

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

2004 ACADEMIC YEAR SECOND SEMESTER EXAMINATIONS

L 142	-	CRIMINAL LAW II
L 172	-	REFUGEE LAW CERTIFICATE COURSE
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THE UNIVERSITY OF ZAMBA

SCHOOL OF LAW

2004 academic year/second semester Examinations

L142 Criminal Law II

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Time: Three(3) Hours
Answer: Answer Question One and Three Others
Document: Penal Code, cap 87

.....

Q1(compulsory):

Chongo was a pick-pocket . He entered a branch of Merchant bank in order to steal . He waited for a customer to make a large withdrawal of cash . Ms Lopa entered the bank and withdrew K300,000 . She put the money in an envelope and put the envelope into her hand-bag . Ms Lopa was distracted by commotion outside the bank, Chongo picked the envelope from Lopa's hand-bag . Ms Lopa realised what had happened and screamed for assistance . Chongo dropped the envelope and ran out of the bank . As he was fleeing from the bank, Chongo violently pushed down a security guard who tried to stop him . Chongo was apprehended by the Police later that day .

Discuss Chongo's criminal liability .

[18]

Q2:

Describe carefully the facts and decision of the Zambian case Chitenge V. The People(1966: Court of Appeal for Zambia) .

[14]

Q3:

Wina and Phiri were engaged to be married when Phiri decided she no longer wished to see Wina . As a result Wina became angry and depressed . Over the course of the

next few months, Wina made a number of telephone calls to Phiri during which he did not speak . Due to this calls, Phiri suffered a psychological breakdown .

Examine Wina's criminal liability .

[14]

.....
Q4:

Would you agree with the assertion , 'killings whether described as being committed intentionally or by gross negligence' should be treated as murder ?

[14]

.....
Q5:

If one considers an honest customer taking goods from a shelf to put in her trolley to take to the checkpoint there to pay the proper price, it is difficult to see that any of these actions involves any 'taking' and 'moving' as s. 265 provides . Under the Penal Code 'taking' and 'moving' involves not an act authorised by the owner, but an act by way of adverse interference with those rights .

Explain(cite decided cases) .

[14]

.....
Q6:

The offence of manslaughter does not consist simply in an unlawful act resulting in death .

Examine the validity of the above proposition(cite decided cases)

[14]

.....
Q7:

In R. V. Chungu(1954: High Court of Northern Rhodesia), Evans, A. J., made reference to the statement 'If a person through the fraudulent representations of another, delivers to him a chattel, intending to pass the property in it, the latter cannot be indicted for larceny(theft), but only for obtaining the chattel under false pretences'

Explain(cite relevant sections of the Penal Code and one decided case) .

[14]

THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW

2003/2004 ACADEMIC YEAR SECOND SEMESTER FINAL EXAMINATION

L 172 REFUGEE LAW CERTIFICATE COURSE

INSTRUCTIONS:

- 1. CANDIDATES ARE ALLOWED TO BRING INTO THE EXAMINATION ROOM UNMARKED COPIES OF RELEVANT INSTRUMENTS.**
- 2. CANDIDATES MUST ANSWER QUESTION ONE AND ANY OTHER THREE QUESTIONS.**
- 3. TIME: THREE (3) HOURS (Plus 5 minutes to read through the paper)**

Question One

Following years of totalitarian regime, democracy has come at last to the Republic of Outlandia. You are a Protection Officer in Utopia a Country where a number of Outlandia citizens had been admitted as refugees during the years of cruel repression. The majority have, by now, integrated successfully with the local population. They have found employment, their children are educated in National Schools and there have been cases of Marriages between refugees and nationals.

Some of the refugees, however, have sought to maintain links with their roots, particularly among older generation. With the coming of democracy, they have one dream, to return to their birth place.

Ms. Tayenda a refugee from Outlandia wishes to return home and she wants to know the durable solutions to refugee problems.

Discuss Voluntary Repatriation as one of the solutions and advise Ms Tayenda the position on those refugees who do not wish to repatriate.

(40 marks)

Question Two

Mr. Hosama Bin Radin was a member of the armed forces in his Country. He did not like the totalitarian regime that governed his Country and soon joined a small group of like-minded officers. The group decided to make some sort of public demonstration against the Government. Unable to legally demonstrate against the Government within the Country, they decide to hijack an air force plane, fly it to a neighboring Country and make a Press Statement there, condemning the human rights abuses of their Government. It was decided that Bin Radin would chose the plane to be hijacked, as he

worked in the radio tower. The leader of the group would embark on the plane and hijack it. Although the leader would be armed, it was decided that there should be no violence.

The hijacking was a failure. No one knows exactly what happened but the plane crashed and all aboard died. The Government learned of the plot and arrested Bin Radin and five others. They were convicted to 15 years in prison for hijacking. While waiting to be transferred to prison, three of Bin Radin's colleagues were summarily executed. Hosama Bin Radin then escaped, fearing the same. He left his Country and is now claiming refugee status.

Discuss whether or not Hosama Bin Radin should be granted refugee status. **(20 Marks)**

Question Three

Explain the Refugee status determination procedures in Zambia **(20 Marks)**

Question Four

Critically analyze the issues in protecting internally displaced persons. **(20 marks)**

Question Five

- a) Briefly explain the principle of non-refoulement and under what circumstances does it occur **(10 marks)**
- b) Discuss the problems that may originate in the Country of Origin and their responses in protecting refugees **(10 marks)**.

Question Six

- a) What are the main themes that underpin the 1989 Convention on the Rights of the Child? Briefly explain each theme **(5 marks)**.
- b) Under what circumstances does a person cease to be a refugee under the 1951 UN Convention **(5 marks)**.
- c) Critically analyze what is meant by Gender related persecution. **(10 marks)**.

