7

Your three-year-old niece proudly shows you what she picked on the floor in Shoprite. On first glance, what your niece shows you looks like a finance lease agreement. Look at the agreement closely and discuss how you would identify whether the agreement is in fact a finance lease agreement.

(14 marks)

TOTAL: 60 MARKS

END OF EXAMINATION



THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW
FAMILY LAW AND SUCCESSION – LPR 3940
FINAL EXAMINATION

DATE: 24TH NOVEMBER 2020
TIME: 09:00 – 12:00 HOURS
VENUE: SPORTS HALL

INSTRUCTIONS:

1. This examination is divided in **Four (4) Parts – A, B, C and D**. Question 1 in **Part A** is compulsory.
2. Time allowed: **Three (3) hours plus five (5) minutes** to read through the examination paper.
3. This examination carries a total of **60 marks**.
4. Mobile telephones, tablets, watches, clocks or any other form of computing or electronic instruments are **not allowed** into the examination room.
5. Candidates are **not permitted to bring any statutes** into the examination room.
6. The subject is for candidates in the **3rd year** of the LL.B. programme.

PART A

Question 1 (Compulsory)

"Is it clear, Jack?" the Judge asked. "Jack!" the Judge shouted. His brother had to shake him back into the courtroom. He was so lost in deep thoughts that he did not understand a single word the Judge said. "It is clear My Lord," he replied. The only thing which was clear to him was that the Judge had declined to grant him the order of divorce he was seeking. As they walked back to the car, his short love life with Thombi kept playing in his head like a movie. He could see the first day he met her and how he thanked God for sending him such an 'angel'. "Where did we go wrong?" was the question weighing heavily on Jack's mind.

Two months after meeting Thombi, Jack approached her parents and asked for her hand in marriage. Thombi's parents accepted Jack's offer to marry their daughter. Jack quickly paid the K8,000.00 *lobola* that he was charged. The marriage ceremony was conducted in Light of Jesus Pentecostal Church in Lusaka. At the ceremony, Pastor Zulu gave the couple a marriage certificate from the civic centre which they signed in duplicate. The certificate was also signed by Pastor Zulu and two representatives from both families.

Jack and Thombi were barely three months into their marriage when their problems began. First, Jack wanted a child as soon as possible, but Thombi wanted to wait for at least two years. Second, Jack said that a real African woman should cook for her husband and clean the house. However, Thombi argued that she was a working woman who could not reasonably be expected to cook and clean every day. She asked Jack to cook on those days when he knocked off early. Third, Jack was not happy that Thombi refused to have sexual intercourse with him every day. He believed that as the man who paid *lobola* for his wife, he was entitled to sex whenever he wanted it.

Unhappy in his marriage, Jack filed for divorce in the High Court. Unfortunately, Judge Mumeka declined to grant him the divorce order. Jack did not understand why the Judge declined and has therefore come to you for advice. Citing relevant authorities, advise Jack as to why his divorce petition before the High Court failed.

(18 Marks)

PART B

Question 2

Write short notes on the following:

- (a) The definition and forms of domestic violence. (7 Marks)
- (b) The difference between a void and voidable marriage. (7 Marks)

(14 Marks)

Question 3

Write short notes on:

- (a) The grounds for divorce in a customary marriage. (7 Marks)
- (b) The Zambian laws regulating maintenance of one's spouse. (7 Marks)

(14 Marks)

PART C

Question 4

Mr Phiri is a homosexual man who lives with his partner and their three adopted children. One day, he lamented while talking to his partner: "I am so frustrated that we are not seen as a family because in Zambia, a family is mainly constituted through the process of reproduction yet for all intents and purposes, you run the home just like any good mother; I provide just like most fathers do; and our three children are our inheritance from God! I think we should ask the Law Development Commission to recommend to parliament to amend the law so our family can be recognised just like any other!" Mr. Phiri approaches the Commission and the Commission agrees with him. You are a researcher at the Commission.

With reference to relevant authorities and the various forms of families that exist globally today, write an essay motivating for the said amendment to the laws of Zambia.

(14 Marks)

Question 5

You are an intern in the School of Law at the University of Zozo. You have been placed to work directly under Dr. Bowa, who is referred to as the Family Law Guru in the School. The Parliamentary Committee on Legal Affairs and Human Rights has requested Dr. Bowa to prepare an opinion on:

- (a) The 'best interests of the child principle' and how it is applied in Family Law; and
- (b) The shortcomings in the laws protecting children in Zambia, and how they can be amended.

Citing relevant authorities, prepare the requested opinion on behalf of Dr. Bowa.

(14 Marks)

PART D

Question 6

What is meant by the term 'seamlessness of Family Law'? Substantiate with reference to concrete examples in law.

(14 Marks)

Question 7

Lucy picked up a book on customary law and found the following text:

"The repugnancy Clause on Zambia's statute book has effectively rendered customary law ineffective as a source of law in Zambia."

Citing relevant authorities, critically discuss the above assertion in the context of Family Law.

(14 Marks)

END OF EXAMINATION.



**THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW
CIVIL AND CRIMINAL PROCEDURE-LPR 3952**

FINAL EXAMINATION

DATE: 30TH NOVEMBER, 2020

TIME: 14:00 HOURS

VENUE: SPORTS HALL

INSTRUCTIONS:

1. Answer **Four (4) questions**, one from each part. Question One (1) is compulsory.
2. Time allowed: **Three (3) hours plus five (5) minutes** to read through the examination.
3. This examination carries a total of **60 marks**.
4. Mobile telephones, tablets or any other form of computing device are not allowed in the examination room.
5. Candidates are **permitted to bring unmarked copies** of the following statutes in the examination room:
 - (i) Constitution of Zambia (as amended) (Chapter 1 of the Laws of Zambia);
 - (ii) Criminal Procedure Code, 1934 (Chapter 88 of the Laws of Zambia);
 - (iii) High Court Act, 1960 (Chapter 27 of the Laws of Zambia);
 - (iv) High Court (Amendment) Rules, 2020 (Statutory Instrument No. 58 of 2020);
 - (v) Penal Code, 1931 (Chapter 87 of the Laws of Zambia);
 - (vi) Protection of Fundamental Rights Rules, 1969; and
 - (vii) Subordinate Courts Act, 1934 (Chapter 28 of the Laws of Zambia).

PART A

COMPULSORY QUESTION

QUESTION 1

HP Toners Ltd. is a stationers shop trading at East Park Shopping Mall. On October 4, 2019, the shop supplied ZMW 150,000.00 worth of laser jet toner to Mr. Arabic Numerals of Lusaka, a retailer who supplies several renowned stationery shops around Zambia's commercial centres. The agreement was that Mr. Numerals would pay the price within 24 hours after the purchase. Mr. Numerals has defaulted. However, he now contends that the products supplied are not worth ZMW 100,000, 000.00 due to their defect in workmanship; and that their description does not entirely answer to the goods advertised for supply by HP Toners Ltd. on the material day.

HP Toners Ltd. has requested your opinion as to how best to recover the money owed by Mr. Numerals.

Recommend the proper court between:

- (a) the High Court; and
- (b) Subordinate Courts. (2 Marks)

Which originating process should be used? What legal argument do you have to support your answer? (3 Marks)

- (A) What process of execution must be utilised to recover the liquidated claim of ZMW 100,000, 000.00 after judgment has been entered in favour of HP Toners Ltd.
- (B) Which organ (office) of the judiciary or government is responsible for enforcing said writ of execution in the event that Mr. Numerals ultimately fails to willingly pay the claim (5 Marks).

Due to Mr. Numeral's stubbornness, HP Toners Ltd. has caused to be filed a criminal complaint of obtaining pecuniary advantage by false pretences. This has come in the wake of a recent press statement carried in the popular tabloid, "UNZA Weekly Journal", whose chief focus is business news around Zambia. The headline and biggest advertisement at page two of the tabloid gives comprehensive details of Mr. Numeral's 5-year pattern of deceitful commercial transactions in which he has repeatedly collected goods in a similar way without ever paying for them and swindled many people and businesses.

The police at Lusaka Central Police have since arrested Mr. Numerals and charged him with two particular criminal counts in which he obtained (1) laser jet toner worth ZMW 60,000.00 from a wholesaler in Ndola on September 4, 2019; and (2) 10 HP laser jet Printers worth a combined value of ZMW 35,000.00. They have charged him before the Subordinate Court of the First Class for the Lusaka District to secure his trial for the two crimes. In the meantime, he has failed to cope with the poor sanitation and near-inhumane conditions at Lusaka Central Prison (Chimbokaila),

especially due to his multiple non-communicable illnesses: he has had a 10-year routine of travelling to Windhoek, Namibia every month to see his decade-long trusted medical specialist. He obviously cannot do that now due to his pre-trial detention. Please consider whether anything can be done to ensure continuity of his routine treatment as otherwise his life might be in danger.

Will you please:

- (a) Draw the criminal charges using the appropriate criminal process in the Subordinate Court.
(5 Marks)
- (b) Advise the police concerning the legality of prosecuting Mr. Numerals at the Lusaka Class I Magistrate's Court when the aforementioned crime occurred in Ndola.
(2 Marks)
- (c) Recommend the legal measures required to secure Mr. Numeral's continued specialist treatment abroad
(1 Mark)

Total (18 Marks)

PART B

QUESTION 2

Use legal authorities to briefly compare and contrast:

- (a) Superior and inferior courts. (3 Marks)
- (b) Appellate and original jurisdiction. (3 Marks)
- (c) Civil and criminal jurisdiction. (3 Marks)
- (d) Interlocutory and Final Relief. (5 Marks).

Total (14 Marks)

QUESTION 3

Write brief notes on the essential features of the following criminal procedures:

- (a) Affidavit. (3 Marks)
- (b) Police statement versus Information. (5 Marks)
- (c) Acquittal versus *Submission of "No Case to Answer"*. (6 Marks)

Total (14 Marks)

PART C

QUESTION 4

Hon Mr. Justice Africa was allocated an employment law claim filed by Ms. Zambezi River on January 2, 2015. The facts were that Ms. River, the Managing Director of Luangwa Parks Holidays Ltd., was wrongfully dismissed from employment on December 31, 2014. Her gross monthly salary was ZMW 120,000.00. The trial lasted 5 weeks consecutively due to the complexity of mainly the documentary evidence filed by Luangwa Parks Holidays Ltd. In the Bundle of Documents filed by Luangwa Parks Holidays Ltd., numerous documents were included to prove the case.

On March 30, 2015, Hon. Mr. Justice Africa adjourned the case and reserved his judgment until a future date that would be communicated by his Marshal to the Advocates for the plaintiff and defendant. Since that day, no judgment has been forthcoming, and it has since become routine for the Marshal to issue and reissue revised dates for delivery of the judgment.

Ms. River has unfortunately failed to find alternative employment since her dismissal. Being a single mother of 5 school-going intelligent teenagers, she feels she has been denied justice. On the advice of a sympathetic member of the public who once worked in the judiciary, she has decided to (a) sue Justice Africa in person for professional negligence for his failure to deliver the judgment on time; (b) commenced a Notice of Motion for Judicial Review pursuant to the Rules of the Supreme Court, 1999 seeking an order of **mandamus** from the Constitutional Court of Zambia to compel delivery of the reserved judgment; and (3) she has also been advised to file a request to withdraw her case which would enable to restart the claim elsewhere.

Comment on the correctness (*i.e.* legality) of the measures proposed by her friend. (7 Marks)

Draft or write, as the case may be, the appropriate document that can be used to obtain the remedy in respect of delayed judgment. (7 Marks)

Total (14 Marks)

QUESTION 5

Victor, John, and Luke were arrested in Lusaka on the night of the 2010 Independence celebrations for armed aggravated robbery. They allegedly attacked a roadside grocer in Ng'ombe compound around 19 hrs. and made away with the grocer's entire cash returns for the day amounting to ZMW 10,000.00. Happily, they were all apprehended as they stopped by 500 metres from the crime scene to relieve themselves.

Lusaka Central Police officers were called in and the case transferred there due to its severity. The three appeared before the Chief Resident Magistrate for the reading of the charge against them. Five months later, the case hadn't been committed to the High Court for commencement of the trial. The grocer has lost interest in testifying and written to the head of Criminal Investigations asking that the charge be withdrawn entirely. The police wish to determine whether they can act on the grocer's unusual request.

In the meantime, it is now ten (10) years since the arrest of the three accused. They vehemently lament that they should be released on account of the grocer's request or be allowed to attend their capital trial from home. **(12 Marks)**

With reference to the facts given, recommend the appropriate course of action: (a) in response to the grocer's formal request; (b) whether the accused can lawfully be released, and if so by what means; and (c) settle (*i.e.*) draft an Information for the Director of Public Prosecutions (DPP) to commit the case for trial at the Lusaka High Court. **(8 Marks)**

(14 Marks)

PART D

QUESTION 6

Hong Kong Electronics Ltd. of China have just established their head office at their luxurious East Park Shopping Mall offices along Great East Road. This is a company that is renowned throughout East Asia and the Middle East for digital innovation. However they have found that one of their innovations has been leaked and misappropriated by Dubai Broadband Technologies Ltd. A fierce rivalry has arisen between the two companies which have both invested over USD 100,000,000.00 in research. Both companies have registered business offices in Lusaka.

