



“Investing in Africa’s future”

SCHOOL OF LAW

NLLB104: CONSTITUTIONAL LAW

END OF SECOND SEMESTER EXAMINATIONS

APRIL/MAY 2024

LECTURER: MR N MAPHOSA

DURATION: 3 HOURS

Instructions to Candidates

1. Section A is **compulsory**.
2. Select and answer **two questions** from **Section B**.
3. You are encouraged to cite relevant references where necessary in your work.
4. Any cases of positive exam misconduct will be punished in terms University Regulations.

SECTION A

QUESTION ONE

You are required to define the following concepts and briefly state what each of them entails:

- (a) Constitution and the different types of Constitutions you find today. **[10 Marks]**
- (b) Constitutionalism, Rule of Law and the Separation of Powers. **[15 Marks]**
- (c) What are the differences between a written and an unwritten Constitution and which one between the two do you prefer and why? **[10 Marks]**
- (d) Do you view the Zimbabwe Constitution as being rigid or flexible? Explain your answer. **[15 Marks]**

Total [50 marks]

SECTION B

QUESTION TWO

Between 1890 and 1923 when Southern Rhodesia had its first Constitution, the country was ruled by Royal Charter or Decree through Cecil John Rhodes and his British South Africa Company. It was however more of Rhodes' personal property under his company. In 1965, Ian Douglas Smith, the then Rhodesian Prime Minister announced his Unilateral Declaration of Independence and there was an uproar from the UK with the following being said by Harold Wilson, the then Prime Minister of Britain:

"U.D.I, is an act of rebellion against the Crown and against the Constitution as by law established; and action taken to give effect to it would be treasonable."

In your own view was there any material difference between the two situations of Rhodes and Smith (UDI)? Discuss making reference to the Constitutional frameworks of the said periods. **[25 Marks]**

QUESTION THREE

The case of *Madzimbamuto v Lardner-Burke* is a very important case in the Constitutional history of Zimbabwe. Briefly outlining the facts of the case in

relation to the 1961 Constitution, UDI and 1969 Rhodesia Constitution, discuss whether the case was rightly or wrongly decided. **[25 Marks]**

QUESTION FOUR

Constitutions are made either by the people for the people or imposed on a nation by the rulers or alleged representatives of the people.

Identify the key differences between the provisions relating to human rights within the 1961 Southern Rhodesia Constitution as contrasted with the Declaration of Rights within the 2013 Constitution. To what extent do the two Constitutions reflect who created them? **[25 Marks]**

END OF EXAMINATION