Question Seven

Write short notes on each of the following

- a) Refugee sur place **(5 marks)**
- b) Mandate Refugee **(5 marks)**
- c) Statutory Refugee **(5 marks)**
- d) Convention Refugee **(5 marks)**

END OF EXAMINATION

THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW
SECOND SEMESTER EXAMINATIONS – DECEMBER 2004

L222
LAW OF CONTRACT 2

TIME: THREE (3) HOURS

INSTRUCTIONS: ANSWER QUESTION ONE (1) AND ANY OTHER THREE (3) QUESTIONS

1. Amy and David had been married for 10 years when they separated (5 years ago). During their marriage they had lived together in a house on a Lusaka property. David was the registered proprietor of the property. He had bought the house prior to meeting Amy. Upon separating, however, Amy remained in the house while David moved to Ndola where he lived in an apartment and worked in a high paying legal job. While in Ndola, David continued to pay the rates and to meet the mortgage repayments in respect of the Lusaka property. Two years ago, David wrote Amy saying that although he did not want to resume a relationship with Amy (as Amy felt likewise with respect to David) he did think it would make “good economic sense” if he and Amy began cohabiting again so that they could pool their economic resources to their mutual benefit. He said if Amy allowed him to move back and live in the Lusaka house on permanent basis and to cooperate with him as an “economic partner” he would put the house into her name so that it would be hers upon his death. Although very reluctant to give up her financial freedom, Amy phoned David and agreed to his proposal. On the faith of this agreement, David resigned from his high paying job in Ndola, gave up the apartment and moved back to the Lusaka property. Amy and David opened joint bank accounts and lived as economic partners. They shared grocery, electricity and telephone expenses; they contributed in equal shares to re-carpeting the entire house and to building a solarium. David however continued to pay the rates and to make the mortgage repayments on his own. But at no time after his return did David and Amy live as husband and wife. They chose to live in separate parts of the house and only spoke to each other when necessary. David, however, did not bother to put the house into Amy’s name. Two months ago David died suddenly. Relying on the legal title, David’s executors have brought proceedings to eject Amy from the house.

Advise Amy.

2. (i) Discuss the two heads of the rule in *Hadley v Baxendale* [1854]
- (ii) What is the duty to 'mitigate loss' and on whom does it fall?
- (iii) What is the object of a quantum meruit claim?

3. "It is unfortunate that the Misrepresentation Act far from clarifying and codifying the various remedies appears to have added another layer of complexity on the uncertain foundations of the previous common law" (Hogan, Seago and Bennet)

In the light of this quotation, discuss the remedies which are available for misrepresentation.

4. Paul is developing a leisure center in time for the summer holiday trade and he contracts with Mulenga to undertake the installation of a swimming pool. Mulenga contracts with Ken to supply pipes to build the pool. Mulenga begins work in January, but in May he informs Paul that he will not be able to complete the work because of the steep increase in the cost of building materials in particular the pipes. Paul had meanwhile pre-sold ticket for the opening in September.

Paul agrees to pay more than was originally agreed, so that Mulenga can obtain the materials needed to complete the pool on time. Ken calls Paul and is reassured that he will be paid for the pipes by Mulenga. When the work is completed Paul refuses to pay the extra K10 million. Six months after Ken supplied the pipes, he has still not been paid by Mulenga. Both Mulenga and Ken are now requesting payment from Paul.

Advise Paul whether he must pay Mulenga the extra K10 million and Ken for the pipes.

5. ".....a narrow doctrine of common law mistake, supplemented by a more flexible doctrine of mistake in equity, seems to me to be an entirely sensible and satisfactory state of the law." (Steyn J., in *Associated Japanese Bank v. Credit du Nord* [1988])

Discuss the limitations of mistake at common law and the circumstances in which equity will provide a remedy to a party who has entered into a contract by mistake.

- 6. Bob and his wife, Grace, run a business which is experiencing financial difficulties. Bob approaches Tembo, the manager of Nkongole Bank, for advice. Tembo suggests a short term bank loan to support the business and to finance the purchase of new equipment.**

Tembo also suggests that Bob and Grace seek further advice from their accountant before they commit but he points out that if Bob wishes to proceed with the loan, he must act very quickly to obtain favourable terms. Bob therefore agrees immediately to have the loan and, at Tembo's request, takes a form home for Grace to sign. Bob persuades Grace to sign the form, which states that the family home will be used as security for the loan, and returns it to the bank.

One year later the business is still not successful. Grace receives a letter from the bank explaining that the loan has now become unacceptably large and since repayments have been outstanding for some considerable time, Nkongole Bank will be taking action to sell the house to settle the debt.

Advise Grace.

- 7. Andrew owns the Hotel Magnifico. In June Chanda reserves and pays for accommodation in the hotel including the hire of a very large conference room. Chanda and some of his business colleagues plan to use the accommodation for a conference in August. In July Andrew informs Chanda that a fire has damaged most of the hotel, but that the group could have rooms in a nearby guest house which Andrew also owns. However, the facilities at the guest house are inferior and there is no conference room. Chanda wishes to cancel the booking but Andrew insists that the payment cannot be refunded.**

Advise Chanda the options available to him.

UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

2004 Academic year-second semester Examinations
L242 Criminal Law II: Specific Offences

Time: Three(3) hours
Exam paper: It consists of three sections . Answer one
Question from each section, plus another
From any section . In all you must answer
FOUR(4) questions .
Document allowed: Penal Code, cap 87 .

SECTION I: QS.: 1,2,3

[1] {15}

In 1830, Tindal C. J. said, 'If death ensues as the consequences of a wrongful act, an act which the party who commits it can neither justify nor excuse, it is not accidental death, but manslaughter .'

Carefully explain and give reasons for agreeing or disagreeing with the above proposition .

Select three of the following decided cases to support your argument:

1. John Mpande v. The People [1976] SCZ Judgment 31 of 1976 .
2. R v. Lamb [1967] 2 QB 981, CA .
3. DPP v. Newbury [1977] AC 500, HL .
4. R v. Dawson [1985] 81 Cr. App. R 150, CA .
5. R v. Goodfellow [1986] 83 Cr. App. R 23, CA .

[2] {15}

(a) In Kelly and Lindsay [1998] Cr. App. R 200: L remove 35 body parts, at the request of K, from the Royal College of Surgeons, so that K, a sculptor, could make casts of them . K retained some of the body parts and disposed of others .

Assuming that a case with similar facts is before a magistrate in Kabwe . L and K are charged with stealing the body parts, they are tried and convicted . They now appeal against conviction .

Give your reasons for allowing or dismissing the appeal .

(b) X makes a cheque to Z . S obtains this cheque[made to Z] by misrepresentation .
Describe the offence [if any] committed by S.

[3] {15}

(a) In R v. Richardson [1992] Cr. App. R 200, X was charged with six counts of assault occasioning actual bodily harm arising from her continuing to practice as a dentist while suspended by the General Dental Council . X's conviction was quashed by the Court of Appeal.