It is against copyright law to use the business patent or intellectual property without prior permission of the registered patent owner. The priority patent regarding the alleged patent infringement belongs to Hong Kong Electronic Ltd. The board of directors of Hong Kong Electronics Ltd. has recommended that the case be filed at the Livingstone High Court and that appropriate interlocutory relief be sought. UNZA Law Legal Practitioners of Suite 7 and 8, East Park Shopping Mall, Lusaka have been asked to file a case for copyright infringement. Dubai Broadband Technologies have, for their part, hired Great East Road Advocates to defend them. The firm's address is at Suite 5 & 6, East Park Mall, Lusaka. They have indicated that they will challenge filing of the claim in Livingstone because both companies are Lusaka-based.

- (a) Explain the procedure for applying for an interim injunction against Dubai Broadband Technologies Ltd. in light of the extreme urgency involved. Identify the key documents required to be filed. **(4 Marks)**
- (b) Can the jurisdiction of the Livingstone High Court to hear the matter succeed? Support your answer with relevant authorities. **(2 Marks)**
- (c) Settle (*i.e.* draft) a statement of claim on behalf of Hong Kong Electronic Ltd. to be filed in their lawsuit against Dubai Broadband Technologies Ltd. **(8 Marks)**

Total (14 Marks)

QUESTION 7

Jack Monze is on trial for stock theft before the Subordinate Court of the First Class for the Mazabuka District for the theft of a cow in Monze on October 24, 2019. At the beginning of the trial, his application to dismiss the charge for duplicity was refused by the presiding magistrate. He complains that he can't fairly defend himself against the charge because it is unclear what offence he is exactly charged with since he is a repeat offender who has been previously convicted of similar offences in the past; and he fears that he might be tried for an offence that he has already been jailed for.

(a) What defence is available to him, according to the Laws of Zambia, to challenge the legality of his entire criminal trial since he was earlier acquitted of the same offence? **(5 Marks).**

(b) Prepare an appropriately named affidavit in support of his application to file a preliminary legal objection before the presiding Subordinate Court so that he can challenge his second prosecution for a crime for which he was earlier acquitted by the Livingstone High Court. **(9 Marks).**

Total (14 Marks)

END OF EXAMINATION!



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

ALTERNATIVE DISPUTE RESOLUTION (LPR 4155)

FINAL EXAMINATION

1ST DECEMBER 2020

14:00 – 17:00 HOURS

SPORTS HALL

INSTRUCTIONS:

1. This paper has four parts: PART A, B C and D. **Question One in PART A is compulsory.**
2. Time Allowed: **Three (3) hours plus five (5) minutes** for reading 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.
6. The subject is for candidates in the 4th year of the LL.B. programme.

SECTION A

Question 1 - Compulsory

Stan and Alice have been married for 3 years now. When Stan married Alice, Alice already had a child of 2 years, Aretha. Aretha's father, Lorenzo, impregnated Alice when she was in her final year of college at the National Institute of Public Administration (NIPA).

When Alice graduated, she was employed by the Ministry of Works and Supply and she was posted to Kitwe. There, she met Stan. The two were church mates and soon became close. Stan quickly proposed and promised to love and care for Aretha as though she were his own. A year into the marriage, Stan completely changed. He started calling Aretha 'a bastard' and this upset Alice. Stan stopped going to church, started drinking and became violent. There were rumours that he was also having extra marital affairs.

Marriage has become a living hell for Alice. However, she does not want to divorce Stan as she believes that God hates divorce. Alice really wants her marriage to work and has decided that her constant conflicts with Stan should be taken for arbitration before Pastor Chimweka and the elders of the church. Stan has also agreed to go for arbitration. Alice has come to your office for advice because she has heard that you are well vested with knowledge of ADR.

- (a) Is arbitration a possible ADR mechanism that Alice can use? Substantiate with reference to authority. (6 marks)
 - (b) Advise Alice on the best form(s) of ADR to use in order to resolve the problems in her marriage clearly explaining the advantages and disadvantages. (12 marks)
- (18 marks)**

PART B

Question 2

Discuss the African traditional dispute resolution mechanisms and institutions, and their effectiveness in resolving disputes. (14 marks)

Question 3

Discuss the importance of the principle of voluntariness in court annexed mediation, with reference to legislation and case law. **(14 marks)**

PART C

Question 4

Naomi and Patience are partners who are in the business of selling, and repairing, second hand computers to schools within Lusaka. They also have clients outside Lusaka. Their business has been doing well from 2012, when they registered their business name with PACRA, to 2018. However, the business has been struggling to stay afloat for the past 2 years. In 2019, the business recorded losses amounting to K150,000. The two partners Naomi and Patience could not agree on each party's percentage of contributions to be made towards the business to help it stay afloat. The two have been having arguments over the matter for months now without reaching a resolution. Their workplace is now characterised by animosity. This is negatively affecting their work. Patience, who is your former high school classmate, tells you that if this hostility continues, it will lead to the end of the business. She still wants to work with Naomi because they complement each other well. Patience is good with computer hardware and software and Naomi is a good salesperson with strong interpersonal, communication and persuasive skills. Patience also does not want their clients to know that she and her partner have differences.

Advise Patience on what form of dispute resolution mechanism she can use to deal with their issue. **(14 marks)**

Question 5

(a) Paul is a Chartered Accountant who would like to become an arbitrator. He is particularly interested in arbitrating in matters of forced displacement of communities by international corporations that acquire customary land for investment purposes. He

wishes to know if he can become an arbitrator; and what rules govern the appointment or arbitrators. Advise Paul. (7 marks)

(b) Maxwell is the presiding arbitrator in a matter between Brenda and Isaac. The arbitral tribunal has had five sittings and made lots of progress. They are scheduled to have a final sitting in a week's time, during which they will grant an arbitral award. Unfortunately, before that sitting, Maxwell is appointed as Ambassador to Congo DRC, and he has to leave with immediate effect. What is the consequence of Maxwell's departure? Can the other arbitrators sit in his absence and give a decision next week? Can and should he be substituted? Advise Brenda and Isaac. (7 marks)
(14 marks)

PART D

Question 6

Compare and contrast ADR mechanisms with litigation. (14 marks)

Question 7

With reference to authority, critically discuss the advantages and disadvantages of conciliation in Zambia. (14 marks)

END OF EXAMINATION



UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

BUSINESS AND CORPORATE LAW – LPR 4930

FINAL EXAMINATION

THURSDAY 19 NOVEMBER, 2020

TIME: 09 00 -12 00 HOURS

VENUE: LIBRARY BASEMENT

INSTRUCTIONS

1. ANSWER Four (4) questions, one from each part. Question 1 is compulsory
2. Time allowed: **Three (3) hours** plus **five (5) minutes** to read through the examination
3. This examination carries a total of 60 **marks**
4. Mobile telephones, tablets or any other form of computing or electronic instruments are **not** allowed into the examination room.
5. Candidates are permitted to bring the following statutes in the examination room
 - i) The Registration of Business Names Act, 2011
 - ii) The Partnership Act, 1890
 - iii) The Companies Act, 2017
 - iv) The Company Insolvency Act 2017
 - v) Cooperative Societies ACT, 1998
6. This subject is for candidates in the 4th Year of the LL.B Programme
7. Candidates **must not turn this page** until the invigilator tells them to do so.

PART A (COMPULSORY)

QUESTION 1

- a) Walking on the golf course from Hole No.5 to Tee box No.6, Sakala confided to his friend, Mooto, about the troubles at his manufacturing company, Lumbe Textiles Limited. Mooto, a seasoned corporate manager, replied that the kind of problems he is explaining would require an insolvency practitioner. He adds that an insolvency practitioner would be in a position to explain whether a company needs a scheme of arrangement, a business rescue Plan or a winding up. With regard to nagging creditors, a receiver may be suggested. After this, Sakala moved on to take his tee shot at box No.6

Sakala remained wondering what exactly Mooto was talking about. It was the first time he heard about the term *Insolvency Practitioner*. The following day, Sakala calls at your Chambers to seek clarifications on the arrays of possibilities available to a business in trouble.

Explain who the insolvency practitioner is, and discuss the circumstances that call for the services of an insolvency practitioner on the lines suggested by Mooto.

(14 Marks)

- b) When and why would you advise a client to register a private unlimited company contemplated by section 11 of the Companies Act, 2017?

(4 Marks)

Total [18 Marks]

PART B

QUESTION 2

Baseline Supermarket of Mansa was in arrears with its suppliers when COVID-19 disrupted many businesses in March of 2020. This supermarket is run as a limited liability company by Varghese, the majority shareholder. Varghese loves casinos as he is a keen gambler. Financial leakages from the supermarket business are solely attributable to gambling activities by Varghese. In order to restock and prop up business, Varghese borrowed Ten Million Kwacha from Antelope Bank of Lusaka. To secure the loan,

Antelope Bank created a floating charge over the stock-in-trade of Baseline Supermarket limited.

Early this November, Antelope bank came to learn that Lunte Wholesalers have petitioned for the winding up of Baseline Supermarket Limited for non payment of supplies going back to 2018. Antelope Bank swiftly took measures to enforce the terms of the floating charge. Lunte wholesalers countered with an application for an injunction to stop Antelope bank from taking the assets of Baseline supermarket Limited.

On the basis of these facts:

a) Explain what is meant by a *floating charge*.

(4 Marks)

b) Is Lunte Wholesalers able to block Antelope Bank from enforcing its floating charge? Give reasons for your response.

(6 Marks)

c) Name 4 securities known to English law

(4 Marks)

Total [14 Marks]

QUESTION 3

a) Trusts, Franchises and Agencies are well known forms of business arrangements.

Explain the nature and distinguishing characteristics of these businesses.

(9 Marks)

b) Give the reasons advanced by governments for the continuation of State owned enterprises (also known as parastatals)

(5 Marks)

Total [14 Marks]

PART C

QUESTION 4

a) Kamboni was allotted 100 000 shares at the public floatation of Blue Gum Plantations PLC at the par value of K1 per share. Kamboni, in accordance with the terms of the offer, paid only 75ngwee for each share allotted to her. Soon after this transaction, Kamboni sold all her shares to Nicky at K2 per share and migrated to Namibia.

Blue Gum Plantations PLC is in need of capital injection to extend their estate. Therefore, the company has made a call on all shareholders to pay the 25ngwee per share that remained at the time of the original allotment. When Kamboni received the notice of the call, she wrote back rudely that she was out of the company and out of the country. The holder of the shares is Nicky and the company should look to him.

Blue Gum Plantations PLC has asked for your advice in the situation it finds itself with Kamboni.

With the aid of authorities, advise Blue Gum Plantations on who is liable to meet the call the company has made.

(8 Marks)

- b) The Partnership agreement between Alice, Anna and Abigail is silent as to the sharing of profits and losses. The actual capital contribution of the partners was as follows: Alice K60 000; Anna K30 000; and Abigail a second hand light truck worth K30 000. Business was good this year and the partnership has made a profit of K120 000. How would this profit be shared among the partners? Give reasons for your response.

(6 Marks)

Total [14 Marks]

QUESTION 5

- a) Amos was appointed Managing Director of Buntungwa Cooperative Society. The cooperative was formed to grow rice in Chambeshi Plains of Muchinga Province. When harvest time arrived, thousands of bags were collected from members with a view to marketing collectively at the government price of K200 per 50 kg. In fact, all the rice from the cooperative was sold by Amos to a Tanzanian buyer at a price of K420 per 50 kg bag. Amos colluded with the Marketing Officer at the cooperative to issue false receipts showing the rice was sold to the Food Reserve Agency at K200 per 50 kg bag. The balance was pocketed by Amos who gave a commission to the Marketing Officer to buy his silence.

A member of the cooperative who travelled to Dodoma in Tanzania met with the Tanzanian businessman and the whole story of a serious swindle was brought to the Annual General Meeting of Buntungwa Cooperative Society like a bomb shell.

You are the legal Officer of the Cooperative Society. With the aid of authorities, advise the Chairman of the Cooperative Society on the remedies available against Amos.

(7 Marks)

- b) Chief Ntala of the Chokwe people in Manyinga district was in partnership with one Makina in a ranching business. Both men were very much involved in making decisions regarding the choice of grazing areas and the general welfare of animals. The Chief was by nature a consulting person while Makina liked to act unilaterally. Makina accused one Mbuli of attempting to poison the animals owned by the partnership and had him locked up and prosecuted. Mbuli was acquitted and has brought a civil action for false imprisonment and malicious prosecution against Chief Ntala and Makina as partners.

