



SCHOOL OF LAW

NLLB204 LAW OF DELICT

END OF FIRST SEMESTER EXAMINATIONS

NOVEMBER/DECEMBER 2024

LECTURER: MR N MAPHOSA

DURATION: 3HRS

GENERAL INSTRUCTIONS TO CANDIDATES

- 1. Do NOT write your name on the answer sheet.**
2. Write legibly.
3. Students **MAY NOT** take any material into the examination.
- 4. Section A is compulsory.** Answer FOUR questions from **Section B.**
5. You are advised to read all questions carefully before attempting to answer any.
- 6.** Begin your answer for each question on a new page.
- 7.** Cite **RELEVANT** authorities to support your arguments.
- 8.** This examination paper consists of three pages.

SECTION A

THIS SECTION IS COMPULSORY

QUESTION ONE

I. Discuss the essential elements required to establish liability under the Law of Delict in Zimbabwe. In your answer, clearly explain how each element is applied using relevant case law. **[10 Marks]**

II. Explain the distinction between patrimonial and non-patrimonial loss in the context of delictual damages. Provide examples of each and indicate how they are compensated under Zimbabwean law. **[5 Marks]**

III. X throws a stone intending to hit Y but misses and breaks Z's window instead. Z sues X for the damage caused. Can X be held liable under the Law of Delict? Explain whether fault is present in this case. **[5 Marks]**

SECTION B

ANSWER FOUR QUESTIONS FROM THIS SECTION

QUESTION TWO

Evaluate the role of wrongfulness in determining delictual liability in Zimbabwean law. How does the 2013 Zimbabwean Constitution influence the assessment of wrongfulness, particularly in cases involving violations of fundamental rights? **[20 Marks]**

QUESTION THREE

I. Assess the defences available to a defendant in a case of unlawful assault. Support your discussion with relevant case law. **[10 Marks]**

II. X, a shop owner in Mutare CBD, accuses Y of stealing a loaf of bread without any evidence and calls the police. Y is arrested but later released without charge. Y sues X for defamation. Discuss the merits of Y's case and whether X can raise the defence of privilege. **[10 Marks]**

QUESTION FOUR

In a case where harm is caused through an omission, what factors must be considered in determining whether a legal duty existed? Discuss the relevant legal principles, using Zimbabwean case law to illustrate your answer. **[20 Marks]**

QUESTION FIVE

Examine the principle of vicarious liability under the law of delict in Zimbabwe. In your answer, explain the conditions under which an employer may be held liable for the wrongful acts of their employee. Provide examples from relevant case law. **[20 Marks]**

QUESTION SIX

I. Explain the defence of "necessity" as it applies to delictual claims. How does it differ from private defence? Use examples from Zimbabwean case law to support your answer. **[10 Marks]**

II. Discuss the role of contributory negligence in reducing a plaintiff's damages in delictual claims. How is the apportionment of damages determined? **[10 Marks]**

TOTAL MARKS:

100

END OF QUESTION PAPER