(b) In R v. Tabassum [2000] Crim. LR 686, Z carried out examinations of three women's breast purporting to be carrying out a study on breast cancer . The women believed he was medically qualified and would not have let him examine them had they known he was not . Z was convicted on three counts of indecent assault and his appeal was dismissed by the Court of Appeal .

Critically examine the grounds on which the Court of Appeal arrived at different decisions in (a) and (b) above .

SECTION II: QS.: 4,5

[4] {15}

Section 200 of the Penal Code of Zambia provides:

Any person who of malice aforethought causes the death of another person by an unlawful act or omission is guilty of murder .

Section 25 of the Criminal Code of Riversland provides:

A person is guilty of murder if he causes the death of another : (I)

Intending to cause death; or (ii) intending to cause serious personal

Harm and being aware that he may cause death .

Carefully consider s. 200 and s. 25 as set out above . Indicate and explain which formulation you would prefer . [Be sure to support your argument] .

[5] {15}

In a number of countries, the offence of treason consists only in levying war against the state, or in adhering to the enemies of the state, giving them aid and comfort . In other countries this aspect of treason has been extended by statutory provisions and refined by the courts to include a number of things which otherwise would be deemed as falling within the definition of unlawful assembly, riot or sedition .

Discuss [Be sure to explain your claims] .

SECTION III: QS.: 6,7

[6] {15}

Write brief notes on three of the following:

1. Kambarange Mpundu Kaunda v. The People [1991]SCZ Judgment delivered by Silungwe, C J .
2. Differences between section 43 (d) and section 45 (b) of the Penal Code, cap 87 .

3. The Law of Theft in Zambia does not consider constructive knowledge as sufficient in respect of the offences of receiving or retaining stolen goods .
4. In Hyam v. DPP [1974] 2 All ER 41, HL, Lord Hailsham LC said, 'If this be a good definition of 'intention' for the purposes of the criminal law of murder ... I think it is clear that 'intention' is clearly to be distinguished alike from 'desire' and from foresight of the probable consequences .'
5. Entry for the purpose of the offence of Housebreaking under the Law of Theft in Zambia must be effective, but need not be substantial .

[7] {15}

(a) R is familiar with the location of A's house . A is an old man of 65 years of age . A lives alone in a well-maintained house at the edge of the village . R assaults A two miles away from A's house . R pushes A into a nearby bush, binds up the old man, and then proceeds to his victim's house where later he steals a number of valuable items from the house .

Briefly explain R's criminal liability [cite decided cases to illustrate your contention] .

(b) In the case of Mwape v. The People [1976] ZR 160, the Supreme Court raised several compelling legal issues .

Carefully explain two of them [ignore issues relating to the Doctrine of Common Purpose !!!] .

She whose face gives no light shall not become a star!

GOOD LUCK

[SEK]

UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

2004 ACADEMIC YEAR-second semester deferred Examinations

L242 Criminal Law II: Specific Offences

.....

Time: Three(3) hours
This paper: It consists of seven Questions. Answer any Four(4) questions
Document allowed: Penal Code,cap 87

.....

Q1: As far as the Law of Theft of Zambia is concerned, the phrase 'adverse interference with the rights of an owner', may involve a number of acts (or actions) whatever their description may be.

Critically assess the validity of the claim as indicated by the phrase above.
[15]

Q2: A suffered a psychological breakdown as a result of X's repeated telephone calls and sending of highly insulting letters to A over a period of three months.

Carefully examine the legal liability of X.
[15]

Q3: Would you agree with the claim, 'all killings however described' should be treated as murder?
[15]

Q4: In R. v. Chungu(1954: High Court of Northern Rhodesia), Evans A J, made reference to the statement 'If a person through the fraudulent representation of another, delivers to him a chattel, intending to pass the property in it, the latter cannot be indicted for larceny, but only for obtaining the chattel under false pretences'.

Explain [Be sure to cite decided cases]
[15]

Q5: On 20th December 04, the Police arrested a number of demonstrators in different parts of Lusaka for what the Police referred to as 'unlawful assembly' and 'disorderly behaviour in public place likely to cause breach of the peace'.

Carefully evaluate the concepts of ‘unlawful assembly’ and ‘disorderly behaviour’ for the purpose of the offences related to Public Order.

[15]

Q6: Write brief notes on three of the following:

1. Treason.
2. Theft by Finding.
3. Unlawful act manslaughter.
4. Riot.
5. Breaking-out(in respect of the offence of house- or store-breaking).

[15]

Q7: In an attempt to modernise the Law of Homicide in Zambia, the following recommendation has been put for the consideration of the relevant authorities: ‘It should be murder (a) if a person, with intent to kill, causes death and (b) if a person causes death by an unlawful act intended to cause serious injury and known to him, to involve a risk of causing death.’

Discuss: pointing out the merits or demerits of the suggested recommendation.

[15]

.....

END OF EXAMINATIONS

Best wishes

[SEK]

THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW

UNIVERSITY SECOND SEMESTER EXAMINATIONS-
DECEMBER 2004

L252: CONSTITUTIONAL LAW II

INSTRUCTIONS:

1. **TIME: THREE (3) HOURS [PLUS 5 MINUTES TO READ THE QUESTION PAPER]**
 2. **ANSWER: QUESTION 1 and THREE (3) OTHERS.**
 3. Only clean, unmarked statutes may be brought into the Examination Hall.
-

QUESTION 1 (Compulsory)

The method of adopting the next Constitution has generated a lot of controversy in Zambia. Civil society, opposition parties, the three church mother-bodies (ZEC, EFZ and CCZ) and the trade unions have demanded that the new constitution should be adopted by a Constituent Assembly while the government's position is that there are insurmountable legal and logistical difficulties that make it difficult to use this popular method of adoption. Furthermore, it is government's contention that the new Constitution can only come into force in 2008 and that the 2006 elections will be held under the current constitution. This position is vehemently rejected by the government's critics, who believe that a new Constitution can be enacted before the next elections. UPND vows to organise countrywide demonstrations to press government to accede to the popular demand for a Constituent Assembly. The President warns that he will "cage" or imprison anyone who participates in such demonstrations, as the same will lead to chaos in the nation. The Minister of Information also issues a statement warning against public demonstrations over the Constitution, arguing that those contemplating such

demonstrations are troublemakers and that they are up no good. The Police issue a public statement to the effect that they would not allow any public meetings/demonstrations over the Constitution, as they believe that such events will lead to a break down of law and order.