Chief Ntala has retained you as his legal advisor.

With the aid of authorities, advise whether Chief Ntala is liable for the wrongs of Makina in the circumstances.

(7 Marks)

Total [14 Marks]

PART 4

QUESTION 6

Write short notes on the following:

- a) Foreign companies

(7 Marks)

- b) Dividends and company accounts.

(7 Marks)

Total [14 Marks]

QUESTION 7

Write short notes on the following cases, stressing the modern value.

- a) Ashbury Railway Carriage and Iron Co v Riche (1875)

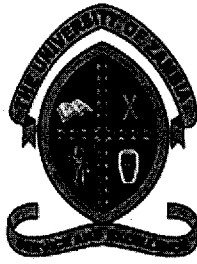
(7 Marks)

- b) Kelner v Baxter(1856)

(7 Marks)

Total [14 Marks]

END OF EXAMINATION



THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW - LLM PROGRAMME
EMPLOYMENT LAW – LPR 6130
FINAL EXAMINATION PAPER

END OF YEAR EXAMINATIONS – NOVEMBER 2020

Date: 19th November 2020

Time: 9:00 – 12:00

Venue: Library Basement

INSTRUCTIONS:

1. Answer Four (4) questions, one from each part. Question 1 is compulsory
 2. Time allowed: Three (3) hours plus five (5) minutes to read through the examination paper
 3. This examination carries a total of 60 marks
 4. Candidates may bring the Employment Code Act and Industrial and Labour Relations Act into the examination room
 5. Mobile phones, Tablets or any other form of computing or electronic instruments are not allowed in the examination room.
 6. Candidates must not turn this page until the invigilator tells them to do so.
 7. This subject is for candidates in the LLM programme
-

PART A (COMPULSORY)

Question 1

- (a) Maka served as secretary to the Managing Partner Mulenga on a permanent and pensionable terms. During his time at Deloitte he was paid a salary of ZMW500 but was not receiving any allowances. He worked for seventeen (17) years but in 2020, Deloitte experienced challenges due to the outbreak of coronavirus (COVID-19) that reduced their income. As a result, they reduced Maka's salary to ZMW350 with immediate effect. During the process, Maka realises that he has been getting paid much less than the other secretaries working at Deloitte for several years and was surprised that he never used to receive any allowances compared to the other employees.

With the aid of relevant authorities, advise Maka on his legal position and any remedies that might be available. **[12 Marks]**

- (b) With reference to both case law, has the definition of "Employment relationship" in section 3 of the Employment Code Act gone far enough or too far? Critically discuss. **[6 Marks]**

[Total Marks 18]

PART B

Question Two

- (a) Kalenga is a senior manager at the Mara Bank. In the last 2 years, Kalenga is a member of a trade union and is not pleased with the poor working conditions at Mara Bank. She proceeds to write an article in the Daily Nation criticising Mara Bank. When she returns to work, she is informed that she has been summarily dismissed for misconduct.

With the aid of relevant authorities, advise Kalengo on her legal position and any remedies that might be available. Provide a critical analysis of all the issues raised, with the support of case law.

[9 Marks]

- (b) Does Zambian law protect employees against victimisation and harassment in the workplace? Critically discuss. **[5 Marks]**

Question Three

- (a) Michael was on a fixed-contract with the University of MUNZA from 2015 to 2020 on a long-term contract. In October 2020 he was told that his contract would be renewed. Before accepting the contract, he asks for a salary increase but the request was not responded to. He expected a renewal of his contract after the Dean, Professor Ganga assured him that his contract would be renewed. The Dean even took him out for lunch and discussed the terms of the renewed contract.

However, at the end of the 2020 his contract was not renewed and he was told that his services would no longer be required.

With the aid of relevant authorities, advise Michael on his legal position. **[9 Marks]**

- (b) Discuss the relevance of Jennifer Nawa v. Standard Chartered Bank SCZ Judgment No. 1 of 2011 in light of the enactment of the Employment Code Act **[5 Marks]**

PART C

Question Four

Article 5(1) of the International Labour Organisation (ILO) Collective Agreements Recommendation 91 of 1951 provides that:

- (1) Where appropriate, having regard to established collective bargaining practice, measures, to be determined by national laws or regulations and suited to the conditions of each country, should be taken to extend the application of all or certain stipulations of a collective agreement to all the employers and workers included within the industrial and territorial scope of the agreement.

With reference to case law, discuss the extent to which Zambian legislation gives effect to Article 5 of ILO Recommendation 91. **[14 Marks]**

Question Five

Critically analyse the *Derek Mukokanwa v. Development Bank of Zambia* SCZ Appeal No. 120/2014 and discuss whether termination for operational requirements and termination by redundancy are distinct routes to terminating the contract of employment under Zambian law? **[14 Marks]**

PART D

Question Six

With the support of case law and/or international labour instruments, write brief Notes on the following:-

- (a) Backpay as a remedy in employment law **[6 Marks]**

- (b) Inherent requirement of the job **[8 Marks]**

[Total Marks 14]

Question Seven

- (a) Critically discuss when the court will award enhanced damages for unfair or wrongful dismissal. **[7 Marks]**

(b) Discuss the practical limitations on the right to strike in Zambia.

[7 Marks]

[Total Marks 14]

TOTAL EXAMINATION MARKS: 60 Marks

END OF EXAMINATION



UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

**COMMERCIAL LITIGATION: LPR 6530
END OF YEAR EXAMINATION**

**23rd NOVEMBER 2020
VENUE: NEW DEM LT**

INSTRUCTIONS:

1. Answer **Four (4) questions**, one from each part. Question 1 is compulsory.
2. Time allowed: **Three (3) hours** plus five **(5) minutes** to read through the examination.
3. This examination carries a total of **60 Marks**.
4. Mobile telephones, tablets or any form of computing or electronic instruments are **not** allowed into the examination room.
5. Candidates **are permitted** to bring the following Statutes into the examination room:
 - i) Rules of the Supreme court 1999;
 - ii) Supreme Court Act;
 - iii) Court of Appeal Act;
 - iv) High Court Act;
 - v) Commercial Court Rules;
 - vi) The Brussels Convention.
6. This subject is for candidates in the LLM programme.
7. Candidates must not turn this page until the Invigilator instructs them to do so.

PART A

QUESTION ONE – COMPULSORY

There has been regime change after the General Elections and you have been appointed Attorney General of the Republic of Moro. The outgoing regime is said to leave a corrupt and looted Treasury of billions of dollars through overpriced contracts. Investigators inform you that they have identified foreign banks in which money suspected to have been looted has been deposited.

These public officials have also alleged to have violated the patents of parastatals involved in manufacturing. The public officials are doing off-shore manufacturing in Asia where there is cheap labour using patents belonging to Parastatals.

What application (Interim) would you make in the High Court?

(18 Marks)

PART B

QUESTION TWO

Critically analyse the facts and holding in the United Supreme's court ***NML capital V Republic of Argentina 573 US 2014***

(14 Marks)

QUESTION THREE

One of the most time-consuming aspects of International Commercial litigation is discovery. You are an advocate for an International Company with subsidiaries in North Korea. One of the Subsidiaries has been sued by an American company for sanction bursting that cost the American company millions of dollars. The American company in its litigation wants to rely on documents in possession of the North Korean subsidiary. The North Korean regime has enacted a blocking statute, that such evidence can only be released with the Minister of Trade and Industry approval.

Advise the North Korean Subsidiary

(14 Marks)

PART C

QUESTION FOUR

Your client Bimzi Computers Ltd has sued, the defendant Bams Limited for the computers your client supplied to Bams Limited, at Bams Ltd request to the tune of Twenty Million United States Dollars (USD20M). There was no dispute as to the "fitness for the purpose". One year later, Bimzi Computers files a writ and statement of claim with details of supplied goods, which included serial numbers. Bams Limited did not transverse every allegation, but merely denied owing Bimzi computers Ltd.

What application would you make to the commercial court and under what Rule or decided cases would you do that?

(14 Marks)

QUESTION FIVE

Your client a British Airline Company flying into the United States reduced the price of meals on board. The airline started flying from Stanstead Airport and allowed un-booked passengers to board the aircraft by paying at the airport. Having cut off travel agents and cheapened the meals, the price of tickets became the cheapest on the transatlantic route. The American Airlines complained to the Federal Aviation Administrators that the British Airline (your client) had engaged into anti-competitive conduct.

Do Federal courts have Jurisdiction?

(14 Marks)

PART D

QUESTION SIX

- a. Discuss the advantages of Zambian Arbitration Act Incorporating the Newyork convention of 1958 and United Nation's Commission of International Trade (UNCITRAL Model Law)

(7 Marks)

- b. A country can only enforce an Award or Judgement that meets its standards of Justice - Discuss

(7 Marks)

(14 Marks)

QUESTION 7

Discuss:

a. The basis of subdivision in the European community

(7 Marks)

b. The basis of Jurisdiction in the United Intra-state civil Jurisdictions

(7Marks)

(14 Marks)

TOTAL 60 MARKS

THE END



The University of Zambia

Directorate of Research and Graduate Studies

General Principles of Contract Drafting - ~~MLA 5120~~

LPN6550

2020 Academic Final Examination

26 November 2020

09.00 hours to 12.00 hours

Sports Hall

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 bring any statutes and or texts into the examination room.
 5. Candidates must not turn this page until the invigilator tells them to do so.
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PART A

Question One

A commercial lease agreement contains the following salient provisions:

“THIS LEASE is entered into as of July 25, 2019 (the “**Effective Date**”), by and between Kalingalinga Catholic Congregation (the “**Landlord**”), and Tasila Motors Zambia Limited (the “**Tenant**”) for the lease of a garage in Kalingalinga Compound, Lusaka.

1. BASIC LEASE INFORMATION. Each item in this Clause 1 incorporates all of the terms set forth in this Lease pertaining to such item and to the extent there is any conflict between the provisions of this Clause 1 and any other provisions of this Lease, the other provisions shall prevail. Any capitalized term not defined in this Lease shall have the meaning set forth in the Glossary that appears at the end of this Lease.

2. CONFIDENTIALITY. Confidentiality obligations shall survive for a period of five (3) years from the later of the following: the date of termination or expiration of this Lease, or the date that either party notifies the other party that it has decided not to renew the Lease.

3. GOVERNING LAW AND DISPUTE RESOLUTION. The Lease shall be subject to Zambian law and any dispute shall be resolved in accordance with Zambian law.

Signed for and on behalf of Kalingalinga Catholic Congregation

(Member)

(Date)

(Member)

(Date)

Signed for and on behalf of Tasila Motors Zambia Limited

(Director)

(Date)

(Secretary)

(Date)

”

Briefly respond to all of the following:

1. In reference to the agreement, is "Commercial Lease" the proper term?

[1 Mark]

2. Is the construction that the Lease is entered into "as of July 25, 2007" appropriate?

[1 Mark]

3. Is there legal relevancy to capitalising the names of the parties?

[1 Mark]

4. What might be some of the pros and cons of including this kind of "Basic Lease Information" or "recitals" at the beginning of the agreement document, instead of including it "in-line" in the appropriate operative provisions of the agreement?

[2 Marks]

5. To what extent is the "Each item in this Clause1 incorporates ..." worth including?

[2 Marks]

6. What could go wrong with the italicized portion, "to the extent there is any conflict ..."?

[2 Marks]

7. What drafting difficulties would the parties and signature clause present?

[2 Marks]

8. Note the mention of the Glossary in the last sentence of the first paragraph - where are some other places to include definitions for defined terms?

[2 Marks]

9. What drafting difficulties would the Governing Law and Dispute Resolution Clause present?

[2 Marks]

Total marks 15

PART B

Question Two

Ndola Lime Limited sells generic lime. Lusaka Brands Limited regularly buys lime from Ndola Lime Limited and incorporates it into, among other products, livestock feed manufactured and sold in Lusaka Brands Limited's factory. Lusaka Brands Limited sends Ndola Lime Limited's sales representative a purchase order for 10,000 bags of lime at stated price and delivery terms.

The purchase order contains a lot of detailed fine print - including a provision in which Ndola Lime Limited warrants that Ndola Lime Limited's goods will be fit for the purpose for which Lusaka Brands Limited's customers use Lusaka Brands Limited's goods. The purchase order does not identify those goods and Ndola Lime Limited does not know that Lusaka Brands Limited has livestock feed in mind.

On the front, the purchase order says, in big bold letters, that Ndola Lime Limited must sign the purchase order and return it with the ordered goods. The purchase order also states (i) that shipment constitutes acceptance of the terms, and (ii) that Lusaka Brands Limited rejects any additional or inconsistent terms in any sales confirmation or other document that Ndola Lime Limited provides.

The sales representative sends a copy of the purchase order to Ndola Lime Limited and tells them to ship the 10,000 bags of lime as specified in the purchase order, but Ndola Lime Limited does not sign or return the purchase order. Ndola Lime Limited invoices Lusaka Brands Limited for the stated price.

