



SCHOOL OF LAW

NLLB 205: CRIMINAL PROCEDURE

END OF SECOND SEMESTER EXAMINATIONS

APRIL 2025

LECTURER : MR. D. TANDIRI

DURATION : 3HRS

GENERAL INSTRUCTIONS TO CANDIDATES

- 1. Do NOT write your name on the answer sheet**
- 2. Answer FOUR questions in total, – One (1) question from section A and three (3) questions from section B.**
- 3. Each question is worth 25 marks.**

SECTION A (Answer one (1) question)

QUESTION 1

Mr. Bizos was abducted by members of the ruling party about a week ago. They accused him of committing acts of banditry and insurgence. They later took him to Mutare Police Station where he was held in incommunicado detention for two days. He was later transferred from one police station to another. He is currently detained at Ruwangwe Police Station. His relatives are not aware of his whereabouts. The police denied him an opportunity to communicate with his relatives and legal practitioner. The police never applied for a warrant for further detention. Mrs. Bizos approached the police inquiring about the whereabouts of her husband. She was advised that he will only be released after twenty-one (21) days since he is facing a very serious charge. She was also informed that she cannot communicate with or visit her husband for the same reason.

Advise Mrs. Bizos of the lawfulness of the arrest and detention of her husband and what legal steps she can take to compel the police to release her husband.

[25 marks]

QUESTION 2

On the 21st January 2024 Goriati went to Odzi during the night. He stole three (3) oxen belonging to Mazvita. He then went to Mupini's homestead and stole two (2) heifers on the same night. He was subsequently arrested. He was charged with five (5) counts of stock theft. He was found guilty as charged and sentenced to 45 years imprisonment on the 15th May 2024. The presiding Magistrate held that Goriati had committed 5 counts of stock theft. He reasoned that each beast stolen was to be taken as a separate count. Goriati now wants to file an appeal against conviction and sentence to the High Court.

Advise Goriati of the legal steps he needs to take before filing an appeal at the High Court and his prospects of success on appeal.

[25 marks]

SECTION B (Answer any three (3) questions)

QUESTION 3

- a) Briefly discuss the appellate and review jurisdiction of the High Court over criminal cases in Zimbabwe.

[5 marks]

- b) Highlight and discuss the territorial and penal jurisdiction of the Magistrates Courts over criminal cases in Zimbabwe. In your answer highlight the general rules and exceptions.

[15 marks]

- c) Mr. Muchapedza resides in Mutare. The police suspects that he deals in precious stones. They went and applied for and were granted a search warrant in Chivhu. The search is to be conducted in Mutare. In the search warrant the

police were authorized to search for any documents and articles relating to the possession of precious stones. The precious stones, documents and other articles were not specified. Advise Mr. Muchapedza whether the search warrant is valid and how he can challenge it. **[5 marks]**

QUESTION 4

- a) Murare Enterprises (Private) Limited reported a case of fraud against Mubi Muku. The Prosecutor General upon receipt of the docket declined to prosecute the matter. Murare Enterprises (Private) Limited applied for a *nolle prosequi*. The Prosecutor General refused to issue the certificate on the ground that a company being a board corporate does not have the right to institute private prosecution. He went on to state that only natural persons can do so. Discuss the correctness of the position taken by the Prosecutor General.

[7 marks]

- b) Explore the major factors which the Prosecutor General and Public Prosecutors take into account when deciding whether or not to prosecute or proceed with prosecution.

**[10
marks]**

- c) Discuss the importance and effectiveness of private prosecution in Zimbabwe. **[8 marks]**

QUESTION 5

- a) Examine the circumstances when an accused person can successfully apply for the alteration of a plea before and after conviction and on appeal.

[7 marks]

- b) What are the legal consequences of withdrawal of charges before and after plea

**[8
marks]**

- c) The court can *mero motu* or on application discharge the accused at the close of state case. Discuss the factors which the accused is supposed to prove in order for an application for discharge at the close of state case to succeed.

[15 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) Discuss the various forms of extra-curial statements? **[8 marks]**

- b) Mujati signed a warned and cautioned statement at a police station incriminating himself. He was forced by the police to give the statement. They threatened to assault him if he did not make and sign the statement. During the confirmation proceedings the police officers who forced the accused to make the statement were seated in the court gallery. The statement was duly confirmed by a Magistrate. The Public Prosecutor intends to produce it in court as an exhibit. Advise Mujati on the admissibility of the statement and the steps he must take if he wants to challenge the admissibility of the statement.

[10 marks]

- c) What are the disadvantages of allowing the state to rely on and adduce extra-curial statements as part of evidence. In your answer highlight the objections which have been raised by scholars against the reliance on extra-curial statements as evidence in court.

[7 marks]

End of Examination Paper