On 1st December 2004 UPND notifies the police of its intention to hold a public meeting at Kafue Round About on 10th December. The police do not respond until the 8th of December, when they call in the organisers to tell them that the police would not allow the planned rally to take place. If the rally goes ahead the police will “crush” it with all their might. The UPND goes ahead with the rally and over 60,000 people attend it. It passes off peacefully until the police come to disperse the crowd. The police fire teargas and live bullets at the crowd. Three people die from the bullets and 270 people are injured. The police arrest and detain 200 people, including the organisers. The detainees are released on police bond after three days in detention. They appear before a magistrate’s court a week later, charged with unlawful assembly

The UPND hires you to represent the accused in court. Write a memorandum setting out all the relevant legal issues arising from the case, amply supported by authorities.

(25 Marks)

QUESTION 2

The question as to whether or not public figures should be entitled to sue for defamation and recover damages for injury to their reputations has been the subject of debate around the world.

With the assistance of decided cases from different jurisdictions and relevant laws, discuss the pros and cons of allowing public figures to

sue for defamation. Do you think the approach taken by Zambian courts is the right one?

(25 Marks)

QUESTION 3

The "1996 Constitution" is said to have changed the constitutional landscape of Zambia. Every major interest group has condemned it as undemocratic and that it has sown seeds of discord in the nation. What were the significant changes made to the 1991 Constitution in 1996? Were all the changes bad?

(25 Marks).

QUESTION 4

Zulu is serving his last year as President of Zambia. He borrows K500 million from ZANACO, which he refuses to pay back. Furthermore, he starts an affair with his married Secretary, Jane. One day he and Jane are found making love in the presidential office by support staff and the story is published in a private newspaper.

Zulu appoints his cousin, Supuni, a man who did not even finish Primary School, as Ambassador to Angola. The President ignores a court order restraining him from closing down a private radio station, which has been giving a platform to the opposition to attack the government. He demands an apology from the judge who issued the order and when the judge refuses to apologise the President fires him.

Write a legal opinion setting out the relevant legal issues, and in particular, what remedies, if any, are available against the President.

(25 Marks)

QUESTION 5

Mbofwana, a Member of Parliament is invited to a public forum organised by the CCJP at Nakatindi Hall on the Role of Parliament in a Democracy. In his speech, he denounces the National Assembly as a toothless bulldog, which acts at the behest of the executive branch. He criticises MPs for accepting to be paid a mid-term gratuity of K208 million each when the nation is grappling with a serious economic crisis. He announces that he will not accept his gratuity, as he cannot be comfortable when his constituents are suffering. Another Speaker, Mwamba, describes MPs as spineless and greed characters who do not have the interests of the people at heart.

These statements cause a furore in the National Assembly as a result of which Mbofwana is expelled from the House. Mwamba is charged with gross contempt of the House and sentenced to three years imprisonment.

Mbofwana and Mwamba hire you to represent them. Advise them on their rights and legal remedies available to them.

(25 Marks)

QUESTION 6

Fundamental rights and freedoms are indispensable in a democracy. Zambia has had a Bill of Rights in its Constitution since 1963. The Bill of Rights has remained substantially the same over the years and many people have been calling for its reform.

Critically discuss the shortcomings of the current Bill of Rights and how it can be strengthened, drawing on relevant examples from international law and constitutions of other countries.

(25 Marks)

QUESTION 7

An independent and impartial judiciary is considered indispensable for the protection of individual rights and freedoms, and the preservation of democracy.

With the aid of relevant authorities, critically discuss:

- (a) The powers of the judiciary with respect to the enforcement of the bill of Rights and democracy under the Zambian Constitution.
- (b) The manner and extent to which judicial independence is secured under the law.
- (c) The proposals made by the Mwanakatwe Constitutional Review Commission to strengthen the judiciary.

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

SECOND SEMESTER EXAMINATION
2004 ACADEMIC YEAR
LAND LAW 322

DURATION: THREE HOURS

INSTRUCTIONS:

ANSWER ANY FOUR QUESTIONS.

1. "The African urban environmental legislation is a product of historical accidents and a colonial remnant. Most of the developing countries in the African region do not have comprehensive human settlement legislation. Numerous piece meal and Ad hoc ordinances and codes attempt to regulate the acquisition, development and use of land in the urban and rural areas. The Town and country Acts in force are old obsolete and not effective....."

Discuss this statement with reference to Zambia.

2. John Smith is the registered owner of Farm 500 Lusaka. He acquired title to the Land in 1928. He carried on successful orable farming. The farm is ten kilometres from the Central Business District. Due to the proximity of the Farm to the Central Business District, he was approached by the Ministry of Local Government and Housing who were interested in developing the farm into a housing estate. John Smith spurned the offer. In response, the Ministry of Local Government and Housing, through the Ministry of Lands initiated the process for compulsory acquisition, claiming, that the land was idle. After the acquisition, the Ministry of Local Government and Housing was unable to develop the intended Housing estate due to paucity of resources. Instead the Minister of Local Government and Housing decided to lease back the farm to John Smith. Infuriated by this Development, John Smith approaches you for advice. Please advise
3. Messrs Monze Supermarket Limited applied to the Lusaka City Council for change of use in respect of Stand Number 10 Northmead Lusaka from a supermarket to a cafe and a restaurant.

In response to the said application in letter dated 23rd November 2004, the Director of City Planning advised that the premises in question has an established use rights as a shop which includes a supermarket and therefore Monze Supermarket could carry on any retail trade or business with the same use group without planning permission.

The Director of City Planning went on to state that, however, operations such as a bar cum bottle store including discotheques, cafes and restaurant are incompatible to the area because of the presence of the adjoining church, as well as residential flats on top of the premises. Thus, carrying on the business of a café restaurant were inappropriate in the setting and consequently the Monze Supermarket Limited application was rejected. Monze Supermarket Limited are dissatisfied with the decision of the Director of City of Planning have decided to approach you for advice.

4. Mary Banda entered into an agreement with Joseph Bwalya to buy a residential property subject to contract and state consent. Mary Banda paid a deposit to Joseph Bwalya. Subsequently, a written contract was drawn by Joseph Bwalya's Lawyers which was forwarded to Mary Banda and later duly signed by Mary Banda.

Joseph Bwalya resiled from the agreement and refused to sign the contract. Mary Banda took out a specially endorsed writ claiming specific performance and issued summons for summary judgment.