1. Was a binding contract formed? Why or why not?

[7 Marks]

2. If a binding contract was formed, is the fit-for-Lusaka Brands Limited's-customer's purpose warranty provision part of the contract?

[8 Marks]

Total Marks 15

Question Three

Due to the effects of COVID - 19, the price on the futures contract for supply of crude oil by Saudi Arabia to Zambia fell into negative value of about minus US\$37.63 per barrel as at 20 March 2020. The futures contract was for the period 1 January 2020 to 31 December 2020. The reason for this is that the pandemic brought the economy to a standstill and there was so much unused oil sloshing

around that oil companies had run out of room to store it. Therefore, the sellers were actually paying buyers to take oil off their hands.

1. Assuming that Saudi Arabia delivers the crude oil at Zambia's storage facilities in Dar es Salaam, but Zambia was not able to take delivery due to absence of storage. Would Zambia be found to be in default? What principle of contract drafting would need to be included in the agreement between Saudi Arabia and Zambia to absorb Zambia from any liability for breach of contract?

[5 Marks]

2. Assuming that the Democratic Republic of Congo (**the DRC**) is in fact in need of Crude Oil. What possible agreements or mechanisms can be employed for the DRC to take up the obligations that Zambia has?

[5 Marks]

3. Assume the contract in (1) was secured by a letter of credit issued by Barclays Bank UK. Are there any principles of contract drafting and interpretation that would absolve Barclays Bank UK from the obligations to honour the letters of credit?

[5 Marks]

Total Marks 15

Part C

Question Four

Answer all the questions below:

1. How does a governing law clause differ from a dispute resolution clause?

[3 Marks]

2. What does a jurisdiction clause mean in an agreement?

[3 Marks]

3. How does a dispute resolution clause differ from a jurisdiction clause?

[3 Marks]

4. What is the difference between a seat of arbitration clause and place of hearing clause?

[3 Marks]

5. In an arbitration, what role do the governing law, the law of the seat and the law of the hearing place play?

[3 Marks]

Total Marks 15

Question Five

From a litigation perspective, analyse the most-significant differences between a representation and a warranty.

Total Marks 15

Part D

Question Six

Big Data Egypt Limited, is an oil exploration data company incorporated in Egypt which is contracted by Cape Town Oil Exploration Company Limited, a South African oil exploration company. Big Data Egypt Limited makes a dumb mistake in its data-processing calculations and does not do any second checking to verify its work. Because of Big Data Egypt Limited 's mistake, Cape Town Oil Exploration Company Limited does horizontal drilling in the wrong place in Chama District of the Muchinga Province of Zambia - and penetrates a fast-flowing underground river which results in the flooding of the whole of Chama District. Several local people die, and a lot of property is lost because of the flood.

Seeking to capitalize on local rage about the flood, local youths attack and rout the premises of Cape Town Oil Exploration Company Limited. Five employees are killed, ten more grievously wounded. When the cause of the flood is traced back to Big Data Egypt Limited 's dumb mistake, the wounded Cape Town Oil Exploration Company Limited employees, and the surviving families of the dead employees, file a lawsuit against Big Data Egypt Limited in the Lusaka High Court, seeking personal-injury and wrongful-death damages.

Separately, Cape Town Oil Exploration Company Limited sues Big Data Egypt Limited for breach of Big Data Egypt Limited 's warranty of workmanlike performance. Cape Town Oil Exploration

Company Limited claims that, because of Big Data Egypt Limited 's dumb mistake, Cape Town Oil Exploration Company Limited chose to invest in Chama and sold off its offshore lease in Cape Town - where another oil company recently made a huge discovery. Cape Town Oil Exploration Company Limited seeks recovery of the profits that Cape Town Oil Exploration Company Limited would have made if it had drilled offshore of Cape Town instead of coming to Zambia.

Answer all the following questions:

1. Which jurisdiction's law would likely apply to the breach-of-warranty lawsuit? (Assume the facts given are the only relevant ones - for example, assume that the Big Data Egypt Limited -Cape Town Oil Exploration Company Limited contract does not specify a choice of forum or choice of law.)

[5 Marks]

2. What should Big Data Egypt Limited 's trial counsel consider doing in court in response to Cape Town Oil Exploration Company Limited 's breach-of-warranty lawsuit?

[5 Marks]

3. As Big Data Egypt Limited 's contracts counsel, what recommendations might you have in negotiating the contract with Cape Town Oil Exploration Company Limited?

[5 Marks]

Total Marks 15

Question Seven

You act for the Seller in a contract for the supply of copper wires. The Buyer's lawyer has sent over a draft sale agreement for your review. You notice that the Seller's draft agreement does not include an entire-agreement provision. The draft otherwise looks fine. The Seller does not ship the copper wires, but instead sends back a "sales confirmation" form with Seller's own version of detailed fine print, including a conspicuous, legally adequate disclaimer of all warranties, express and implied, and a rejection of any additional or different terms. The Buyer then cancels the order, which shocks and disappoints Seller.

1. Was a binding contract formed? Why or why not? If yes, is the fit-for-purpose warranty provision part of the contract?

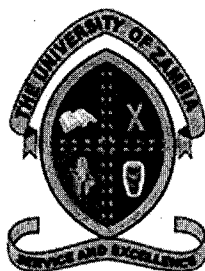
[15 Marks]

2. Assume that the Seller ships the copper wires and includes with the shipment the sales confirmation form mentioned above, but Seller does not sign or return the purchase order. Was a binding contract formed? Why or why not? If yes, what are the warranty terms of the contract?

[15 Marks]

Total Marks 15

End of the Examination



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

**CRIMINAL LAW – LPU 2940
FINAL EXAMINATION**

28th DECEMBER, 2020

TIME: 09: 00 – 12:00

VENUE: UPPER DINING N HALL

INSTRUCTIONS:

1. Answer **Four (4) questions**, one from each part. Question 1 is compulsory.
 2. Time allowed: **Three (3) hours plus five (5) minutes** to read through the examination.
 3. This examination carries a total of **60 marks**.
 4. Mobile telephones, tablets or any other form of computing or electronic instruments are **not** allowed in the examination room.
 5. Candidates are **permitted to bring** the following statutes in the examination room:
 - (i) Constitution of Zambia, Chapter 1 of the Laws of Zambia;
 - (ii) Penal Code, Chapter 87 of the Laws of Zambia;
 - (iii) Criminal Procedure Code, Chapter 88 of the Laws of Zambia;
 - (iv) Juveniles Act, Chapter 53 of the Laws of Zambia.
 6. This subject is for Candidates in the 2nd Year of LL. B Programme.
-

Part A (COMPULSORY)

QUESTION 1

Jane, Judy and Boyd have just been arrested by the Police of the Republic of Zoo and have since been charged with the offence of obtaining money by false pretences. The accused persons have since appeared before the Subordinate Court. Evidence before the Court, as contended by the prosecution is that the trio jointly and whilst acting together on unknown dates but between the 12th and 14th August, 2020, obtained money from members of the public by means of deception.

They lied to the victims that they would have them included on the list of the COVID 19 fund beneficiaries. The suspects were found in the act of impersonating officials from the Ministry of Help the Needy, of the Republic of Zoo. Also, they collected money from their victims, purporting that they were registering people as beneficiaries of the COVID 19 emergency support.

Evidence before the Court is that the trio were found by the police in the act of taking down particulars of people, indicating their Identity Card Number (ICN) and charging between K10 and K50 per person. A total of 200 people had registered and a sum of k2000 was recovered from them.

- a. With the aid of relevant authorities, establish criminal liability for the trio for the offence of obtaining money by false pretences.

10 Marks

- b. Discuss at least four defences that the accused persons can seek to rely upon to escape criminal liability.

8 Marks

[18 Marks]

Part B

QUESTION 2

Bob a 21- years old man of Lola Village, Chief Boma, is alleged to have killed a 27-years old man called Paolo, of the same village over a torch. According to a statement by the Police, the facts of the case are that on August 14, 2020 at about 22:00 hours, Bob, went to Paolo's

house and attempted to get the deceased's torch using force and against his will. After Paolo denied Bob access to the torch, he kicked him in the abdomen after which he became unwell. The victim later died at his home on 15th August, 2020 at 09:00 hours. Reports of the post-mortem have established that the cause of death is as a result of injuries sustained from the wound caused by the kick. Bob has since been arrested and charged with the offence of murder contrary to the Laws of Zambia. He has since appeared before the Subordinate Court in Lola District. However, he insists that he never intended to kill or harm the victim.

You are on attachment with the Subordinate Court and you have been requested by the magistrate handling the matter to give an opinion whether the state can secure a conviction for murder.

With the aid of relevant authorities, draft a legal opinion advising the magistrate on whether the prosecution can succeed in this case.

[14 Marks]

QUESTION 3

The Luda High Court in Luda District has convicted a father Bath of the following offences; attempts to procure abortion, incest and defilement of a child contrary to the Penal Code, Chapter 87 of the Laws of Zambia. Evidence before the Court was that Bath aged 45 years old from Luda town in Luda District, did defile his two daughters aged 11 and 12 years old several times over a period of 7 years. One of them was forced to have two abortions on two occasions.

In his mitigation, the convict Bath, begged the Court to exercise leniency in imposing its sentence. He argued that he was only 45 years old, fairly young and that he was remorseful for his deplorable behaviour. He further contended that he would commit to contribute positively to the nation if he was given a second chance.

However, despite his statement, the Court sentenced Bath to 50 years imprisonment with hard labour for the offences of attempts to procure abortion, incest and defilement of a child respectively. The Court further ordered that the three sentences would run consecutively. But in her judgment, Justice Sharon Chola said:

“Though the convict was a first offender, who deserved leniency, the case makes very sad reading, especially that the victims were minors and daughters of the convict. The convict being a biological father to the victims was aware that they were children who had no capacity to defend themselves. Yet, he still proceeded to take advantage of them sexually. Such behavior should not go unpunished to serve as a warning to everyone. Further, society should know that children need to be protected against sexual abuse. There was no justification for Bath’s behaviour as he should have been in the forefront to protect them.” You have been engaged by the convicted person to appeal against both the conviction and sentences.

With the aid of authorities, draft a legal opinion for your client on the issues you would raise on appeal.

[14 Marks]

Part C

QUESTION 4

Manslaughter may be voluntary or involuntary depending on the circumstances under which the offence is committed. With reference to relevant authorities, discuss the major distinction between the two types of manslaughter.

[14 Marks]

QUESTION 5

With the aid of relevant authorities, discuss the theoretical justification for the imposition of punishment in Zambia.

[14 Marks]

Part D

QUESTION 6

- (a) With the aid of decided cases, discuss how the courts have dealt with the notion of retreat as it relates to the defence of self-defence.

7 Marks

- (b) Discuss the distinction between the standard of proof in criminal and civil matters.

7 Marks

[14 Marks]

QUESTION 7

Write short notes on the following:

(a) Factual causation as distinguished from legal causation.

5 Marks

(b) The extent of applicability of the defence of duress in Zambia.

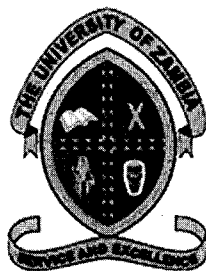
4 Marks

(c) The varying consequences of mistake of law and mistake of fact.

5 Marks

[14 Marks]

End of Examination



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

**CONSTITUTIONAL LAW – LPU 2951
MID YEAR EXAMINATION**

14 DECEMBER, 2020

TIME: 14:00 HOURS

VENUE: SPORTS HALL

INSTRUCTIONS:

1. Answer **Four (4) questions**, one from each part. Question 1 in part **A** is compulsory.
2. Time allowed: **Three (3) hours** plus **five (5) minutes** to read through the examination.
3. This examination carries a total of **60 marks**.
4. Mobile telephones, tablets or any other form of computing or electronic instruments are **not** allowed into the examination room.
5. Candidates are **permitted to bring** the following statutes into the examination room:
 - (i) The Constitution of Zambia 1991 (including all subsequent amendments since 1991);
 - (ii) The Electoral Process Act No. 35 of 2016
6. This subject is for Candidates in the 2nd Year of LL.B. Programme.
7. Candidates **must not turn** this page until the invigilator tells them to do so.

PART A

Question 1 (Compulsory)

Filifili Besi (FB) has been a magistrate for five years. He has a reputation of being a fair adjudicator who writes well-reasoned judgments. As a result, he has won the respect of many lawyers and litigants. Two months ago, FB took the unusual step to publicly announce that he was gay and was co-habiting with his partner, Comic Nkondolences (CN). He urged government to decriminalize same-sex relations and allow gay persons to enjoy their lives without facing discrimination.

A week after opening up about his sexual orientation, FB received a letter from Shomolicious Vitumbuwa (SV), the Chief Justice. The letter indicated that by openly acknowledging being gay, FB had brought despicable dishonor to the judiciary and ruined its reputation. As a result, he would be suspended from performing his duties as a magistrate for a month. SV advised FB to use this period of his suspension to seek psychiatric treatment in order to be cured of the abominable gay sexual orientation.

