



SCHOOL OF LAW

NLLB 205 CRIMINAL PROCEDURE

END OF SECOND SEMESTER EXAMINATIONS

APRIL/MAY 2024

LECTURER :MR. D. TANDIRI

DURATION : 3HRS

GENERAL INSTRUCTIONS TO CANDIDATES

- 1. Do NOT write your name on the answer sheet**
- 2. Answer FOUR questions only – One (1) question in section A and three (3) questions in section B**
- 3. Begin your answer for each question on a new page**
- 4. Each question is worth 25 marks**

SECTION A

QUESTION 1

John Mapengo was arrested without a warrant by members of the Defence Forces on the 20th of January 2024. He was never informed of the reasons for his arrest and his rights. They took him to their local Barracks and detained him in solitary confinement. He was denied an opportunity to communicate with his relatives and legal practitioner. He was interrogated and tortured during the period he was in detention. They accused him of wanting to overthrow the head of state. He was also forced to make a confession and sign a statement incriminating himself. He was later taken to a police station on the 27th of January 2024. The police detained him until on the 31st of January 2024 when he was taken to court for initial remand and confirmation of the statement. The police never applied for a warrant for further detention.

Advise John Mapengo of the lawfulness of his arrest and detention, his rights and the remedies which are available to him. **[25 Marks]**

QUESTION 2

Tanaka Mupondi went to House No. 4455 Murambi East, Mutare at night. He broke the main door and gained entry into the house. He then pointed a firearm at Petros Munhukwaye, the owner of the house and forced him to give him US\$ 10 000.00 which was in the house. Immediately after receiving the money, Tanaka Mupondi took the vehicle belonging to the owner of the house and drove away. In an endeavour to avoid arrest, he then burnt the vehicle at a secluded place. He was subsequently arrested and charged with malicious damage to property in respect of the door and the car. He was also charged with pointing a firearm and robbery.

Advise Tanaka Mupondi on the legal issues arising. **[25 Marks]**

SECTION B

QUESTION 3

- a) Explain the jurisdiction of the Constitutional Court of Zimbabwe over criminal cases. **[5 Marks]**
- b) Discuss the circumstances when the criminal courts in Zimbabwe will have jurisdiction over crimes which were committed outside Zimbabwe. **[15 Marks]**
- c) What are the major differences between an appeal and review. **[5 Marks]**

QUESTION 4

- a) Explore the major features of the adversarial system and inquisitorial system. **[10 Marks]**
- b) Discuss the crime control model and due process model. Which model must Zimbabwe adopt? **[15 Marks]**

QUESTION 5

- a) Analyze any three (3) pleas which an accused can raise in response to a charge. **[15 Marks]**
- b) What must an accused prove in an application for discharge at the close of state case. **[10 Marks]**

QUESTION 6

Select any three (3) constitutional rights and/ or freedoms and discuss how they have been limited by the provisions of the Criminal Procedure and Evidence Act (Chapter 9:07). In your answer briefly state what the right or freedom entails and whether the provisions of the Criminal Procedure and Evidence Act are constitutional. **[25 Marks]**

QUESTION 7

- a) What are the essentials of a lawful arrest? **[5 Marks]**
- b) What factors are considered when a court is considering an application for bail pending appeal? **[5 Marks]**
- c) Under what circumstances will a court grant an application for permanent stay of prosecution? **[15 Marks]**