Joseph Bwalya filed an affidavit in opposition stating that they had not obtained state consent under the Act. The trial judge held that although there was a breach of contract, specific performance could not be decreed where the parties had entered into a contract without obtaining state consent but that Mary Banda could sue for damages.

Banda is dissatisfied with the decision of the trial Judge and is seeking your advice about the chances of success on appeal. Please advise with the aided of decided cases.

5. Write short notes on the following;
 - (a) the Land (Conversion of Titles) Act;
 - (b) The Jurisdiction of the Lands Tribunal; with the aid of decided cases
 - (c) Distinction between a Statutory Housing Area and an Improvement Area; and
 - (d) Rationale for compulsory acquisition
6. Explain the rationale for non-application of certain enactments in the Housing (Statutory and Improvement areas) Act.

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

EXAMINATIONS – DECEMBER, 2004

L332 – COMMERCIAL LAW II

INSTRUCTIONS

- 1. TIME ALLOWED: THREE HOURS (Plus 10 minutes to read the Paper)**
 - 2. Students may take into the examination hall and consult clean, unmarked copies of any relevant statute.**
 - 3. The paper is divided into 3 Sections. Candidates must answer questions 1 and at least one question from each section. Note that question 1 will constitute a question answered from Section A.**
 - 4. In all candidates must answer four (4) questions.**
-

SECTION A

QUESTION ONE – COMPULSORY

Likando maintains a life insurance policy with Calamity Insurance Company Limited. He has had the policy eight years now, and he has been religiously paying his premiums on time to the insurer. The renewal date for his policy was 8 February.

On 15th January 2003, Likando instructed Bayo Insurance Brokers to renew his policy. He paid by cheque to Bayo Insurance Brokers, the full premium for the year as required.

The Beneficiaries under Likando's policy are his brother Bo Manyando and his step son Muyunda.

On 17th March 2003, Bo Manyando and Muyunda were upset by Likando's girl friend Abigail who told them that Likando thought they were a pain in the flesh and that he wished them dead. They confronted Likando at a local pub and, in drunken stupor, he told them that they were infact idiots. A fight then ensured between Likando and Bo Manyando and in the process, Likando sustained a deep cut on his forehead as a result of a fall. He lost considerable quality of blood before he was rushed to hospital. A blood transfusion was recommended but Likando, being a Jehovah's witness, declined it. He died four days later.

Bo Manyando and Muyunda were jointly charged with murder, the prosecution argued that the two had conspired to commit a felony. Bo Manyando was subsequently convicted of manslaughter while Muyunda was convicted of assault and given a suspended sentence.

Bo Manyanda has lodged a claim on Likando's policy from his prison cell. He needs the money urgently to retain a lawyer to prosecute his appeal. Muyunda has also lodged a separate claim on the policy.

Calamity Insurance Company Limited is uncertain as to whether to settle the claim or to repudiate it, especially as Bayo Insurance Brokers only paid over the premium on 16th February 2004, Likando's premium cheque having initially been dishonoured wrongly due to a mistake on the part of a clerk in the bank who had forgotten to stamp the cheque.

Provide a well reasoned legal opinion to Calamity Insurance Brokers on the various legal issues arising.

QUESTION TWO

“The very foundation, in my opinion, of every rule which has been applied, to insurance law is this, namely, that the contract of insurance contained in a

Marine or fire policy (and that equally applies to accident policies other than personal accident) is a policy of indemnity and of indemnity only, and that this contract means that the insured, in case of a loss against which the policy has been made, shall be fully indemnified, but shall never be more than fully indemnified. That is the fundamental principal of insurance law and even a proposition brought forward which is at variance with it, that is to say, which either will prevent the insured from obtaining a full indemnity, or which will give the assured more than a full indemnity, that proposition must certainly be wrong.”

Discuss the quotation in relation to the principles of subrogation and contribution and explain the position of valued policies.

SECTION B

QUESTION THREE

- (a) Choipa, an Accounts Assistant employed by Chimutunzi Limited, forged the drawer’s signature to a series of bills and made them payable to Dabwisa Stationery, which was the name of a real firm doing business with Chimutunzi. In ignorance of the forgeries, Chimutunzi accepted the bills payable at Zoba Bank. The Accounts Assistant then forged the indorsement of Dabwisa Stationery as payee and presented them to Zoba Bank, who paid him K80 million on them.

Choipa never intended that Dabwisa Stationery should be paid.

With the use of appropriate authorities advise Chimutunzi Limited and Zoba Bank.

- (b) In the context of bills of exchange and negotiable instruments discuss the position of travellers cheques.

QUESTION FOUR

- (a) With the help of decided cases critically distinguish between the subject matter of insurance and the subject matter of the contract of insurance.
- (b) With suitable illustrations, explain what is meant by the statement that an insured should not take with both hands.

QUESTION FIVE

- (a) Airforce Banda wished to induce Sky Zimba to lend a sum of money to Foloko Chola. He drew a cheque in favour of Sky Zimba. In response Sky Zimba made the loan to Foloko Chola. Finally Foloko Chola drew a cheque in favour of Airforce Banda. However, Airforce Banda's cheque was dishonoured through a mistake on the part of a bank clerk. Sky Zimba nonetheless sued him upon the dishonoured cheque. Airforce Banda argued that as no value had passed between himself and Sky Zimba, Sky was not a holder for value, and therefore could not sue on the cheque.

Write a brief judgment.

- (b) Compare and contrast indorsement in blank, special indorsement, conditional indorsement and restrictive indorsement.

SECTION C

QUESTION SIX

- (a) Critically discuss the ratio decidendi in the case of Standard Bank Zambia Limited v Azeeb Butchery (1983) ZR 130
- (b) Analyse the principal of law that was involved in Beresford v Royal Insurance (1938) AC 586 and explain the difficulties, if any, that a wholesome application of that principle would have to Zambian Insurance law.