Upon finishing serving his one-month suspension, FB received another letter from SV informing him that the judiciary had carried out thorough consultations about FB's issue and came to the conclusion that it was in the best interest of the integrity of the judiciary to terminate the employment of FB. The letter further said the termination of FB's employment as a magistrate was with immediate effect.

FB is devastated by this development. He approaches you as a constitutional law expert for advice about the constitutionality of the treatment he has received from SV, the Chief Justice.

With the help of relevant authorities, advise FB.

[18 Marks]

PART B

Question 2

In the case of *Mutembo Nchito v Attorney General 2016/CC/0029 (27 October 2020)*, speaking for a unanimous Constitutional Court bench, Justice Palan Mulonda asserted:

“We wish to begin by stating that the Constitution of Zambia is birthed through a legislative process and in that context it is an Act of Parliament.”

Critically discuss this assertion.

[14 Marks]

Question 3

In an article entitled “Every judgment is a Lie: A Critique of the Bill 10 Judgment of the Constitutional Court,” published by the *Diggers* newspaper in December 2019, Pamela Sambo and O’Brien Kaaba argued:

The implication of this is that the meaning of constitutional provisions cannot be confined to the drafting history. The Constitution should be interpreted in a teleological and forward - looking manner rather than backwards, as did the Constitutional Court. To tie the Constitution to the drafting history is to arrest its growth, turning it into a relic of history and a dead letter.

Citing relevant authorities, critically analyse this assertion in relation to approaches to constitutional interpretation.

[14 marks]

PART C

Question 4

- (a) What distinguishes a presidential system of government from a parliamentary one?

[10 marks]

- (b) What is participatory democracy?

[4marks]

[14 Marks]

Question 5

Fluffy Giraffe (FG) is a female prisoner serving a 20-year sentence for the crime of defilement. Since FG suffers from a severe form of diabetes, the doctors prescribed her a special diet in order to manage her condition. She informed the prison authorities about the dietary prescription of the doctors. The authorities, however, told FG that the type of food FG needed was expensive and, therefore, could not be provided by authorities.

Unhappy with this response, FG approaches you for legal guidance. She would like to know if there is anything she can do legally to get the right food and how she can go about that.

With the help of authorities, advise FG.

[14 marks]

PART D

Question 6

Lauzimu Rian Ruth (LRR) is a well-known businessman who has also been doubling as a member of an opposition party. Two years ago he was convicted of a crime relating of tax evasion for which he served six months imprisonment with hard labour. He now plans to stand as parliamentary candidate for Handsome-Nose Mills constituency. But before starting his campaigns, he would like to know whether as a former prisoner, he qualifies to stand and, further, if as a former prisoner, he qualifies to vote.

Advise LR on his eligibility to stand as a member of parliament and the right to vote.

[Total 14 marks]

Question 7

Write short notes on the following:

- a) state of emergency
- b) presidential immunity
- c) cabinet collective responsibility

[7marks]

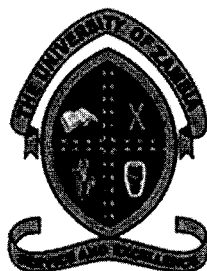
[3marks]

[4marks]

[Total 14 Marks]

TOTAL EXAMINATION MARKS: 60

END OF EXAMINATION



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

**ADMINISTRATIVE LAW – LPU 2962
END OF YEAR EXAMINATION**

18 DECEMBER, 2020

TIME: 09:00 HOURS

VENUE: UPPER DINING HALL

INSTRUCTIONS:

1. This paper has four parts-A,B,C and D.
2. Answer **Four (4) questions**, one from each part. Question 1 in part A is compulsory.
3. Time allowed: **Three (3) hours plus five (5) minutes** to read through the examination.
4. This examination carries a total of **60 marks**.
5. Mobile telephones, tablets or any other form of computing or electronic instruments are **not** allowed into the examination room.
6. Candidates are **permitted to bring** the following statutes into the examination room:
 - (i) The Constitution of Zambia 1991 (including all subsequent amendments since 1991).
 - (ii) The Public Protector Act 2016
 - (iii) The Electoral Process Act No. 35 of 2016
7. This subject is for Candidates in the 2nd Year of LL.B Programme.

PART A

QUESTION 1 (Compulsory)

The Electoral Commission of Zambia (ECZ) is a constitutionally established body responsible for conducting elections. In 2020 it announced the commencement of registration of voters, in readiness for the 2021 general elections. ECZ hired Dukuchi Pebu Limited (DP) to conduct the exercise on behalf of ECZ. Big Head Harason (BH) is an ordinary citizen who is passionate about the conduct of democratic elections. He has closely followed the operations of DP since the commencement of the registration process. At the commencement of the registration process, DP posted the following information on its website:

1. All prospective voters should first register online. Those who shall not register online shall not be registered and consequently shall not be allowed to vote;
2. The registration period shall just be for two weeks and those who fail to register during this period shall not vote

BH feels that these requirements have no basis in law. He has also read a recent survey on internet access in Zambia which indicates that only 20 per cent of the population has access to internet. He would like, therefore, to challenge the decisions of DP through judicial review and asks your opinion on the most appropriate ground(s) of judicial review he could rely on and remedies he should seek from the courts.

With the help of relevant authorities, advise BH on the appropriate ground(s) of judicial review he could rely on and the remedies she should seek.

[18 Marks]

PART B

QUESTION 2

Shortie Zayelo (SZ) is a newly appointed minister. You are the Attorney General of the Republic of Zambia. SZ writes your office seeking guidance on how she should understand legislation that falls under her mandate to implement. Specifically, she would like to know how she can tell when powers, procedures and functions assigned to her in legislation as a minister were mandatory and when they are merely directory.

With the help of relevant authorities, advise SZ.

[14 marks]

QUESTION 3

Taleson Manuel (TM) is a foreign lawyer visiting Zambia for the first time. He has heard that you are an expert on administrative law. He would like you to prepare him a short briefing paper on existing mechanisms under Zambian administrative law for checking or ensuring that

administrative discretion is not abused. He would also like to know how effective those mechanisms are.

Draft the briefing paper you would provide to TM, citing relevant authorities.

[14 marks]

PART C

QUESTION 4

Chikondoson Matumbo Yankumba Cassiano (CMC) is passionate about rule of law. He has noticed that there is a growing trend whereby politicians who are convicted of corruption don't serve their terms of imprisonment as they are always pardoned by the President. Recently, Agama Vitumbuwa (AV), a well-known politician, was convicted of stealing part of the constituency development funds for her constituency. Although AV was handed down a four-year term of imprisonment, the president pardoned him after only serving three months. CMC believes this is a violation of the rule of law. He writes to the Public Protector of the Republic of Zambia to investigate this trend.

You are the public protector. After receiving the complaint from CMC, you establish that the complaint is well founded and true. You now decide to make a public report of your findings and issue directions.

Draft the short report you would write arising from these facts. In the report, indicate whether your directions (if any) would be binding or mere recommendations.

[14 marks]

QUESTION 5

a) What are administrative tribunals and in what ways are they different from regular courts? **[7marks]**

b) What is the purpose of commissions of inquiry? **[7marks]**

[14 marks]

PART D

QUESTION 6

In what ways does parliament control the exercise of administrative power?

[14 marks]

QUESTION 7

Write short notes on the following:

- a) Locus standi in judicial review proceedings.
- b) Natural justice.

[7 marks]

[7marks]

[14marks]

END OF EXAM



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

GENDER AND THE LAW - LPU 3085

END OF YEAR EXAMINATION

FRIDAY 27TH NOVEMBER,

TIME: 09-12hrs

VENUE: LIBRARY BASEMENT

INSTRUCTIONS:

1. This Examination is divided into Four (4) Parts, A, B, C and D.
2. Question 1 in Part A is compulsory
3. Time allowed: **Three (3) hours plus five (5) minutes** to read through the examination
4. This examination carries a total of **60 marks**.
5. Mobile telephones, tablets or any other form of computing or electronic instruments are **not** allowed into the examination room.
6. Candidates are permitted to bring the following statutes into the examination room:
 - i) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
 - ii) The Anti-Gender Based Violence Act 2011
7. This subject is for Candidates in the 3rd Year of the LL.B Programme.

PART A

Question 1 (Compulsory)

Zunda is a country in the southern part of Africa. Zunda has enacted some laws on Gender Based Violence (GBV), however most of its laws are still discriminatory against women. Zuba is a citizen of Zunda and she is actively involved in politics. About a month ago she held a political rally where she was criticizing the government in power for corruption. Whilst she was addressing the rally, a group of youths from the ruling party came to disrupt the rally insulting her and calling her all sorts of names. She was also stripped naked. This was happening in the presence of some police officers. Actually the police officers did nothing and even encouraged the youths to disrupt the rally. Some members of Zuba's party were beaten up and assaulted. The following day, Zuba goes to report the incident at the police station but the police say that that has nothing to do with them because the youths were acting in their personal capacity.

- a) Discuss state responsibility with regards to gender based violence. [12 marks]
- b) Are there other avenues that could be used to address Zuba's concerns? [6 marks]

Total [18 marks]

PART B

Question 2

Nalo a country in north Africa, is proud that it has made steps with regards to women participating in politics. Women participation in politics has risen from 15% to 40%, and the government has been very happy with the progress. However, the political atmosphere remains segregated, with women still in very junior political positions and underrepresented in high-level positions. As a result, Nalo's government wants to create more positions for women. The government is thinking of a quota system. Critically advise the Nalo government on the operation of the quota system and how it could be utilized to the advantage of women. [14 marks]

Question 3

Bubalwa has been married for about 12 years. About 5 years ago, her husband started drinking heavily and has been very moody lately. He is always spying on her and denying the family food. He sometimes follows her when she visits friends and when she complains he beats her up. Bubalwa is fed up with his behavior and wants to leave him but she cannot since he is the one paying the rentals. She finds his insulting behavior problematic and approaches you on the remedies available in the Anti- Gender Based Violence Act 2011. Advise on the remedies available. [14 marks]

PART C

Question 4

Write short notes on the following

- a) The Glass Ceiling [5 marks]
- b) The Sticky Floor [5 marks]
- c) Political Gender Violence [4 marks]

Total [14 marks]

Question 5

Critically discuss the public/private divide and its effect on women. [14 marks]

PART D

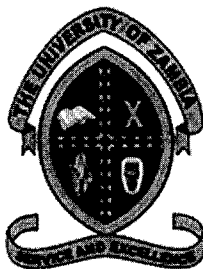
Question 6

Zondwa is a third year media studies student. She recently heard about the course 'Gender and the Law' that is on offer at the University of Zambia, Law School. She is of the view that men are not affected by gender norms imposed by society. Advise Zondwa on the impact of gender norms on men and how this may have a negative effect on them. [14 marks]

Question 7

Gender has been said to intersect with other social identities creating biases. Giving
Zambian examples elaborate on how gender intersects with other social identities
creating biases. **[14 marks]**

END OF EXAMINATIONS



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

LAW OF EVIDENCE – LPU 3911

END OF YEAR EXAMINATIONS – NOVEMBER/DECEMBER 2020

DATE: 02/12/2020

TIME: 14:00 HOURS

VENUE: SPORTS HALL ..

INSTRUCTIONS:

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

PART A (COMPULSORY)

Question 1

- (a) Fwelu, a Procurement Specialist employed in the Civil Service, was prosecuted by the National Prosecution Authority on charges relating to abuse of authority. At the close of the prosecution case, Fwelu was found with no case to answer and was accordingly acquitted. Following his acquittal, Fwelu commenced an action in the High Court for malicious prosecution against the Attorney General.

During the course of trial, Fwelu has made an application before the High Court Judge to order the Anti-Corruption Commission and the Zambian Police to produce a number of documents relating to investigations they made before Fwelu was prosecuted on charges relating to abuse of authority. The documents concerned include the record of investigations and information gathered in the course of investigating Fwelu.

You are a State Advocate employed in the Attorney General's Chambers. The Attorney General has this afternoon requested you for your learned opinion regarding Fwelu's application made in the High Court to enable the Attorney General decide or take a position in relation to Fwelu's application.

With the aid of relevant authorities, advise the Attorney General on your suggested position with regard to Fwelu's application before the High Court.

[11 Marks]

- (b) Dunu is a second year law student at the University of Mulungushi. Dunu informs you that he has heard that courts are entitled to take judicial notice of certain matters but does not know the meaning of this.

With the aid of relevant authorities, advise Dunu on the position of the law as to when a court may take judicial notice of certain matters.

[7 Marks]

[Total Marks 18]

PART B

Question 2

You are a Research Assistant to Professor Mbede. Professor Mbede is writing a casebook on the law of Evidence in Zambia. Professor Mbede has requested you for a memorandum or write-up on Circumstantial Evidence in general and when a court in Zambia may convict an accused person on the basis of Circumstantial Evidence.