QUESTION SEVEN

- (a) Explain how payment of premiums to an insurance broker under the Insurance Act No. 27 of 1997 affects days of grace.
- (b) Answer True or False.
- (i) Where there is *suppressio veri* the insurer is entitled to treat the insurance contract as void.
 - (ii) When an insurance contract is said to be a contract of indemnity, it means that in the event of a loss resulting from a risk insured against the insured shall be placed in the same position that he would be in if the loss had not occurred.
 - (iii) Under the general law the right of subrogation is vested in the insurers after they have paid the claim made against them by the insured, not before. Sometimes, however, the right can vest before payment of the claim.
 - (iv) The test used in determining whether or not a fact is material for purposes of discharging the duty of disclosure is a commonsense test.
 - (v) The maxim that the insured must not take with both hands relates to the insurance principles of subrogation.
 - (vi) In John Edwards and Co. v Motor Union Insurance Co. (1922) 2KB, it was held that the right of an insured person to claim compensation from a third party in tort or contract is not in any way affected or diminished by the fact of his having received an indemnity from his insurers.
 - (vii) Certifying a cheque is practically equivalent to accepting a bill of exchange so that the certifying banker would be liable in the same way as would an acceptor.
 - (viii) An inchoate instrument is one which lacks a material particular such as the amount, the payee's name or the date.

- (ix) Where X persuades Y to accept a bill drawn on him in favour of Z payable 30 days after date and Y accepts the bill without receiving value then Y is an accommodation party, while Z is a holder for value. By accepting the bill Y becomes liable on the bill to both X and Y.
- (x) Where in a bill the drawer and drawee are the same person or where the drawee is a fictitious person or a person not having capacity to contract, the holder may treat that instrument at his option either as a bill or exchange or as a promissory note.
-

END OF EXAMINATION

THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW

UNIVERSITY EXAMINATIONS - 20th DECEMBER 2004

L352. NATIONAL HUMAN RIGHTS LAW

Attempt any four questions.
Time allowed: Three Hours

1. *Mulenga* (visibly upset): These elections have been a mess. The Electoral Commission failed to register many eligible voters. It failed to properly supervise the elections.

Banda (cool): Well, I doubt that there is anything you can do about it.

Mulenga (in a firm voice): This is a clear case of gross human rights violation.

Banda (rather surprised): What has human rights got to do with this?

Mulenga (with conviction): It has everything to do with it.

Comment on this dialogue between Mulenga and Banda. (15 marks)

2. *Critically discuss the functions and powers of the Zambian Human Rights Commission, supporting your answer with examples. (15 marks)*

3. *Consider the merits and demerits of:*

(i) such control as there exists of a declaration of a state of emergency in Zambia; (7.5 marks)

(ii) the concept of 'preventive state of emergency' expressed in Article 31 of the Zambian Constitution. (7.5 marks)

4. "Zambia has a severely limited Bill of Rights. Two reasons account for this: the genesis of the Bill, and the conservative formulation of the rights in the Bill."

Discuss, illustrating your answer with examples. (15 marks)

5. *Carefully distinguish* between:

(i) horizontal and vertical application of the Bill of Rights; (7.5 marks)

(ii) limitation clause, internal modifier and internal limitation. (7.5 marks)

6. (a) *Consider* the value, if any, of the 'Directive Principles of State Policy and the Duties of the Citizen' in Part IX of the Zambian Constitution. (7.5 marks)

(b) 'In the event of ambiguity in a human rights provision, the court should adopt the interpretation that is *in favorem libertatis*'.

Comment. (7.5 marks)

END OF EXAM

THE UNIVERSITY OF ZAMBIA

SECOND SEMESTER EXAMINATIONS

SCHOOL OF LAW

COURSE	-	L 382
TIME	-	3 HOURS
INSTRUCTIONS	-	NO STATUTES ARE ALLOWED. READ THE QUESTIONS CAREFULLY. ANSWER QUESTION ONE (1) AND ANY THREE (3).

1(a) In Ridge Vs Baldwin [1963] 2 All E.R. 66 at p. 71 Lord Reid categorised cases of dismissal into three viz, dismissal of a servant by his master, dismissal from an office held during pleasure and dismissal from an office where there must be something against a man to warrant his dismissal.

Critically discuss the above statement with the aid of case law.

[20 MARKS].

(b) Discuss the Supreme Court decision in ATLAS COPCO (Z) LIMITED Vs ANDREW MAMBWE SCZ Appeal No. 137/2001.

[10 MARKS].

(c) Zamleather Limited is a Zambian incorporated company dealing in among other things the buying and selling of cattle skins. The company employs more than 100 workers. Last month, Zamanglo Corporation, which is a Zambian subsidiary of Aglo Corporation of South Africa, bought Zamleather Limited and has renamed the company to Zamaglo Leather Corporation Limited. This morning the Union leaders of Zamleather Limited have called on you seeking your learned opinion on the status of their employment contracts.

Advise them.

[10 MARKS]

- (a) The general jurisdiction of the Industrial Relations Court and the expansive extent of it is manifest under various subsections (of section 85) which cumulatively confer a sufficient jurisdiction unrestrained by technicalities under which real justice can be dispensed. The mandate in subsection 5 which requires that substantial justice be done does not in any way suggest that the I.R.C. should fetter with any technicalities or rules. [12 MARKS]

Critically discuss the above statement.

- b) Discuss the decision in Boston Deep Sea Fishing and Ice. Co Vs Ansell [1883] 39 CH. [18 MARKS]

Contracts of employment which unduly restrict the employee in the exercise of his profession calling may in certain circumstances be subject to the doctrine of restraint of trade; that doctrine will also apply to covenants imposed upon an employee which restrict his freedom of action after the termination of contract of employment.

Discuss. [20 MARKS]

The International Labour Organisation, set up in 1919, has over the years produced a very large number of conventions and recommendations embodying standards covering most aspects of employment relationships.

Discuss. [20 MARKS]

Discuss the various theories of Industrial Relations clearly pointing the one(s) that could be applicable to the Zambian situation.

[20 MARKS]

Write short notes on the following

- a) Constructive dismissal
- b) Sources of Employment Law
- c) The procedure that an employer has to follow before declaring a redundancy situation
- d) Frustration as an event terminating contract of service
- e) Contracts of Apprenticeship [20 MARKS]

At Common Law either side may terminate the contract of employment by giving notice of the required length to terminate the contract. Termination without notice, and in the case of the employer this would be summary dismissal, ordinary is a breach of contract unless there are grounds, which the law regards as sufficient to justify termination without notice.

With the aid of case law critically discuss the above statement.

[20 MARKS].

UNIVERSITY OF ZAMBIA
SCHOOL OF LAW

SECOND SEMESTER EXAMINATIONS DECEMBER 2004
L422

INSTRUCTIONS

1. TIME: THREE (3) HOURS
2. ANSWER QUESTION ONE (1) AND THREE OTHERS
3. STUDENTS ARE ALLOWED TO BRING IN THE EXAMINATION ROOM AND TO CONSULT CLEAN AND UNMARKED COPIES OF THE COMPANIES ACT AND THE SECURITIES ACT.

QUESTION 1 COMPULSORY (21 MARKS)

Bwengu Phosphates Limited is a company incorporated in Zambia. It is also a holding company of two subsidiary companies, Kalahari Pty Limited incorporated in Botswana and Morogoro Industries Limited incorporated in Tanzania. The General Managers of the two subsidiary companies are citizens of their respective countries but they both report to the Chairman and Chief Executive of Bwengu Phosphates Limited in Zambia. The annual budgets of the two subsidiary companies are approved in Zambia, so are expenditures above US\$100,000. To enhance the group's corporate image, all the companies use the same logo on their headed papers.

Albercon Plc, a Zambian company entered into a contract with Kalahari Pty Limited in which the latter was to supply 1,000 tonnes of fine salt to the former at a cost of US\$200,000. The money was duly remitted by Albercon Plc which, according to the contract, was to supply the commodity within two weeks of receipt of the money. Six months after payment, Kalahari Pty Limited could not meet its obligation and efforts to resolve the matter amicably have failed. Albercon Plc is now intending to take legal action against Kalahari Pty Limited. The company has been reliably informed that Kalahari Pty Limited does not have sufficient assets in Botswana and it is apprehensive that a judgment against it may not be fully satisfied in that country. It is now contemplating to join Bwengu Phosphates Limited to the suit and a letter of demand from Albercon Plc has been received and passed on to you for advice. What would be your advice to Bwengu Phosphates Limited?

QUESTION 2 (13 MARKS)

A **Stock Exchange** is sometimes referred to as a **Securities Market**. Elucidate.

QUESTION 3 (13 MARKS)

Njanji company Limited was incorporated in 1994 and it is involved in the manufacturing of railway sleepers. The company depends heavily on imported steel for its products and in 2000 it borrowed K1 billion from Ndalama Bank Plc for the importation of its raw materials. The loan was secured by a debenture which provided inter alia, that in the event of default by the borrower, the lender shall appoint a Receiver/Manager for the assets of the borrower. For four years now the company has been unable to meet its loan repayments. Ndalama Bank Plc in pursuance of the said provision in the debenture duly appointed Kangolongolo Zulu as Receiver/Manager but the company's financial situation has not improved and there is no prospect of any improvement in the

foreseeable future. Advise the bank the course of action it can take if any, and why.

QUESTION 4 (13 MARKS)

Critically analyse the merits and demerits of the rule in **TURQUAND'S** case.

QUESTION 5 (13 MARKS)

Sobongo Foloko was engaged as a promoter in the purchase of the business of Zikomo Enterprises Limited. Following his appointment, he issued a prospectus inviting potential shareholders to subscribe for the shares in the company. Although the actual value of the business was K500 million, the value stated in the prospectus was K5 billion. This made Sobongo Foloko an instant millionaire. The true value was subsequently discovered by the subscribers who have become incensed with the promoter's conduct. What advice would you give them?

QUESTION 6 (13 MARKS)

Discuss the rights and duties of parties to a pre incorporation contract.

QUESTION 7 (13 MARKS)

According to the Articles of Association of Mwaka Investments Limited, the authorized share capital of the company is K10,000,000 divided into 10,000 shares of K1,000 each. All the shares of the company have been issued and fully paid up by the shareholders. The company desperately needs to generate additional working capital in order to expand its business. However, it is unable to do so as all its authorized shares have been issued. Advise the company how it can:

- (a) increase its authorized share capital
- (b) raise additional capital

**THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW
SECOND SEMESTER EXAMINATIONS**

COURSE - L452 – INTERNATIONAL INVESTMENT LAW

TIME - THREE HOURS PLUS 5 MINUTES OF READING THE PAPER

INSTRUCTIONS: READ THE QUESTIONS CAREFULLY. ANSWER QUESTION ONE (1) AND ANY OTHER THREE (3)

1(a) Colonel Chicken is a Texas fast food franchising corporation. Colonel Chicken has successfully established over 100 franchises in the United States. Its “formula for success” has involved:

- (a) Careful selection and ownership of the site by the company and required use of the site by the franchisee;
- (b) Mandatory franchisee use of secret recipes, special patented cooking equipment and purchase of chicken from a list of designated sources;
- (c) Aggressive protection of its trademarks, COLONEL CHICKEN [TM] and CHICKEN LICKEN – GOOD [TM], which appear in red, white and blue against an outline of the boundaries of the state of Texas
- (d) Active supervision of quality controls maintained by its franchisees in accordance with Colonel Chicken’s copyright instruction manual.
- (e) Exclusive use of a ‘western’ building design which draws upon the company’s Texas heritage.

Colonel Chicken has never opened a franchise abroad. The company’s marketing division believes that the possibility of international franchising of Colonel Chicken should be explored.

You are a Dallas based Attorney working in the firm of Messrs Hobson Clive and Partners and specialized in international business transactions. This afternoon Mr. Gordon the Vice President – Marketing Division - of Colonel Chicken Corporation has called on you. Mr. Gordon has briefed you of his Corporation’s desire to “go international”. Mr. Gordon would want to have a general flavour or idea of the contents of the broad range of foreign laws and regulations which his Corporation may encounter once it goes international. Advise him.

[20 Marks]

(b) Marnesia is one of the South East Asian nations which have become important exporters of assembled products to the United States. Along with Malaysia, Indonesia, Taiwan and Singapore. Marnesia offers a stable, low cost labor supply for numerous Japanese and United States investments. Marnesia was formerly a colony of a Western European nation. In the mid-1970's a revolution by military officers overthrew the colonial Government and assumed control, creating a new nation which they named Marnesia. All property of the colonizing power was seized and under newly adopted Marnesian Law, compensation was paid amounting to about one-third of the value assigned by a Marnesia Claims Review Commission. The expropriated companies were mainly extractive export oriented petroleum and tin companies plus a number of rubber plantations and several other agricultural facilities. There was little industry on the island. The Marnesian law provided that because the property belonged to a former colonial power, a two thirds deduction would be made from the valuation for unfair exploitation. No judicial review was allowed from the decisions of the commission. The western European nation unsuccessfully attempted to bring the issue to the International Court of Justice and was never able to attach properties of the Marnesian Government in other expectedly sympathetic [to the European view] nations. But time heals many wounds, and by the late 1980's Japan and the United States began to locate factories in Marnesia to produce products for sale in the United States and Europe.