Proceed

[14 Marks]

Question 3

You are an intern attached at the National Prosecution Authority. The Director of Public Prosecution (DPP) is scheduled to make a presentation to the police public prosecutors on the admissibility of confession evidence in court. The DPP has requested you for a memorandum or write-up on the admissibility of confession evidence and the procedure that should be followed if the voluntariness of a confession becomes an issue in court.

With the aid of relevant authorities, write a memorandum to the DPP on the admissibility of confession evidence and the procedure that a court should take if the voluntariness of a confession becomes an issue or is contested in court.

[14 Marks]

PART C

Question 4

- (a) Mbindo and Fwelu are jointly charged with stock theft. The prosecution allege that the duo stole ten herds of cattle the property of one Kambinji.

The prosecution wishes to call Mbindo's wife (Sateli) to give evidence against Fwelu. The prosecution also intends to call Mbindo as a witness.

With the aid of relevant authorities, advise the prosecution on its intended course of action.

[6 Marks]

- (b) With the aid of Case Law, discuss the Rule against Hearsay and the recognized exceptions to the Rule.

[8 Marks]

[Total Marks 14]

Question 5

- (a) Dina is charged with assault occasioning actual body harm. Dina has three previous convictions for assault. The prosecution intends to adduce evidence of these convictions during trial.

With the aid of relevant authorities, advise the prosecution on the admissibility and relevance of Dina's bad character.

[9 Marks]

- (b) Discuss the rationale of the decision in *Liswaniso v. The People* [1976] ZR 277.

[5 Marks]

[Total Marks 14]

PART D

Question 6

Write short notes on the following:

- (a) The best Evidence Rule [5 Marks]
(b) The Privilege against Self Incrimination [4 Marks]
(c) Legal Professional Privilege [5 Marks]

[Total Marks 14]

Question 7

- (a) Kinto is a second year law student at the University of Lealui. You happen to meet Kinto at the student centre. Kinto is fascinated by Your Mastery of legal concepts especially in the law of evidence. Kinto tells you that he has heard of the concepts of relevance, admissibility, weight of evidence and facts in issue but does not understand their meaning.

Explain to Kinto the meaning of the above concepts in the law of evidence.

[14 Marks]

TOTAL EXAMINATION MARKS: 60

END OF EXAMINATION



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

HUMAN RIGHTS LAW - LPU 3975

END OF YEAR EXAMINATION

WEDNESDAY 25TH NOVEMBER, 2020

TIME: 09-12hrs

VENUE: LIBRARY BASEMENT

INSTRUCTIONS:

1. This Examination is divided into Four (4) Parts, A, B, C and D.
2. Question 1 in Part A is compulsory
3. Time allowed: **Three (3) hours** plus **five (5) minutes** to read through the examination
4. This examination carries a total of **60 marks**.
5. Mobile telephones, tablets or any other form of computing or electronic instruments are **not** allowed into the examination room.
6. Candidates are permitted to bring the following statutes into the examination room:
 - i) The Constitution of Zambia, Act No. 18 of 1996 (including all amendments).
 - ii) The African Charter on Human and Peoples Rights 1981.
7. This subject is for Candidates in the 3rd Year of the LL.B Programme.

PART A

Question 1 (Compulsory)

Zomali is a country situated in the southern part of Africa and ratified the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human rights (The Malabo Protocol) in 2017. Chikola is a member of the ruling party and a finance minister in Zomali. In 2018, during a radio interview, he was heard encouraging the youths in his party to rise up against an ethnic group called Banyajelita. He called the members of the ethnic group 'cockroaches' who ought to be killed. This led to the Banyajelita being a target group where men were killed, women raped and several of their villages burnt. The international community has called the acts carried against Banyajelita 'genocide'.

Chikola is also involved in the business of mining diamonds. He and his business partner, Maluba have also been accused of selling diamonds illegally to rebel groups fighting governments in the region. An arrest warrant has been issued against Chikola and Maluba for crimes of genocide and illicit exploitation of natural resources.

a) Assuming that the African Court of Justice and Human and Peoples' Rights (ACJHPR) is now in operation, which division is most likely to try the duo and can it exercise jurisdiction over Chikola? **[10 marks]**

b) You have been approached by a group representing Banyajelita. Advise this group on the jurisdiction of the court in general including the jurisdiction of other divisions of the court. **[8 marks]**

PART B

Question 2

Zaudi and Kondo are neighboring states. They have been independent for over 40 years now but there is always conflict in the border town that they share. There is an ethnic group in that border town that is always fighting the two countries since independence, Zaudi and Kondo are tired of their guerilla tactics and enter into a treaty to start exterminating all the

males of the tribe (committing acts of genocide). Whilst it is true that the countries have been experiencing attacks, there is no concrete evidence to show that it is actually this group that carries out the attacks. The countries are about to deposit the treaty with the UN secretary General.

- a) Advise on the validity of the treaty **[8 marks]**
- b) Distinguish between accession and ratification of a treaty **[6 marks]**

Question 3

Zibya is a country situated in North Africa. The southern part of the country is known for civil unrests. Siyo the foreign minister, is heard on radio urging his followers to go to the southern part and kill the people causing the unrest. His acts are considered to be war crimes by the international community. Six months after his radio speech, he visited Belize where an arrest warrant was issued against him and he was arrested. As the legal representative of Zibya, advise whether the arrest warrant is valid. Would the circumstances be different if the arrest warrant was made by an international tribunal?
[14 marks]

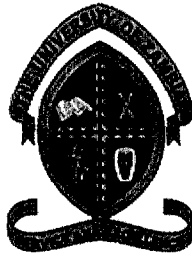
PART C

Question 4

Discuss how the natural and positivist schools of thought have contributed to human rights in general. **[14 marks]**

Question 5

Describe the history of the public protector in Zambia and the functions that it performs.
[14 marks]



**THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW**

INTERNATIONAL LAW – LPU 4041

FINAL EXAMINATION

DATE: WEDNESDAY 2ND DECEMBER, 2020

TIME: 14 HOURS

VENUE: SPORTS HALL

INSTRUCTIONS:

1. Answer **Four (4) questions**, one from each part. Question 1 is compulsory.
2. Time allowed: **Three (3) hours plus five (5) minutes** to read through the examination.
3. This examination carries a total of **60 marks**.
4. Mobile telephones, tablets or any other form of computing or electronic instruments are **not** allowed into the examination room.
5. Candidates are **not permitted to bring** any statutes into the examination room.
6. This subject is for Candidates in the 4th Year of the LL.B. Programme.

PART A (COMPULSORY)

QUESTION 1

Duduzela is your best friend and she is an ardent follower of international news. Unlike you, she is not a lawyer. She is a professional designer and currently dresses local musicians. For all intent and purpose, you are both nationals and residents of Mofasa, a small but mineral rich country in central Africa. The Constitution and legal system of the Republic of Mofasa, are identical to those of the Republic of Zambia.

Duduzela has come to visit you and she recounts an international news item she recently heard on Cable News Network (CNN). According to Duduzela, a newly independent state, Nubia is the 194th member of the United Nations. The Republic of Nubia is situated on the farthest western edge of the African continent. Duduzela recounts that a terror suspect named Bourne Xavier, is currently before the International Cross-Border Crimes Court in Nubia, to answer to international crimes he is facing.

In responding to these charges, Bourne Xavier has pleaded guilty and named several individuals as his accomplices, including the President of the Republic of Mofasa, Jay Jay Nullis, whom he has accused of having facilitated and provided the accused with military training equipment and financial assistance amounting to US\$500, 000 to topple the Nubian President, Konte Konte. These allegations are subsequently proved against President Jay Jay Nullis, who, together with his government are forbidden from ever visiting or maintaining diplomatic and other relations with the Republic of Nubia.

The Minister of Information and Foreign Affairs in the Republic of Mofasa has since issued a statement that:

The Governments and the peoples of Mofasa and Nubia continue to enjoy strong and fraternal relations founded on mutual respect and a *common purpose based on shared values and principles.*

This statement does not stop speculations about the President of the Republic of Mofasa interfering in the internal affairs of another sovereign state, Republic of Nubia. This prompts the Republic of Mofasa Presidential Spokesperson to issue a follow up statement in which calling upon citizens and the media in the two countries to refrain from issuing "speculations and accusations and instead allow the due process of international law and diplomacy to take its due course without speculations and further unwarranted allegations."

Duduzela is clearly puzzled with this story and asks you what all this means in the context of international law and diplomacy. Using legal authorities, respond to the following specific questions that Duduzela has brought to you:

- (a) What is statehood, in the context of the newly independent state, the Republic of Nubia?

(5 Marks)

- (b) In the statement issued by the Minister of Information and Foreign Affairs in the Republic of Mofasa, there is reference to "... a common purpose of shared

values and principles." Explain, using legal authorities, what is "a common purpose of shared values and principles" in the context of international law, and between the Republics of Mofasa and Nubia? **(8 Marks)**

(c) Discuss gender in international law? **(5 Marks)**

PART B

QUESTION TWO

Write short notes explaining the relevance of the following geographical terminologies to international law:

- | | |
|----------------------------|-------------------------|
| (a) Contiguous zone | (4 Marks) |
| (b) Continental Shelf | (4 Marks) |
| (c) Internal waters | (3 Marks) |
| (d) Territorial Waters/Sea | (3 Marks) |
| | (Total 14 Marks) |

QUESTION THREE

Write short explanatory notes on the following:

- | | |
|--------------------------------------|-------------------------|
| (a) Genocide | (5 Marks) |
| (b) Crime against humanity | (5 Marks) |
| (c) African perspectives on immunity | (4 Marks) |
| | (Total 14 Marks) |

PART C

QUESTION FOUR

According to Professor Arthur Peter Mutharika, the United Nations was historically founded on the principle of justice and international, and Africa became the testing ground for this newly adopted principle. This view is more aptly summarised as:

Early on in the life of the United Nations, decolonisation became one of its primary goals. Concepts like "self-determination," "social progress," and "advancement of all peoples" could not be reconciled with colonialism. As a result, the United Nations embarked on the decolonisation process almost from its inception... The Universal Declaration of Human Rights was adopted in 1948. While it did not deal specifically with the issue of "decolonisation," it laid the groundwork for later, more explicit resolutions. More significant in this process was the adoption by the U.N. General Assembly of the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960.

Arthur P. Mutharika, "The Role of International Law in the Twenty-First Century: An African Perspective," Fordham International Law Journal 18, (1994): 1706 – 1707

Critically analyse the concept of self – determination in relation to the decolonisation of Africa, and explaining whether you agree with the views espoused by the author.

(14 Marks)

QUESTION FIVE

The Republics of Adova and Rotania have a legal dispute concerning the border between the two countries. At one point the situation escalates and Rotania threatens to enforce its rights through bombing parts of Adova. As a response, Adova decides to bomb military strategic targets in Rotania.

- (a) Discuss the attack of Adova on Rotania in the light of public international law.

(10 Marks)

- (b) Explain the distinction between public and private international law.

(4 Marks)

(Total 14 Marks)

PART D

QUESTION SIX

Besides submitting the dispute to a court or arbitral tribunal, public international law also offers parties the possibility to solve a dispute by diplomatic means. Some forms of diplomatic dispute settlement require the involvement of a third party. List the four options of diplomatic dispute settlement with the help of a third party. In your answer, refer to relevant treaty provisions and / or case law.

(14 Marks)

QUESTION SEVEN

States are considered the original and principal legal subjects of public international law. List and discuss two (2) examples illustrating the fact that states possess the most full-blown form of legal personality under international law.

(14 Marks)

END OF EXAMINATION



THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW
INTERNATIONAL TRADE LAW, LPU 4061
MID-YEAR EXAMINATION
26TH NOVEMBER, 2020

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.

PART A

Question 1 (Compulsory)

Berhane Tadele Ltd, which is an Ethiopian corporation, manufactures Tej, which is a clear alcoholic beverage, normally consumed in diluted form. The corporation wishes to export Tej to Zambia. However, Berhane Tadele Ltd has encountered the following problems:

- a) Gin produced in China is charged a customs duty of 2% whilst the Tej from Ethiopia is charged 30%. In addition to this, The government of Zambia has imposed a value added tax of 30% on Tej, whilst Gin produced in Zambia is only charged at a rate of 1%. Advise.
(10 Marks)

- b) Would your answer be any different, if it was discovered that the Zambian government imposed such hefty taxes, because Tej is known to cause multiple organ dysfunction syndrome?

(4 Marks)

[Total: 18 Marks]

PART B

Question 2

Although laissez-faire economics are advanced by most capitalist nations, it is argued that lack of regulation is the very thing that brought about the Great Depression and arguably the Global Financial Crisis.

Evaluate the preceding proposition, in light of the dominant economic models.