One of the fewer factories is RODCO Pacific Incorporation which is wholly owned by RODCO Incorporation a Delaware Chartered Corporation with its principal place of business in Denver. The Company manufactures fishing rods and reels of United States designs, but from parts manufactured in several of RODCO's Asian and South Pacific Plants.

About 30 percent of the parts are manufactured at the Marnesian Plant, from local and imported materials. Some two years back, a newly elected Government enacted Mandatory Joint Venture Legislation, requiring all new investment to be at least 51% Marnesian owned. But the legislation did not provide for retroactive application. Nevertheless, the Marnesian government began to deny Import permits, delay moving products through Export Inspections, and according to RODCO Pacific, generally harass the company. Some government officials told the company officers that they would receive better treatment if they altered the company to a Joint Venture with majority local ownership. RODCO refused. Six months ago the Government enacted a decree expropriating a list of 24 selected companies. They were all either Japanese or United States wholly owned subsidiaries. The only reasons given were in a statement by the Minister of Trade and Commerce who said the companies were those most belligerent in

refusing to become Joint Ventures and in slowing the inflow of technology to Marnesia.

RODCO Pacific Incorporation was on the list. The Government sent officials to take over physical possession of the plant. RODCO estimates they were dispossessed of a facility worth US\$2.5 Million. When the company was taken over, the company officers were warned that the new expropriation decree stipulated that any effort of the United States government on behalf of RODCO to pressure the Marnesian Government to return the property or make compensation would result in the forfeiture of any right of compensation. The Marnesian Government claim that all property owners are to be treated equally, whether domestic or foreign and that no foreign property owner may have any greater rights, including the pressing of one's claim by his Government.

You are the in-house counsel for RODCO Incorporation based in Denver. The Board has placed you in charge of informing them what has happened. The Board would want to know about the legality of the acts of the state of Marnesia. The Board is anxious to know whether they will either get the plant back or be compensated. Advise the Board on the issues raised and on any other issues you may consider incidental thereto.

[20 Marks]

- 2.(a) The involvement of Multinational Corporations in the politics of their host states is largely aimed at forestalling the possibility of unfavourable regime changes.

Discuss.

[10 Marks]

- (b) Discuss the various ways in which an investor in the securities market is protected in Zambia.

[10 Marks]

3. Camelot S.P.A is an Italian Corporation which manufactures televisions for both domestic and International sale. The president of Camelot S.P.A has informed you that his company has entered into a number of local and international Dealership and Distributorship Agreements. He has informed you that none of these contracts have any terms or clauses which select a dispute resolution mechanism, or its location or the governing law. The president would like to know what options are open to Camelot S.P.A for resolving disputes and your evaluation of the advisability or suitability of pursuing each available option. In your advice you should take into account the issues of location of the dispute resolution mechanism and the Governing Law.

[20 Marks]

- 4.(a) Liberalization and globalization have stimulated the development of closer financial and trade relations between developed countries and emerging markets (i.e developing countries and transition economies). Foreign Direct Investment [F.D.I] has become an important source of capital flows for emerging markets since the late 1980's. Another is foreign portfolio equity investment [F.P.E.I] which has spread, to emerging markets as regulatory barriers to capital movements have fallen.

Discuss the linkages and differences between F.D.I and F.P.E.I

[10 Marks]

- (b) Discuss the short comings of the Zambia's Investment Act taking into account the proposed amendments to the Act.

[10 Marks]

5. "The need for a better international normative framework in the field of investment is generally accepted. This need is grounded in economics (for example, because of the importance of investment to growth, productivity and transfer of technology) and is influenced by the existence of barriers to foreign investment and the unsatisfactory patchwork of Investment Rules. It is more deeply felt amongst developed countries and is motivated (it has been contended) primarily to secure market access for investment." **ASIF H. QURESHI – INTERNATIONAL ECONOMIC LAW - SWEET AND MAXWELL (1999) Pages 380 – 381.**

Discuss the above statement.

[20 Marks]

6. Discuss the linkages between the I.M.F and World Bank taking into account each's Articles of Agreement.

[20 Marks]

- 7.(a) You are employed as a legal expert in the Ministry of Commerce, Trade and Industry. The Minister has tasked you to prepare a detailed paper on what measures Zambia should undertake to promote transfer of technology.

Please do so.

[10 Marks]

- (b) Why do governments in emerging economies seek foreign direct investment and what can the law do in order to attract it?

[10 Marks]

THE UNIVERSITY OF ZAMBIA

SCHOOL OF LAW

UNIVERSITY SECOND SEMESTER EXAMINATIONS – DECEMBER 2004

L 492 - TAXATION

INSTRUCTIONS

- 1. TIME: Three (3) Hours [plus 5 minutes to read the question paper]**
 - 2. ANSWER: Question one and any three other questions**
 - 3. Candidates may consult the unmarked Income Tax Act, Cap 323.**
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1. Mundia Sangwapo, Preamble Maningi and Tilyenji Hamusankwa are partners in an enterprise specializing in the export of dry Kapenta to the Democratic Republic of Congo. When they first set up the partnership in January, 2004 they contributed a total of K10 million broken down as follows: Sangwapo - K5 million, Maningi - K3 million and Hamusankwa - K2 million. It is now December 2004 and the partnership has made a gross profit of K46 million.

They have come to you for advice on their tax liability. They inform you that their telephone bills, salaries for workers, Zesco bills and other expenses amounted to K12 million. Advise them.

2. The Minister of Finance wishes to make some radical proposals at the next cabinet meeting scheduled for Christmas eve at which Cabinet will be discussing the 2005 budget. You are the Treasury Solicitor and the Minister wants a well reasoned paper on what you consider the most feasible way of taxing:
 - (a) gifts;
 - (b) illegally obtained gains; and
 - (c) Income realized by marketers.
3. Amenshi Mineral Water Limited is owned by a Zambian family, the Tambatambas, but was incorporated under the laws of Namibia where the tax regime is much lower compared to that obtaining in Zambia. All the shareholders are resident in Lusaka. The company's source of mineral water and the bottling plant, however, are all in Windhoek, Namibia. The Managing Director and all the other managers are also all based in Windhoek. All the mineral water that the company makes is exported into Zambia because of the bigger market and the good prices that the water fetches in Zambia.