[14 Marks]

Question 3

The Southern African region and the world at large recently suffered from the COVID-19 pandemic. A (fictional) cure was invented by in Gambia by Dr. Sompo Bensouda, who has since patented it.

- a) Botswana wishes to reproduce the cure without Dr. Bensouda consent, for domestic consumption.
- b) Botswana also wishes to export the cure to other nations in the region that do not have the capacity to produce them.

Advise.

[14 Marks]

PART C

Question 4

Explain in detail the procedures that must be followed to bring an action before the Dispute Settlement Body of the World Trade Organization (WTO)?

[14 Marks]

Question 5

Charlie Brown Ltd (CBL) is a sugar manufacturer in Barbados. The typical price of sugar in Barbados is equivalent to K4 per 200g bag. CBL decides to start exporting large quantities of their sugar to the Republic of Zambia. On the Zambian market, their sugar sells for only K1 per 200g bag, which is significantly less than most Zambian sugar which sells for a range of (hypothetically) K10 to K15 per 200g bag.

As a result fewer and fewer people are consuming Zambian produced sugar, and as such, all sugar manufacturing companies have been downsizing or closing down. The government of Zambia wishes to restrict the quantities of sugar that CBL Ltd can export to Zambia.

Advise.

[14 Marks]

PART D

Question 6

Outline and evaluate the sources of International Trade Law.

[14 Marks]

Question 7

With the aid of a diagram, describe and evaluate the buffer stock scheme.

[14 Marks]

END OF EXAMINATION



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

INVESTMENT LAW, LPU 4072

FINAL YEAR EXAMINATION

23RD NOVEMBER, 2020

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.

PART A

Question 1 (Compulsory)

Gondoza Mining Ltd, a South African company, was awarded an oil exploration license by the government of Genovia in 2004. At the time Genovia was governed by President Bader of the Ama Nyoli Nyoli Party (ANNP) who were pro foreign investment and put in place various measures to attract it to their country. Clause 45 of the Concession Agreement between the Government of the Genovia and Gondoza Mining Ltd provided as follows:

“The Government the Republic of Genovia shall not take any legislative or administrative action that diminishes the rights contained within this concession for a period of 40 years without the prior consent of Gondoza Mining Ltd”.

The ANNP narrowly lost to the Trumplican Party (TP) led by Biden Harris who promised in their manifesto to gradually indigenise corporations operating within Genovia. This would as such entail nationalising corporations belonging to foreign nationals in phases. The first industry they wish to nationalise is the oil industry.

- a) Advise President Harris as to the legality of the nationalisation in this instance. [15 Marks]
- b) **Briefly** describe other means through which Gondoza Mining Ltd may recover their money in the event that President Harris' government does not pay them compensation. [3 Marks]

[18 Marks]

PART B

Question 2

Dragon Breath Ltd, a Chinese construction company and the Zambian Government enter into a joint-venture agreement to build a holiday resort in Siavonga. This contract contains within it an arbitration clause which states that, “All disputes arising out of this contract shall be settled by arbitration at the International Centre for Settlement of Investment Disputes (ICSID) headquarters in Washington, District of Columbia before a panel of three arbitrators.”

Before Dragon Breath Ltd can even begin constructing the resort, the Government of Zambia unilaterally cancels the contract and Dragon Breath Ltd initiate arbitral proceedings, during which the Government of Zambia makes the following contentions:

- a) The contract between Dragon Breath Ltd and the Government of Zambia was cancelled and as such there is no valid agreement to arbitrate.
- b) Since there is no valid agreement to arbitrate, the arbitral tribunal has no jurisdiction.

You are the President of the arbitral tribunal and have been asked to decide these two points.

[14 Marks]

Question 3

The Bajrakitiyabha Bank of Thailand (BBT) have a 49% stake in the Banque de Dauphin (BDD) in the Democratic Republic of Congo. A few months ago fighting broke out in Eastern Congo during which a rocket is shot at the BDD building causing \$100 million of damage.

- a) Advise the Bank as to whether they qualify for investment insurance under Multilateral Investment Guarantee Agency (MIGA).
- b) Would your answer be any different if the BBT made a similar investment in a developed country like Germany?

[14 Marks]

PART C

Question 4

“[A]lthough the tribunals do not explicitly endorse the Hull principle, it is still clear that the principles adopted under the aforementioned standard are recognized. This is reflected in the fact that arbitral tribunals invariably recognize that lost future profits should be included in the compensation award payable to the investor. In this sense, even though appropriate compensation might be the standard applied, the effect of these decisions reflects a standard of compensation that resembles the Hull principle.” Sangwani Patrick Ng’ambi, *Resource Nationalism in International Investment Law* (Routledge) p. 83

Discuss in the context of the two compensation standards under International Investment Law.

[14 Marks]

Question 5

“[I]t is a fundamental principal of law...that contractual undertakings must be respected”. *Sapphire International Petroleum Ltd. v. National Iranian Oil* (1970) 9 I.L.M. 152

Discuss this quote in the context of the State’s liability for breach of stabilization clauses in concession agreements.

[14 Marks]

PART D

Question 6

- a) Does Foreign Direct Investment contribute to economic development? (7 Marks)
- b) Does the Zambian Development Agency Act go far enough in attracting the flow of foreign direct investment (FDI) into the Republic of Zambia? (7 Marks)

[14 Marks]

Question 7

Write notes on the following:

- | | |
|--------------------------------------|-----------|
| a) Rebus Sic Stantibus; | (2 Marks) |
| b) Renegotiation Clauses; | (2 Marks) |
| c) Jurisdictional Approach; | (4 Marks) |
| d) Typical Characteristics Approach. | (4 Marks) |

[Total: 14 Marks]

END OF EXAMINATION



The University of Zambia

School of Law

LPU 4085 - Environmental Law

2020 Academic Year Examination

DATE: 27 November 2020

TIME: 9:00 hours

Instructions

1. This examination is divided in **Four (4) Parts – A, B, C and D**.
 2. **Part A** is compulsory. Answer one question from Part B, Part C and Part D.
 3. Time allowed is three (3) hours plus five (5) minutes to read through the examination paper.
 4. The examination paper carries a total of 60 marks.
 5. Mobile telephones, tablets, watches, clocks or any other form of computing or electronic instruments are **not allowed** into the examination room.
 6. Candidates are (**not permitted to bring any statutes**) into the examination room.
 7. The subject is for candidates in the (4nd) year of the LL.B programme.
-

Part A -Compulsory

Question One

After graduating from law school, you join a Zambian environmental advocacy group dedicated to protecting disadvantaged communities from environmental hazards and toxins. Your first client is an association comprised of residents of a local community in Katemo. They are extremely upset because Entembe Resources Limited ("ERP") announced plans to start building an entirely new manufacturing plant on a site which sits next to a river and a wetland area after the President announced that the project has Government's approval. As a result, the land is frequently wet and marshy, and the area has a sizable biological community growing onsite. Some of the plants include cat tails and other marshy plants, and migratory birds use the site as a roosting spot during migrations. Some of those birds are listed as either threatened or, in one case, endangered. Therefore, any changes to the biological community may be irreversible. Part of the proposed site is also being used by the residents for subsistence farming and cattle grazing and farming. ERP's new manufacturing plant is situated about 100 meters from the community of about 1000 residents.

ERP's manufacturing facility once constructed will likely discharge volatile organic compounds through pipes to a large flare at the facility. Some fumes, including nitrous oxides, will simply escape into the air as fugitive emissions and affect the health of the residents as well as the crops. The facility will draw water from the nearby river, use it in its production process, and then discharge the water back into the river along with some production effluent. This process may affect the quality of the water and aquatic organism which the residents depend upon as source of food.

The residents have lived near the wetland area and used the area for farming, fishing and grazing cattle since time in memorial and as a result some residents have no intention of agreeing to be relocated to another area. The residents are therefore concerned with ERP's plans to evict any resident who may resist being paid compensation for relocation. To motivate the residents, crops have mysteriously been set on fire or sprayed with harmful chemicals which affected the food security for the community. In view of this, the association sees the development of the manufacturing facility as a threat to both the current and future of the community. In particular, the association believes that the development of the manufacturing facility by ERP will violate their rights against environmental justice.

With the aid of relevant authorities explain:

- (a) the right the association may have to pursue for environmental justice and the challenges the claims will face.

(12 Marks)

- (b) the permits which ERP would require to operationalise the manufacturing plant and which the association can object to.

(6 Marks)

Part B

Question Two

Discuss, with the aid of relevant authorities, four (4) international environmental principles stated in Article 3 of the United National Framework Convention on Climate Change.

(14 Marks)

Question Three

Discuss the four (4) current global environmental challenges and explain briefly how the international community has responded to each of the challenges.

(14 Marks)

Part C

Question Four

A species of flora and fauna that had never before been observed was identified during the early development of a new multi facility economic zone in Zambia ("**Zone**"). The planning of the Zone was completed and some initial construction had already taken place. It soon became clear that it would be impossible to complete and operationalise the Zone without destroying some species only known habitat. Zambia is party to the Convention on Biological Diversity (CBD) and has domesticated its obligations under the CBD. Environmental non-governmental organizations argued that allowing the Zone to proceed would be in violation of Zambia's obligations under the CBD to conserve the species. They also argued that biodiversity is a common concern and there is value in conserving biodiversity and therefore the development of the Zone should be cancelled. The project funders, which included the African Investment Bank Plc, argued that they were unable to withdraw from the project at this late stage without suffering very significant loss, and that it would be up to Zambia to cancel the project and cover at least a reasonable part of the expenses that had they had incurred.

You work as a State Advocate in the Attorney General's chamber and the Solicitor General has asked you to prepare a memorandum discussing:

- (a) the legal obligations Zambia has under the above scenario;

(4 Marks)

- (b) the measures available under Zambian legislation to conserve and protect biodiversity during the development and operation of the Zone. **(10 Marks)**

(Total - 14 Marks)

Question 5

A Chinese investor intends to develop a new fertilizer manufacturing plant ("**Plant**") in Zambia after developing a similar project Kambia. It is expected that, during construction and operation of the Plant, pollutants and contaminants will be discharged or emitted into the atmosphere and aquatic environment (planned and unplanned), toxic substances including chlorofluorocarbons will be used and noise from the machinery should be expected. Notwithstanding the foregoing, the establishment and operation of the Plant did not raise much environment issues in Kambia.

The developer asks you as an environmental consultant, to explain the regulatory measures under Zambian law that development and operation of the Plant will be required to comply with to prevent, control and manage environmental harm in Zambia.

(Total: 14 Marks)

Part D

Question 6

Discuss the duties which member states are required to comply with under the UN Convention on the Law of the Sea to prevent, reduce and control pollution of the marine environment.

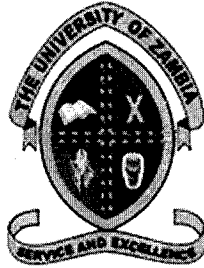
(14 marks)

Question 7

With the aid of relevant authorities discuss the importance of compliance and enforcement in relation to the effective operation of multilateral environmental agreements ("**MEA**") and the particular challenges which MEA's faces with respect to compliance and enforcement in the context of international environmental law.

(14 marks)

END OF EXAM



THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

INTELLECTUAL PROPERTY LAW – LPU 4165

END OF YEAR EXAMINATIONS – NOVEMBER/DECEMBER 2020

DATE: 04/12/2020

TIME: 09:00 HOURS

VENUE: SPORTS HALL

INSTRUCTIONS:

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

PART A (COMPULSORY)

Question 1

- (a) Chipembele Breweries Limited is involved in the production of Chipembele beer, which it sells on the Copperbelt Province of Zambia as well as in the Katanga Province of the Democratic Republic of Congo. The company has been in the beer business for over ten years and its Chipembele beer brand has significant good will and positive reputation in the said market area. The company has been using its unregistered trademark in the name of Chipembele beer.

This morning, Mr. Ibrahim Salama, the Managing Director of Chipembele Breweries Limited has called on you. He tells you that it has come to his company's attention, through its distributors and customers, that Dizzy Limited, a company also involved in the beer production and sales, has been selling and distributing its opaque beer in packaging materials bearing his company's trademark. Mr. Salama is seeking legal advice over what has transpired.

With the aid of case law, advise Mr. Salama on his company's legal position and the available legal options if any, and what his company may have to prove in case this company resorts to litigation.

[11 Marks]

- (b) Discuss in general how the 1994 World Trade Organization Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) establishes enforceable global minimum standards of protection and enforcement for virtually all the most important Intellectual Property Rights.

[7 Marks]

[Total Marks 18]

PART B

Question 2

- (a) Accessible, sufficient and adequately funded arrangements for the protection of rights are crucial in any worthwhile industrial property system. There is no point in establishing a detailed and comprehensive system for granting rights and disseminating information concerning them, if it is not possible for the right owners to enforce their rights. **(Wipo, Intellectual Property Reading Material, Geneva 1998, P 199).**

With the aid of relevant authorities, discuss the various remedies available for infringement of intellectual property rights.

[9 Marks]

- (b) Discuss the defences to copyright infringement.

[5 Marks]

[Total 14 Marks]

Question 3

- (a) Mibende is a second year law student at the University of Kalabo. You happen to meet him at the student centre. Mibende is impressed with your mastery of legal concepts especially in the field of intellectual property law. Mibende tells you that he has heard of intellectual property rights, but does not know what these rights are and why they should be protected.

Explain to Mibende what intellectual property rights are and the rationale for their protection.

[8 Marks]

- (b) Discuss the principles established in the **University of London Press v. University Tutorial Press (1916) 2 Ch. 60.**

[6 Marks]

[Total Marks 14]

PART C

Question 4

- (a) You are the Legal Advisor to the Ngambela (Prime Minister) of the New Republic of Barotseland. This morning, the Ngambela has called on you for legal advice. The Ngambela informs you that the New Independent Republic of Barotseland intends to enact a patent law. The Ngambela informs you that he has learnt that the neighbouring New Republic of Caprivi has enacted a patent law with provisions on compulsory licensing. The Ngambela would want to know the various circumstances under which a state may resort to compulsorily license a patent.

Advise the Ngambela the various circumstances under which a state may compulsorily license a patent.

[8 Marks]

- (b) Discuss the conditions for grant or registration of a plant breeders rights.

[6 Marks]

[Total Marks 14]

Question 5

- (a) You are the Legal Advisor to the New Independent Republic of Muchingaland. Muchingaland is the latest member of the African Regional Intellectual Property Organization (ARIPO) having acceded to the Lusaka Agreement on the creation of ARIPO. Muchingaland is very rich in natural resources. Muchingaland intends to enact a law on traditional knowledge.

The Prime Minister of Muchingaland has called on you this morning for legal advice. The Prime Minister wishes to know what traditional knowledge is, the rationale for protection of traditional knowledge and the core principles that could be incorporated into the Intended Traditional Knowledge Act.

Advise the Prime Minister on the issues he has raised.

[9 Marks]

- (b) Discuss the ways by which one may protect trade secrets and other confidential information.

[5 Marks]

[Total Marks 14]

PART D

Question 6

Compare and contrast the following:

- | | | |
|-----|---|-------------------------|
| (a) | Certification Marks and Collective Marks | [5 Marks] |
| (b) | Novelty and Inventive Step as conditions for Patentability | [5 Marks] |
| (c) | The Registration and Examination Systems for Patent Systems | [4 Marks] |
| | | [Total Marks 14] |

Question 7

Write short notes on the following:

- | | | |
|-----|---|-------------------------|
| (a) | The functioning of the Patent Cooperation Treaty System | [5 Marks] |
| (b) | Industrial Designs | [5 Marks] |
| (c) | Geographical Indications | [4 Marks] |
| | | [Total Marks 14] |

TOTAL EXAMINATION MARKS: 60

END OF EXAMINATION



UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

**COMPARATIVE CONSTITUTIONALISM IN AFRICA: LPU 6420
END OF THE EXAMINATION**

27TH NOVEMBER 2020 09:00HRS-12HRS

VENUE: SPORTS HALL

INSTRUCTIONS:

1. Answer **Four (4) questions**, one from each part. Question 1 is compulsory.
2. Time Allowed: **Three (3) hours** plus five **(5) minutes** to read through the examination paper.
3. This examination carries a total of 60 marks.
4. Mobile telephones, tablets or any form of computing or electronic instruments are **not** allowed into the examination room.
5. Candidates are **permitted to bring** the following Statutes into the examination room:
 - i) The Constitution of Zambia;
 - ii) Act No. 2 of 2016 (Amendment to the constitution) ;
 - iii) Bill No. 10.
6. This subject is for candidates in the LLM programme.
7. Candidates must not turn this page until the Invigilator instructs them to do so

PART A QUESTION 1 – COMPULSORY

The failure of balancing power (structural Constitutionalism) in the post-colonial state has been due to the dominance of the legislature by one-party meaning having the majority to single-handedly amend the constitution or to undermine the constitution by Constitutional means. This has been compounded by the judiciaries in these states except India failing to understand the “Basic Structure Doctrine”. Critically discuss the above statement.

(18 Marks)

PART B

QUESTION 2

There so many descriptions of Constitutionalism. Pick one definition and discuss how it appeals to you. Further discuss whether the Zambian Political environment fits in your definition.

(14 Marks)

QUESTION 3

Professors Hatchard, Ndulo and Slinn in their book Comparative Constitutionalism and good governance in the commonwealth P208 argue that the failure of “Constitutional democracy” in Africa is due to the weakness of Institutions to support it. With Zambia as an example, do you agree?

(14 Marks)

PART C

QUESTION 4

Judges have been said to promote democratic rule and at the same time Judges may contribute to the violation of fundamental and social economic rights. Discuss the above statement.

(14 Marks)

QUESTION 5

It is difficult to contain Lawfare, when senior appointees or head of security wings have no security of tenure, which makes them vulnerable to political directives. Discuss

(14 Marks)

PART D

QUESTION 6

The case of ***Mulundika and others V Attorney General (1996) ZMSC 26 and Resident Doctors V Attorney General (2003) ZR 88*** were human rights spirited decisions, which if reasonably followed would enhance freedoms contained in those decisions. Do you agree?

(14 Marks)

QUESTION 7

Ndulo, quoting the chief Justice of South Africa Justice Ismail Mohammed observed in a judgement in Namibia;

The Constitution of a Nation is not simply the statute which mechanically defines the structures of Government and the governed. It is mirror reflecting the soul, identification of the ideals and aspirations of a Nation, the articulation of the values bonding its people and disciplining the Government.

Discuss the extent if any, to which the Zambian Constitution has achieved these grand objectives.

(14Marks)

TOTAL 60 MARKS

THE END



UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

ELECTIONS AND ELECTORAL SYSTEMS IN AFRICA – LPU 6430

FINAL EXAMINATION

MONDAY 30TH NOVEMBER, 2020

TIME: 09 00 – 12 00 HOURS

VENUE : UPPER DINING HALL

INSTRUCTIONS:

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

PART A (COMPULSORY)

QUESTION 1

The Republic of Watermelon is a new state in Southern Africa which was originally a tribal kingdom in the area bordering modern Botswana, Zambia and Zimbabwe. The people of Watermelon have decided to abandon a system of leadership based on ancestral claims. They desire to create a government headed by an elected President and a National Assembly. One of their nationals, Professor Tongala, has observed that "the value of an election to a democracy is either enhanced or reduced depending on the electoral system a country chooses to use".

Critically examine the statement by Professor Tongala, and advise the people of Watermelon on their options for a system of electing a President and a National Assembly.

[20 Marks]

PART B

QUESTION 2

Discuss the functions of elections in a democratic system of governance.

[20 Marks]

QUESTION 3

Critically examine the view put by Obrien Kaaba (2015) that the way to improve justice delivery in presidential election disputes in Africa is to establish a supranational court at the level of the African Union.

[20 Marks]

PART C

QUESTION 4

To what extent can it be said that poverty and inequality in Africa undermine democratic governance?

[20 Marks]

QUESTION 5

The women and the youth of Africa make up the majority electors, yet they suffer a disproportionate under representation in elected bodies of many countries on the continent.

What reasons are offered for this state of affairs? What suggestions would you make to improve the chances of women and the youth in that regard?

[20 Marks]

END OF EXAMINATION



**THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW**

AFRICAN HUMAN RIGHTS LAW - LPU 6440

FINAL EXAMINATION

WEDNESDAY 2ND DECEMBER, 2020

TIME: 09.00

VENUE: UPPER D/HALL

INSTRUCTIONS:

1. Answer **four (4) questions**, one from each part. Question 1 is compulsory.
2. Time allowed: **Three (3) hours plus five (5) minutes** to read through the examination.
3. This examination carries a total of **60 marks**.
4. Mobile telephones, tablets or any other form of computing or electronic instruments are not allowed into the examination room.
5. Candidates **are permitted to bring** the following materials into the examination room.
 - (a) The African Charter on Human and Peoples Rights.
 - (b) The Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples' Rights.
 - (c) The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.
6. This subject is for candidates in the taught LLM Programme.

PART A (COMPULSORY)

Question 1

Mungi fears reprisals from the state apparatus of the Banana Republic for having allegedly insulted the President of the Banana Republic for his corrupt practices in 2018. A Commission of enquiry set up to investigate the independence of the courts in the Banana Republic found that the judges of all the courts lack independence and are in one way or another under the control of the President of the Banana Republic.

In the same year (2018), Mungi was arrested by the Secret Police of the Banana Republic and held in an underground prison for several months without trial. During his confinement the Secret Police of the Banana Republic cut off two of his toes.

In 2019, Mungi was released from his confinement, but his family advised him not to take a case to court against the Banana Republic for his arrest and torture as he might get into bigger trouble. Mungi conceded to the advice of his family, but resolved to pursue his grievance for unlawful arrest and torture in an international forum since the Banana Republic has ratified the Banjul Charter.

Mungi finds out that you are a student of African Human Rights Law and approaches you for advice on whether he can have his case heard by the African Commission on Human and Peoples' Rights (the Commission). He informs you that because of his experience with the Banana Republic and its Secret Police, he does not want his identity revealed in any forum where he seeks a remedy.

Citing relevant authorities, advise Mungi on whether the Commission can hear his complaint against the Banana Republic for violation of his human rights. He also wants to know the chances of success of the claim being heard by that forum.

(18 Marks)

PART B

Question 2

In his article entitled 'Towards the African Court on Human and Peoples' Rights: Better Late Than Never,' Udombana states that the provisions of the Protocol to the African Charter on Human and Peoples Rights on the Establishment of an African Court on Human and Peoples Rights "on the subject matter jurisdiction ... are revolutionary in expanding the protections afforded by regional human rights courts" (at p91).

Critically discuss and amplify the sense in which the **subject matter jurisdiction** of the African Court on Human and Peoples Rights is revolutionary. Your answer should include a comparison between the subject matter jurisdiction of this Court and the **subject matter jurisdiction** of the African Commission on Human and Peoples Rights under the Banjul Charter.

(14 Marks)

Question 3

With reference to the Special Rapporteurs of the African Commission on Human and Peoples Rights (the Commission), explain how the Commission has advanced the African Human Rights system through its subsidiary special mechanisms. Your answer should include a specific Special Rapporteur of your choice with its mandate and methods or duties.

(14 Marks)

PART C

Question 4

The headmen and head women of Mungwimba village in the Pumpkin Republic are concerned about the erosion of their traditions and customary values, which they believe have led to the pregnancy of their young girls in schools. They claim the schools are teaching the young girls about their individual rights under international law, which are in conflict with their

communitarian values pertaining to the upbringing of their children. In particular, the young girls assert their right in international law to decide on matters concerning their bodies. "After all," the girls assert, "if we fall pregnant, that has nothing to do with anyone - the parents, aunties or grandparents in the family or the community - it is our own bodies, and we have individual rights over our bodies."

The headmen and headwomen are confounded about the idea of individual rights that seems to be taking away the responsibility they have over their children as families and communities. They have learnt about your expertise in African Human Rights Law. They come to you for an opinion on whether there are no ideas of human rights in Africa that preserve their communal traditions and values to help with their children as communities.

Advise them on the African conception of rights embedded in the African Banjul Charter, including the collective dimension of individual rights from an African human rights perspective.

(14 Marks)

Question 5

The COVID 19 pandemic has probably caused one of the most serious challenges to first generation rights globally. Almost overnight, a world caught unawares was struck by a virus killing thousands of people within a short space of time. Every news channel across the world bombards the world community and governments about there being no cure and no vaccine for the virus, and about possible serious illness and death within 14 days.

In a panic to stop the spread of the virus within and across their borders, State after State started to adopt unprecedented measures that are of great concern to a seasoned and critical human rights student. Our own country, Zambia, has not been spared by the pandemic and the frenzy about prevention.

(Empirical observation and narration by CH)

- (a) As you have observed the international and national scenes arising from COVID 19, list the first generation rights that you consider to be under threat.

(4 Marks)

- (b) Taking one of the rights you identified in (a) above as a specific case, critically discuss how any one of the measures adopted by the State in Zambia to prevent the spread of the virus have limited the right concerned, and how the limitation could be alleviated without compromising the health and lives of the entire country.

Cite relevant authorities in this answer.

(10 Marks)

(Total 14 Marks)

PART D

Question 6

Discuss the meaning of the concepts of official customary law and living customary law, and the potential of each of these concepts to advance or hinder women's rights in Africa.

Substantiate your answer using case law from any African country.

(14 Marks)

Question 7

Write short notes on the following:

- (a) "Claw back" provisions in the Banjul Charter.

(7 Marks)

- (b) Ubuntu.

(7 Marks)

(Total 14 marks)

END OF EXAMINATION